

Colfax Township, Weldon Township and Village of Thompsonville
Community Joint Planning Commission
14731 Thompson Avenue, Thompsonville, MI 48683
Meeting Minutes – August 2, 2012

The meeting was called to order at 7:00pm by Sue Meredith followed by the Pledge of Allegiance.

Present at roll call: Jack Richter, Shelley Greene, Sue Meredith, Debra Franke, Pat Workman and Eugene Allen. Absent: Marty Lonn, Bryan Matthews and Don Suchocki (excused). Peggy Minster arrived at 7:05PM. Guests: Dick Figura and Craig Meredith.

Citizen Matters. None.

Agenda Additions/Corrections. Jack requested addition of website invoice; agenda approved with invoice added to Expense item.

Approval of Minutes. Debra moved, seconded by Shelley, to accept the July 5 minutes. Ayes: all; motion carried. Later in the meeting Craig pointed out that Eugene's name was shown incorrectly. Minutes were corrected to read Eugene Allen.

Legal Counsel. Dick Figura discussed fee options for his legal services. Clients are typically billed by the hour; all municipal clients are charged \$125/hour. A flat fee or hourly plus flat fee for certain items is another possibility depending on our needs. He also explained a schedule of charges that is available for items such as short or long ordinances. Dick asked how often we meet and covered pros and cons of having an attorney present at meetings. He often sees a municipality recommend a zoning ordinance or amendment to its board subject to review by legal counsel. The best time for review is prior to a public hearing and recommendation to board; it allows for change if needed. Another expense he reviewed was ordinance enforcement involving the court and gave a few examples. Options are available to resolve issues and avoid legal expenses, such as using the Conflict Resolution Center in Traverse City. Pat asked Dick's opinion on misdemeanors versus civil infractions; Dick explained the difference and recommended civil infraction. Craig asked about potential conflicts of interest since he represents the county and other townships. Dick did not foresee a conflict and would not represent either party if one arose.

Sue asked if the JPC could be billed through Weldon Township; Dick said yes. Jack pointed out that the JPC's relatively short existence did not provide enough history to select an hourly or flat fee. Dick said other joint planning commissions are in similar situations and noted he avoids litigation whenever possible. Eugene suggested billing at the hourly rate with special items such as the zoning ordinance at the flat or scheduled charge fee. Craig mentioned the master plan as an example. Dick said most of a master plan is policy established by the JPC. Peggy noted it is not law. Dick said ordinances are areas of concern. He will look at the draft plan online. Shelley asked about the flat fee structure. Dick explained a long-time client's request for a flat fee has worked well for over ten years; their history was reviewed, a list of included items was developed and billings are quarterly. Jack asked about average expenses for clients; Dick said it varies widely. He will look at Weldon's billing history and some other townships for a guideline. Phone calls are billed in tenths of an hour. Eugene moved that the JPC use Dick Figura as its legal counsel at the hourly rate of \$125 billed through Weldon Township and that the JPC negotiate a flat fee for special issues. Jack seconded the motion; ayes all; motion carried.

The zoning administrator (ZA) as an independent contractor or employee was discussed. Dick did not favor the ZA as an employee; the extra bookkeeping work is one reason and said, generally, townships such as ours use an independent contractor. He said the JPC's expectations should be in writing such as attendance at meetings and regular written reports. We should document how the person will be compensated for enforcement action. Options are hourly with minimum/maximum hours per week or a flat monthly fee; a per case basis poses problems. Include a statement that the ZA serves at the JPC's pleasure. In the event an issue goes to the Zoning Board of Appeals (ZBA), it is the ZA's responsibility to write the report, perform an investigation, prepare a report to the ZBA with a recommended course of action and prepare the motions and resolutions for granting the variance with or without conditions or denying it. This will allow the ZBA to make their decision correctly with the best records possible to withstand challenge in court. Eugene asked about liability to the JPC if an independent contractor's insurance lapses. Dick suggested contacting our insurer; Shelley stated Burnham & Flower's advice – be named as an additional insured, get a copy of the certificate and periodically check status for due diligence. Sue asked if a hold harmless clause could be included to protect the JPC; Dick said yes. Peggy said professional coverage requires payment in advance; Eugene suggested part of the ZA compensation could include payment of liability insurance. Dick said we should require a certificate that states the JPC will be notified if it is cancelled to make due diligence easier. Shelley asked about mention of the ZBA in the JPC ordinance – will it be one board. Dick said the ZBA will be set up under the zoning ordinance; there are advantages to having one board or separate ZBAs. One board lends itself to consistent decisions while separate ZBAs could reach different decisions on the same issue. On the other hand, each community has an interest and can exercise control with its own ZBA. Finally, Dick said he preferred just one person as a contact. It was agreed Sue (chairperson), or Jack (vice chair) in her absence, would be the JPC contact on legal matters. Dick said ZAs also contact him if they are authorized.

Draft Master Plan. Shelley contacted Harry Burkholder about protocol on the uncoded and unknown classification roads that appear on Map 3 and a few others. He will check with the GIS person. Her concern was the inconsistencies in what does or does not appear. Also, road names need to be added and others corrected. Everyone was asked to review maps for corrections by the next meeting. Discussion was held concerning changes/edits before adoption. Sue said her board asked if there would be changes and she said no. Shelley said minor updates of supporting documentation are permitted and have been discussed but any change to the Action Plan, which is the master plan's substance, would restart the approval process and timeline.

Unfinished Business and Reports

- Zoning Administrator Contract. Tabled by Sue until next meeting. Jack felt that compensation should have been discussed during the interviews; only one candidate was aware of it. Shelley was surprised the other two did not ask about it. Jack agreed with Peggy's suggestion to cover it in a follow up interview. Debbie has the interview tapes, and Sue urged anyone who has not listened to them to take the opportunity to do so. Eugene suggested hiring a ZA on a flat fee contract basis, purchase the insurance as part of the compensation and deduct an amount each month to cover the cost. Shelley asked for thoughts on increasing fees in the future and retaining a percentage. Jack supported consideration of the idea of giving back to the budget, mentioned another township's fee structure and suggested a possible split of 60/40 or 70/30.
- Zoning Ordinance Quotes. Issue tabled until next meeting.

- Expenses/Compensation Approval. Jack said Colfax Township received an invoice for adding the draft master plan to its website. He was displeased and explained his conversation with the webmaster who confirmed no mention of a charge was made at any time by him or Shelley before the plan was added. Jack did not feel our board should pay since the charge was not discussed or approved in advance; Colfax will not pay it. Extensive discussion was held concerning the website and possible options for the future. Peggy will check with the county. Shelley encountered inconsistent technical issues when the draft plan went "live." Debra moved to authorize payment contingent on correction of problems with the draft master plan on the website; Peggy seconded; ayes all; motion carried. Other expenses were approved.

New Business

- Training. Sue asked everyone to review the Conflict of Interest workshop material handed out to prepare for discussion at the September meeting. She thought the workshop was very worthwhile and brought to light things to work on in the future.

- Parks and Recreation Plan. Shelley suggested the group think about developing a plan to enable the JPC to apply for grants. She said the Trail was discussed at a Lakes to Land meeting but there was no mention of this area. Peggy said the county has a good plan to use as a place to start. Discussion was held on the need for area representation on the Parks and Recreation Commission.

Correspondence. Shelley talked with Jerry Adair about the on-site visit for his risk control survey. Debra, Peggy and Shelley will participate on Monday, August 20 at 6:30PM at the village hall. Letters were sent to interviewees thanking them for their time and stated it may be a while before they hear from us due to issues that need to be addressed.

Adjournment. Jack moved to adjourn at 8:59PM. Next meeting is September 6 at 7:00PM.

Respectfully submitted,

Shelley Greene
Secretary

Minutes are proposed until approved at the next meeting.