

CHARTER TOWNSHIP OF FLUSHING
6524 N. SEYMOUR ROAD
FLUSHING, MICHIGAN 48433
810-659-0800 FAX: 810-659-4212
PLANNING COMMISSION WORK SESSION
DATE: APRIL 27, 2004 TIME: 7:00 P.M.
WEB ADDRESS <http://www.gfn.org/flushing/index.html>

MEMBERS OF PLANNING COMMISSION

Jerome Doyle, Chair

Robert Gensheimer, Vice Chair

Eric Swanson, Secretary

Ronald Flowers, Board of Trustee Representative

Aaron Bowron

Richard Buell

David Gibbs

Jerald W. Fitch, Building Inspector

Julia A. Morford, Recording Secretary

PRESENT: Doyle, Gensheimer, Swanson, Bowron, Buell, Flowers, Gibbs, Fitch and Morford

ABSENT: None

OTHERS PRESENT: Flushing Township Nature Park Manager Tom Enright, Glen LeFabre of the Saginaw Valley Watershed Division and Brent Nickola from the University of Michigan

I. MEETING CALLED TO ORDER at 7:04 p.m. by Planning Commission Chair Jerry Doyle.

II. ADOPTION OF AGENDA: **GIBBS MOVED**, seconded by Bowron to approve the Agenda as presented. **MOTION CARRIED**.

III. APPROVAL OF MINUTES:

A. PREVIOUSLY APPROVED MINUTES OF FEBRUARY 24, 2004:

DOYLE had a question concerning a date in the approved minutes of February 24, 2004, page 10, *Community Facilities Planning*, letter C, which stated:

“Provide for the delivery of police and fire protection services (including necessary facilities) to meet the needs of all residents by **1990**, in cooperation with adjacent governmental units and other agencies when appropriate.”

THE CONCLUSION BEING:

“Provide for the delivery of police and fire protection services (including necessary facilities) to meet the needs of all residents, in cooperation with adjacent governmental units and other agencies when appropriate by **2004** and beyond.”

No Changes were made.

B. PREVIOUSLY APPROVED MINUTES OF MARCH 8, 2004:

Page 12, Section VI, Board Comments, which stated:

3. For future recommendations to the Board of Trustees, the wording will be “we recommend this be required”

CHANGED TO:

3. For future recommendations to the Board of Trustees, the wording will be “we recommend this be required;” this was for the Coldwater Valley Final Preliminary Plat Approval.

C. APPROVAL OF MINUTES OF MARCH 23, 2004: SWANSON MOVED,
seconded by Gensheimer to approve the March 23, 2004 minutes with correction.
MOTION CARRIED.

D. APPROVAL OF MINUTES OF MARCH 29, 2004: BOWRON MOVED,
seconded by Flowers that the Flushing Township Planning Commission approve the minutes of March 29, 2004 as corrected. **MOTION CARRIED.**

It was decided by the Planning Commission members that in the future, the *Unapproved Minutes* would not have any information other than the date in the top right hand corner of the page. After the minutes have been approved, there will be “*Approved with the date*” in the top right hand corner. **BUELL** wanted to know if the minutes could be emailed.

IV. UNFINISHED BUSINESS:

None

V. NEW BUSINESS:

1. **Continued Review of Different Sections to the Goals and Policies of the Master Plan; and**
2. **Coldwater Valley Subdivision Wetland Area**

Due to the two (2) items listed under “*New Business*” being similar, the two (2) items would be combined.

DOYLE stated the Master Plan had recently been updated. Section Three (3), *Goals and Policies*, had been reviewed at the same time to see if anything in the section needed to be updated including on page 1, Problem Statements, *Natural Features*.

DOYLE read from Section 3, *Goals and Policies*, Problem Statements of the Master Plan:

Page 1 – Natural Features

“10) There is potential for inappropriate development in areas with natural features such as flood plains, wetlands, steep slopes and wood lots that are environmentally sensitive and need to be protected.”

Michigan Township Association (MTA) would be contacted to see if they have an ordinance pertaining to acreage of wetlands. Flushing Nature Park Manager **TOM ENRIGHT (ENRIGHT)** stated he had received wetland ordinances from Fenton Township and Argentine Township.

SWANSON stated that he (Swanson) had read in the newspaper where Governor Granholm had been pushing the State to start regulating wetland and flood plain areas that are currently not regulated by other agencies. **DOYLE** stated if the state should get involved with the regulation of wetlands, individuals would be losing some rights. **SWANSON** stated there are wet land and there are wetlands. **BOWRON** felt there was a big difference between regulating a matter and taking it. **ENRIGHT** stated there would not be a take over from the private citizen; hopefully there would be an ordinance to correct the degrading of the wetlands or development of the wetlands.

BRETT NICKOLA (NICKOLA), from the University of Michigan Flint (UM-Flint), who worked for the Center for Applied Environmental Research, stated exemptions for farming etc. could be worked into the ordinances.

GENSHEIMER wanted to know how the proposed wetland inventory would affect the property that had recently been approved for the Flushing Middle School. **ENRIGHT** stated schools have an exemption from State law.

NICKOLA stated that wetland issues are complicated and would have to be worked through for private property owner's rights; the Center for Applied Environmental Research is not an environmentalist but scientist. **NICKOLA** stated he would like to work with **ENRIGHT** and the Planning Commission on wetland issues. **NICKOLA** stated an ordinance could not be written until there was an idea of what area would be involved. An ordinance could be drafted as to what the ordinance would do to an individual's property; decisions as to whether there would be public comment; and other matters involved would have to be worked into the democratic process. UM-Flint would be offering their assistance to help the Township work through the difficult process.

FITCH inquired if UM-Flint would do the actual inventory. **ENRIGHT** stated the process would start by creating a Wetland Map by using other maps that are currently available.

GLEN LEFABRE (LEFABRE), Director of the Watershed Coalition, stated Michigan State University had a program where a municipality could have the inventory completed for \$1,000,

including the field study. **FLOWERS** stated there were only two (2) communities that dwelt with the wetland problems; the information would be important to the Flushing Community because the Master Plan has to be updated in two (2) years.

ENRIGHT stated he would like to get a group together to start the wetland inventory and not limit the study to just wetlands but bring in all natural features such as streams, five (5) year flood plain, forest areas, and soils. The more complex the inventory, the more cost would be involved.

BUELL stated he was a Michigan State Biologist and a solid supporter of wetland preservation, but also engaged in farming; he has “pesky low spots” on his farm land. He (Buell) wanted to know whose definition of wetland would be used. All wetlands are not created equal so he (Buell) would have to understand fully what constitutes a wetland before he (Buell) would be enthusiastic about legislative control of the matter. **ENRIGHT** stated the biggest issue for **BUELL** would be the farming, which there would be exclusions for farmers. **ENRIGHT** stated that on one (1) of the ordinances which he obtained from another township; it contained such items as grazing and farmland. **BUELL** stated that wetlands are wet the year round.

LEFABRE stated that eternal wetlands are not caused by melt, runoffs, and would dry up at some point.

BOWRON defined wetlands as “land characterized by the presence of water at frequency and duration sufficient to support, and that under normal circumstances does support, wetland vegetation or aquatic life, and is commonly referred to as a bog, swamp, or marsh.” **BOWRON** stated that wetland regulation would not be a defacto prohibition on developing draining, dredging, filling, or otherwise constructing. It would force a review by a cost benefit analysis as to what would be taking place. It would not simply be a matter of having classified an area as wetland and nothing could be done. Once the wetland has been identified and someone wanted to do something with the area, a series of questions, steps, and analysis would have to be done to determine whether or not the damage of property environment would be more than a benefit to be derived from whatever use would be planned for the area. A regulated wetland could still have development. **DOYLE** stated that everything would have to go through the Planning Commission for an approval. **LEFABRE** stated that each municipality’s ordinances are developed differently depending upon that municipality’s own needs.

GENSHEIMER was concerned about telling an individual, with a valuable piece of property, that he could not construct a home on the property due to wetlands. **NICKOLA** stated the decisions had to be based on review standards which the Act has designated three (3) standards: 1) public interest which provides a list of nine issues, 2) disruption of aquatic resources test, and 3) wetland dependency alternative analysis test. **BOWRON** stated there was a “buyer beware” clause and if an individual should purchase a parcel of land that contained a wetland, the buyer would have knowledge of that and would have to take the property “as is”; the fact that an individual would not have known about the wetland doesn’t change the fact that it would be regulated.

JERRY FITCH (FITCH), Flushing Township Building Inspector, stated that if the ordinance was written, the Planning Commission would have to be very careful how the ordinance was

written because all the individuals that had requested building permits would be at the Planning Commission meetings. **SWANSON** stated if there should be a survey, the property would be identified as to where the wetlands were located; if someone splits property, the wetlands inventory would show the wetlands have already been identified. **ENRIGHT** stated the State Statute would regulate what local ordinances could do for wetlands. A wetland map would be sent out to all tax payers showing the location of all the wetlands; there would be a clause on the map, sent out, stating there could be more wetlands.

BUELL stated that *Goals and Policies*, Problem Statements, Natural Features, number 10, not only talked about preserving wetlands and flood plains, but also steep slopes and wood lots. These features are/would be the foremost coveted areas where individuals want to construct homes. **LEFABRE** stated there had been a casual and common belief that when there would be something environmentally friendly, it would have a negative economic impact; the two (2) never seem to meet. **BUELL** stated he felt the answer to the dilemma might be the definition of "protected". What does "protected" actually mean? Does it mean the property has not been developed or does it mean the property would be developed in a unique character?

ENRIGHT stated there is a natural features setback ordinance which gives a fifty (50) foot bumper around the natural feature. It doesn't mean the whole property could not be developed, but if it was developed, an individual would have to stay fifty (50) feet from the natural feature. The natural feature would be used to enhance the property. **BOWRON** stated the statute uses devices to mitigate the harm done to wetland if development should be allowed on the property; there would have to be some type of legal wording in the ordinance to "hang" your hat on.

LEFABER stated it was nice to see the type of character Flushing Township had: urbanized areas, preserved areas, etc. **DOYLE** stated that in 1980, the whole point of the Natural Features was a general view point to try to concern the Planning Commission that when you got involved with a matter, it would be on your mind to naturally try to make the item stay in the community; nothing else revolved - it was not meant to take away rights. The matter occurred before any wetland policy or laws had been made. It was only a matter of the Planning Commission looking at the township and deciding whether the natural features of the township should stay in some form. The Constitution has given everyone the right to own their own property to avoid ruining someone's property and causing a loss of property.

DOYLE stated that as a Commission, a study should be done; Board of Trustee Representative, Ron Flowers, would ask the Board of Trustees to spend a little money to find out if there is a study that could be done and then decide what needed to be done. **SWANSON** stated the first step should be actually to go out and identify what the Planning Commission would actually regulate; there are a lot of wetlands.

NICKOLA briefly explained how there were federal, state and local control issues; it would be very difficult for people to understand. The decisions that are made by all the Planning Commissions are going to affect the Great Lakes, the larger waterways and the township; everyone is stewards of the waterways. **NICKOLA** gave an analysis of the wetlands from the federal, state, and local perspective using a picnic theme. The Federal Government and the Environmental Protection Agency would come to a picnic and lay down the blanket on the

ground (this is the federal regulations which everything would have to fall under). The State Government would come to the picnic and bring the utensils and everything that would enable a person to eat. The Local Government would only have to bring the food; whether an individual would bring a bag of chips, everyone eats or everyone brings chips. This affects everyone, not just the local government.

QUESTIONS AND CONCERNS:

- **GENSHEIMER** wanted to know if the recommendation would be for the Planning Commission to ask the Board of Trustees to fund the money for the survey to identify the property and then once the property has been identified, then get help in writing the ordinance. **LEFABER** stated that at one time Michigan State University was doing surveys for \$1,000 or if not, he could help with the matter.
- **FITCH** wanted to know how accurate the maps would be. **ENRIGHT** stated it depended upon how the inventory was conducted, maps made from previous maps, the amount of depth the maps would have, how much funding would be available, and if the State was involved etc. **DOYLE** stated there would be a topography of the whole county.
- **BOWRON** stated the Environmental Protection Act states that a wetland inventory map does not create any legal or enforceable presumptions whether the property that is or is not included on the inventory map is or is not a wetland. The map is a rough guide when someone would come to build and something should fall into the map, supplementation would be made by a visit in the field by someone that has expertise experience and could identify.
- **NICKOLA** stated his intent in coming to the current meeting was to start the wetland matter and not to obtain any type of resolution. **ENRIGHT** had expressed a continuation of the wetlands and if a member of the Planning Commission could work with and then **NICKOLA** could return periodically to review the status. If the Michigan State University grant should not be available and the cost would be very high, **NICKOLA** and **ENRIGHT** could look into other types of funding sources.
- **JERRY FITCH (FITCH)** stated that he deals with Flood Plain maps at present and most of them are reasonably accurate; he (Fitch) could not go out to a piece of property and tell exactly where the flood plain is located. If an inventory is going to be completed, it has to be accurate.

RECOMMENDATION:

DOYLE recommended the Planning Commission decide whether the Township should go ahead and spend money on a study of the wetlands, or if they do not want to spend money, do they want to find money to spend on the matter. **FLOWERS** would like for **LEFABRE** to check into the program and get back with him (Flowers) when he receives the information. **FLOWERS**

stated he thought the Board of Trustees would adhere to the matter more if resources could be found that would do the project for a minimum. **GENSHEIMER** wanted to know if a "Pandora's Box" would be opened.

NICKOLA stated that MSU not only an inventory of wetlands but an entire land use update. If the Township went with the company that **NICKOLA** is employed with, for the update of the Master Plan in two (2) years, it would be a comprehensive land use update of the entire township, not just wetlands, there would also be residential areas. **DOYLE** stated the Planning Commission has taken care of the wetlands in the past. The wetlands in the Township are not misused; most of the people in the state do not misuse their wetlands in their own township either. When a community expands, there are problems. The Planning Commission is interested in receiving the information.

LEFABRE stated the offer which was made was to offer sources if the Planning Commission wanted to proceed with the project; **DOYLE** recommended that someone proceed to see if the money or ability to find someone to pay for a study. **GENSHEIMER** stated they would provide the resources for the funding and then return the information to **FLOWERS** so that he can take the cost to the Board of Trustees and then proceed from there.

FITCH stated that in order for the inventory maps to work, they had to be perfectly accurate. In order to complete the maps, someone would have to go out and do survey work which would make the cost very expensive for the Township to bear. If there is a way for **LEFABRE** to fund and the information could be provided to the Township, it would give **FLOWERS** more information to take to the Board of Trustees.

NICKOLA stated the only intent for coming to the Planning Commission was to offer services based on some concerns in the Master Plan and thought he (Nickola) might be able to assist in dealing with the concerns, especially funding with how to deal with the concerns.

GENSHEIMER wanted to know if **NICKOLA** had seen the updated land use maps that have been completed by MSU and a map could be provided to the Township of a map for Lapeer County. There is a possibility that if there were dwellings in the wetlands, they could possibly show on the updated land use maps.

DOYLE stated the order to obtain information was:

1. Go to the Board of Trustees and see if they felt they could spend money toward the study. (Have an actual study in hand to show the Board)
2. **NICKOLA** could provide possibilities of someone that might be interested in helping the Township with the study.

SWANSON MOVED, seconded by Bowron to approve the funding study in order to bring the Master Plan up to date; and find out if there are other places available for funding. MOTION CARRIED.

SWANSON recommended that **FLOWERS** emphasize to the Board of Trustees that a study be done and since **LEFABRE** and **NICKOLA** are willing to help and provide funding and if there

is additional funding required from the Township, the Board might be interested in continuing. **NICKOLA** stated the only two land use maps which would have the wetlands within them were done under the program which MSU has, which cost \$1,000. MSU had updated aerial photographs for the entire State and the initial interpretation is done off of aerial photographs using graduate students so the costs would be lower. **NICKOLA** would like to have time to research the matter concerning costs, to see if there would be quality control, good maps, etc. The study which was done for Lapeer Township was more extensive with the measurements of depth toll of ground water at locations throughout the township; an ideal of what the water table was for the entire township, etc.

B. Agricultural Land

Land devoted to agriculture and prime agricultural lands should be retained as such. Fragmentation of farmland into non-agricultural development should be discouraged. Limit the visual intrusion of needed non-agricultural land uses in rural areas.

CONCLUSION: **DOYLE** stated the Planning Commission was looking at signage, bill boards, structures, and light intrusions, which at the present time, most of the occurrences such as signs would apply under the "Sign Ordinance." **GENSHEIMER** wanted to know if the "Sign Ordinance" would relate to signage, billboards, structures, and light intrusions. It was determined by the Planning Commission to review the sign ordinance and determine if it takes care of the signage, billboards, structures, and light intrusions.

FITCH stated that if there had been a lot of requests for variances, the "Sign Ordinance" needed to be reviewed. The only areas that have requested variances in the "Sign Ordinance" have been developments with Hyde Park. **DOYLE** felt the major sign problems with Commercial and signs not within the ordinance already. All the Planning Commission members will review the Sign Ordinance for the May 25, 2004 Planning Commission meeting (Code of Ordinances Chapter 13.5). **FITCH** stated there are issues with Real Estate and Subdivision Signs.

VI. BOARD COMMENTS:

Other Matters for Discussion:

1. Ronald Lyden – Private Drive – Turner Road
2. Variance Request from Clayton Township – Elms Road and Potter Road for the new McLaren Center
3. Mark St. John – Construction of a Home on Private Drive - Coldwater Road Extension

VII. MEETING SCHEDULE:

REGULAR SCHEDULED MEETING – MONDAY, MAY 10, 2004 – 7:00 P.M.

PROBABLE WORK SESSION – TUESDAY, MAY 25, 2004 – 7:00 P.M.

REGULAR SCHEDULED MEETING – MONDAY, JUNE 14, 2004 – 7:00 P.M.

PROBABLE WORK SESSION – TUESDAY, JUNE 29, 2004 – 7:00 P.M.

REGULAR SCHEDULED MEETING – MONDAY, JULY 12, 2004 – 7:00 P.M.

VIII. ADJOURNMENT: There being no further Work Session business, **DOYLE** adjourned the Planning Commission Meeting at 9:45 p.m.

JEROME DOYLE, Chair

JULIA A. MORFORD, Recording Secretary

ERIC SWANSON, Secretary

Date of Approval