

**Bingham Township Planning Commission
Meeting Minutes
February 5, 2004
Bingham Schoolhouse,
7171 S. Center Hwy, Traverse City**

Call to Order: 7:00 p.m.

Roll Call: Robert Gregory, Ron Collins, Don Kiessel, Mike Park, Will Bunek, Cathy Jasinski & Marsha Walton. All present.

Staff Present: Steve Patmore and Dorothy Petroskey

Guests Present: Phil Anderson, Bev Kozacek, Bob Otwell, Laura Otwell, Midge Werner, Diane Jelenek-Adams, Clark Southwell, Ken Dezur, Jim Mebert, Mary Herman, Bill Grant, Lois Bahle, Sandra Carden, Field Carden, Stuart Whittaker, Catherine Allchin, Jim Lively, Don Coe, Lisa Dantos, Jim & Jan Merriman, Tom Phillips.

Agenda Approval: Discussion to change Old Business and hear it in reverse. Agreed by consensus. Also to add “public hearing” to Leelanau Trail. **Move by Collins support by Bunek to approved the agenda as amended.**

Ayes: All Motion Carried

Approval of the Minutes: Minor corrections made.

Move by Kiessel support by Park to approve the minutes as corrected.

Ayes: All Motion Carried.

Public Comment: None

Old Business:

Trillium Development:

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Applicant representative Steve Patmore presented a letter from attorney Tim Haring regarding the Deed Restriction issues discussed last month. The letter was read into the record and is made part of the minutes. The commission briefly discussed Gordon Hayward's report on Open Space. Patmore added he had reviewed the zoning ordinance and section 11.22 states that an extension of time can be granted if it is in the best interest of the Township.

Public Comments: Phil Anderson took offense at the letter and feels another attorney should review.

Commission discussed forwarding to Dick Ford at the expense of the applicant.

Move by Bunek support Kiessel for the Township attorney to review the deed restrictions and to allocate the cost back to the developer.

Ayes: All Motion Carried

Field Carden, Bingham Township stated that in the minutes it should read 22 percent and note 22 acres.

Carden asked if the open space could be sold.

Commission member Kiessel stated that it could be sold however, no development on the property would be allowed.

Clark Southwell- feels this project promotes congestion and over population which the zoning ordinance does not promote.

Kiessel explained that this commission will look at the discretionary issues and non-discretionary issues at a public hearing.

Leelanau trail Continued Public Hearing

Chairman Gregory stated the remaining issues deal with paving, enforcement and trail crossings.

Gregory read a letter received from Bob Otwell into the record and is attached and made part of the minutes. Commission member Bunek stated he appreciated the insight the letter had to offer, however did not appreciate the threat. Gregory noted that the survey results are not consistent. Commission member Kiessel added he also did not appreciate the fact that the letter threatens lawsuit. He stated that this commission adopted an ordinance that allowed for this trail. He would like the issue of paving to be decided later on.

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Public Comment:

Lisa Dantos-would like to see it paved as it benefits mothers with stroller. She added that there were a lot of sandy areas. She added that she was speaking on behalf of a friend and he would like to see it remain natural.

Clark Southwell- looks forward to the day he can bike into town.

Don Coe-he stated a majority of the visitors come up to Leelanau County to bike. Feels this is a safe pedestrian corridor that had not raised his taxes.

Zona Mebert-stated she had not received a survey

Jim Beuerle-supports the trail remaining unpaved. Added that there are drainage issues from Richter to Revolt Road.

John Gingras-discussed purchase of land by railroad.

Stuart Whittaker- Added that he felt it was ironic that a previous speaker was so supportive of increasing the use in his back yard and yet spoke against development in his own backyard.

Mary Herman- would like to see crushed stone.

Phil Anderson- Advantages to a paved trail.

Jim Mebert- preferred crushed stone-lots of run-off issues to be dealt with.

Bob Otwell- Otwell indicated the commission needs to make this decision based on the Public's health safety and welfare.

Jim Lively- questioned standard used to make this decision other then changing the characteristics of the Township.

Don Coe- does not like implied threat as he feels enough of his tax dollars have been spent on trail issues.

Tom Phillips-does not feel the township demands are reasonable. How will vote effect health safety and welfare.

Jon Gingras- there has been a war between the property owners for years. It is hard to get away

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from it. Emotional arguments have to stop.

Field Carden –reminded that the commission must make discretionary v non-discretionary decisions.

Bob Otwell- Stated they do not have the money right now to pave.

Planning Commission Comments:

Walton does not feel the commission has the authority to tell them whether they can or cannot pave, however she would like them to consider crushed stone. Kiessel has reviewed everything and looked again at their application. He added that he feel it does change the character by adding numerous people. He would like to see crushed stone. Park also would like to see it kept natural for the present time. Jasinski asked the applicant how their request meets the health safety and welfare of the township.

Otwell stated that their supporters have requested it be paved although they would consider crushed limestone.

Collins added he does feel this changes the essential character of the township. He also feels that the crossing should meet a higher standard and would like the drain commissioner to review some of the areas pointed out this evening.

Gregory asked if the commission was ready to make a preliminary finding.

Move by Bunek support by Walton to approved the surfacing of the trail for crushed stone, gravel or paving with the idea they will provide higher standards for ag crossings and that all adjacent property owners be held harmless by the applicant and their successors for the normal wear and tear at existing crossings at the trail. Further that the applicant complies with all standards in Section J and that they obtain all applicable permits. Roll Call Vote

Jasinski-Yes

Collins-Yes

Kiessel-No Feels that crushed stone would be sufficient and that this substantially changes the character of the Township .

Gregory-No- Agrees with Kiessel and added that it seriously effects the character of the agricultural area and this effects the welfare of the people of this township.

Bunek-Yes

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Walton-Yes

Park-No He reiterates statements made by Gregory and Kiessel and adds that the survey of adjacent property owners did not support paving.

4-Yes 3-No Motion Carries

Chairman Gregory reminded the commission and applicant that this is preliminary motion.

Trail Crossings

Stuart Whittaker- Stated that the facts are facts. He signed agreement under the threat of lawsuit before a biased Judge. Does not believe that they could of prevented or denied his crossing from one side of his property to the other.

Gingras- Gingras does not feel that there is enough traffic on the trail to warrant him stopping.

Tom Phillips-Stated that if a farmer can demonstrate the need for a stop sign they will work with the property owner.

Mary Herman-stated she has an unusual very steep crossing

Dave Monstrey stated that there were only a few crossings he felt needed to be addressed, the Hermans, the Whittaker Road crossing, the Whittakers and the Leibys. Collins added that the Eckerle's need to be addressed.

Don Coe asked if there was someone that could inspect these crossings.

Midge Werner stated that this was a health safety and welfare issue and some of these areas need stop/yield signs.

Mike Park suggests the committee reviews these crossings. Jasinski agrees as she and Park had seen several areas with poor site distances.

Gregory steps down as chair and Collins assumes position for Gregory to make a motion.

Move by Gregory support by Kiessel that as a preliminary determination we ask that yield signs be placed at each crossing unless LTA/TART acting manager has a written agreement with the adjacent property owner that fore goes this for the people traveling on the trail coming up on crossings.

Roll Call Vote:

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Jasinski-Yes
Collins-Yes
Kiessel-Yes
Park-Yes
Bunek-No
Walton-No
Gregory-Yes

5-Yes 2-No Motion Carries

Jasinski stated that there were numerous issues remaining for the committee to review. She asked to work with Petroskey also to come up with a list for a possible special land use permit that would detail those conditions.

Motion by Collins support by Bunek to refer remaining items to a committee and put back on the agenda next month to continue this public hearing.

Ayes-all Motion Carried

Parking Lot Language: Commission review draft language presented last month to be incorporated in the Zoning Ordinance regarding parking spaces. The change would give the planning commission the discretion to modify the parking for each applicant if the applicant could demonstrate a need for the change. Collins stated that the onus should be on the applicant. Patmore agreed that it should be up to the applicant to be able to demonstrate the need for modification. The commission agreed on the following language.
“Planning Commission at their discretion may modify or waive the requirements of B-P if the applicant can demonstrate that the required amount of parking is not necessary.” A draft will be presented next month for the commission to review with the above statement.

Planner Job Description: Tabled.

Chairman Report-None

Township Board- Collins stated that the Kiley Project is currently tabled.

Zoning Administrator-written report submitted.

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Next Month=s Agenda:

Old Business:

**Continuation of Public Hearing for Consideration of Leelanau-Tart Trail
Trillium Development preliminary consideration continued**

Parking Standard

Public Comment: Werner noted that there would be a workshop coming up on conflict of interest. It was noted that it was scheduled for the same time as next month's planning commission meeting. She added that if the commission had a question and felt they need to have an opinion by the attorney that they should table discussion and request that the Board refer the matter to the township attorney.

Move by Jasinski support by Kiessel to adjourn.

Ayes-All Motion Carried

Meeting adjourned 11:00 p.m. by consensus.

Respectfully Submitted

Dorothy Petroskey

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