

NEW BUFFALO TOWNSHIP BOARD
APRIL 19, 2010
17425 RED ARROW HIGHWAY
NEW BUFFALO, MICHIGAN

Supervisor Dudiak called the meeting to order at 7:00 p.m.
Board Members Present: Dudiak, Heit, Oselka, Rahm, and Rogers

Call to Order

Dudiak led the Pledge of Allegiance

PUBLIC COMMENTS ON AGENDA ITEMS

REPORTS

Monthly departmental reports were received.

Reports

AGENDA ITEMS

Heit moved, Dudiak seconded to approve items on the consent agenda:
Minutes of the March 15, 2010 Regular Meeting, April 8, 2010 Election
Commission and Special Board Meeting.

Consent
Agenda

Treasurer's Report

Bills

1. General \$58,560.48
2. Building \$16,257.07
3. Sewer \$75,889.62
4. Water \$197,791.06
5. Liquor \$395.62
6. Ambulance \$8,982.12
7. Park Millage \$16,006.22

Approve the Agreement with Lake Michigan College for Summer School Tax Collection.
Accept Grant Conditions for Recycling Station grant from The Pokagon Fund.

Dudiak	Yes
Heit	Yes
Oselka	Yes
Rahm	Yes
Rogers	Yes

Motion Carried

OLD BUSINESS

Dudiak moved, Rogers seconded to approve the Public Arts Initiative Placement Agreement.

HCPAI Agreement

Dudiak Yes
Heit Yes
Oselka Yes
Rahm Yes
Rogers Yes

Motion Carried

Dudiak moved Bill Melendy be appointed as Assistant Fire Chief - Motion died for lack of a second.

Assistant Fire Chief Appointment

Oselka moved, Heit seconded to appoint Rose Dudiak and Pete Rahm to a subcommittee to meet with the Fire Department regarding a paid chief, job descriptions, and appointments.

Subcommittee Fire Dept. Issues

Motion Carried

Heit moved, Dudiak seconded to adopt Ordinance #2010-04-19 establishing The Planning Commission.

Ordinance Establishing Plan. Comm.

Dudiak Yes
Heit Yes
Oselka Yes
Rahm Yes
Rogers Yes

Motion Carried

Heit moved, Dudiak seconded to accept the proposal from Pajay, Inc. for work to complete Memorial Park, Phase 1 – not to exceed \$5,450.00. Park

Pajay Memorial Proposal

Dudiak Yes
Heit Yes
Oselka Abstain
Rahm Yes
Rogers Yes

Motion Carried

NEW BUSINESS

Heit moved, Dudiak seconded to approve upon recommendation of the New Buffalo Township Planning Commission and the Berrien County Planning Commission that parcel numbers 11-13-0015-0001-00-8 and 11-13-0015-0002-00-4, located at 18567 & 18639 Harbor Country Drive, be rezoned from AG-R and C-1 to Planned Unit Development (PUD) by approval of the Preliminary Plan with the Findings and Conditions stated in this motion.

Birchwood
Rezoning
to PUD

Findings of Fact:

1. The Township Clerk has given proper notice as required by Sections 11.6 and 17.6 of the Zoning Ordinance.
2. During 2008-2009, the Planning Commission retained McKenna & Associates to perform a density study which resulted in certain amendments to the Master Plan, among them:
 - a. Density for R-3 (high density residential) to be at 8 units per acre with the Planning Commission able to consider up to 12 units per acre on a PUD application in appropriate circumstances.
 - b. On November 2, 2009, the Planning Commission recommended that Section 13.2 footnote (d) of the Zoning Ordinance be amended to decrease the maximum number of units per acre in an R-3 district to 8 from 12, with projects proposing more than 8 units per acre to be reviewed pursuant to a PUD application.
 - c. The development for which the applicant has submitted a request for PUD zoning has a density of 12 units per acre.
3. The Planning Commission has reviewed the applicant's PUD request and Preliminary Site Plan based on their conformance with the Township Master Plan, compatibility with the surrounding uses and consistency with the intent and qualifying conditions of Chapter 11 of the Zoning Ordinance, specifically:
 - a. The proposed development meets the requirements of the intent of a PUD as set out in Section 11.1 and, subject to the conditions set out below, the qualifying conditions for a PUD set out in Section 11.2.
 - b. With respect to Sections 11.2C and 14.1D.1.f of the Ordinance, though the proposed development is not a mixed use development in the strict sense, e.g., a residential development with pedestrian friendly accessory uses, nor a town centre as contemplated by the recent Master Plan amendment, it is located in a district described as high density on the future land use map which district is adjacent to a town centre district on the future land use map. Therefore, the Planning Commission has concluded and finds that the proposed development is consistent with the intention and spirit of the Master Plan and Ordinance in that it is anticipated that the proposed development will spur and encourage commercial development that results in realization of the town centre concept and provide customary and desirable amenities to residents of the proposed development.
 - c. The applicant has met the requirements of Section 11.5 of the Zoning Ordinance regarding a PUD application and submission of a Preliminary Development Plan.

Conditions:

1. With respect to PUD Qualifying Conditions:
 - a. 11.2D, applicant shall provide the Planning Commission with evidence that it has secured a permanent easement for water and sewer that extends from Harbor Country Drive to Kinst Road and such easements shall be shown on the Final Development Plan submitted pursuant to 11.9D.

- b. 11.2E, applicant shall ensure that per the advice of the Sheriff's Department, there will be proper signage along Harbor Country Drive to make clear where the development is located, that there is adequate lighting throughout the development, including inside garages, and a safe entrance for the bike trail at Harbor Country Drive.
 2. With respect to Site Plan Review Standards:
 - a. 14.1D.1b, safe circulation is provided for the development as presented on the Preliminary Site Plan, but the Planning Commission expects applicant to ensure that there is a second entrance off Harbor Country Drive through the immediately adjacent property to the north that will in the future complete a loop to assure the safety of the entire development.
 - b. 14.1D.1c, based on the applicant's testimony that review and approval of the public road will be undertaken by the Berrien County Road Commission, applicant shall provide the Planning Commission the Road Commission's written acceptance of the road as modified on the Final Development Plan and their assumption of full responsibility for its maintenance when completed.
 - c. 14.1D.1e, applicant shall assure that it will comply with the requirements of all applicable ordinances, rules, regulations, codes and requirements of New Buffalo Township and all other local, county, state and federal ordinances, statutes, laws and constitutions. Such assurances shall be incorporated into the Preliminary and Final Site Development Plans.
 - d. 14.1D.1g, proposed surface drainage plans will be accepted only after the Township Engineer has provided his written approval thereof to the Planning Commission and such approval shall be incorporated into the Final Development Plan.
 3. Parking:
 - a. After extensive discussion of the Zoning Ordinance requirement of 2 parking spaces per unit versus the 1.7 per unit applicant proposes for the development based on recent studies supporting this lesser number, the Planning Commission **has agreed** to accept the latter on the condition that parking be permitted on one side of the 30' wide public road up to as close to the Harbor Country Drive entrance as can safely be done.
 - b. The ratio of 1.7 parking spaces per unit shall be applicable to Phase 1 as well as to Phase 2 of the project.
 4. Dumpsters: no dumpsters are shown on the Preliminary Site Plan. Because a standard approach to placement of dumpsters is to use a parking space, the location of dumpsters must be included on the Final Site Plan in as aesthetically pleasing a way as possible without losing any parking spaces.
 5. Bicycle Trail: The size and structure of the bicycle path is to be detailed on the Site Plan consistent with applicant's description of the Trail being platted 10' wide on the road right of way separated from the paved road.
 6. Fire Safety: Fire Safety Plan for Birchwood Apartment Homes will be accepted only after receiving a written approval thereof to the plan commission from the Township Fire Department and such approval shall be incorporated into the final development plan.
 7. Bonding: Construction of any part of the project may not proceed until, on behalf of the Township, the Planning Commission and/or the Township Board has/have been provided bonding or other financial guarantee acceptable to the Township through its legal representative.
 8. DNRE Approval: applicant shall provide written evidence from the Michigan Department of Natural resources & Environment (MDNRE) that it has issued a permit under Part 301 of the Natural Resources and Environmental Protection Act as described in a letter dated February 26, 2010 from Larry Poynter and has otherwise concluded that MDNRE has no other issues regarding the project.

9. Water, sewer, drainage, other infrastructure: the Planning Commission will be provided with written confirmation from the Township Engineer that he approves the water, sewer, drainage and other infrastructure elements (specifically including the Bike Trail) of the project and such approval shall be attached to and become a part of the Final Development Plan.
10. Applicant, Birchwood of Michigan II, LLC shall submit a request for final PUD approval within twelve months of the Township Board's approval of the PUD district and the preliminary development plan. Pursuant to Section 11.9D and consistent with comments from the Planning Commission regarding applicant's preliminary site plan, applicant will ensure that the requirements of Section 14.1.C.2 (Site Plan Requirements) are completed on the final development plan, namely:
 - a. Small scale sketch; b. existing curb cuts within 100' of the property; c. all lot lines with Dimensions; e. Size and location of all existing and proposed public and private utilities not noted in plan presented for 3/2/10 hearing; g. dimensions for two signs reflected on plan presented at 3/2/10 hearing; l. proposed sewer and water easement plans provided with application to be attached to plan; m. storm drainage plan presented to Commission subject to condition #9 above; n. subject to condition #3 above; p. plan preparer Land Resource Management Group, Inc. c/o Daniel F. Vicari, P.E., 1336 Main Street, 2nd Floor, Crete, IL 60417, 708.279.7484 Note: letters correspond to items under 14.1.C.2]
11. If applicant does not proceed with a final PUD development application pursuant to Section 11.9 of the Zoning Ordinance, the property shall remain zoned as it is currently zoned and any approvals made by the Planning Commission or the Township Board regarding the Preliminary Plan shall be considered void by both the Township and the Applicant.

Dudiak	Yes
Heit	Yes
Oselka	Yes
Rahm	Yes
Rogers	No

Motion Carried

Dudiak moved, Oselka seconded to approve a subcommittee be created to study the possibility of local fire departments possibly consolidating and that Rose Dudiak and Pete Rahm be the representatives to that committee.

Sub-Committee
Fire Dept.

Motion Carried

Rahm moved, Heit seconded to approve the Resolution to Adopt Fee Schedule For False Alarm Ordinance.

Resolution
To Adopt
Fees for
False Alarms

Dudiak	Yes
Heit	Yes
Oselka	Yes
Rahm	Yes
Rogers	Yes

Motion Carried

Rogers moved, Oselka seconded to approve the Berrien County Road Commission project for a culvert installation on Farina Road at a cost of \$3,894.00, New Buffalo Township's half of \$1,947.00 to be paid from Local Revenue Sharing discretionary funding.

Culvert
on Farina
Road

Dudiak Yes
Heit Yes
Oselka Yes
Rahm Yes
Rogers Yes

Motion Carried

Dudiak moved, Heit seconded to approve the quote from Linda Hoffhines for a mosaic mural piece of artwork to be placed in the Memorial Park pavilion for a cost of \$3,875.00 – to be paid from Park Millage funds.

Mosaic
Artwork
For Pavilion

Motion Carried

Dudiak moved, Oselka seconded to approve asking for a grant from The Pokagon Fund for site furnishings and signage for Memorial Park for approximately \$32,000. Items include benches, picnic tables, garbage and recycling receptacles, pavilion tables, and signage.

Request
from Pokagon
Fund for
Park
Furnishings

Dudiak Yes
Heit Yes
Oselka Yes
Rahm Yes
Rogers Yes

Motion Carried

Heit moved, Rogers seconded to approve the Supervisor attend a Michigan Townships Association class on June 17 in Battle Creek for a cost of \$178.00, plus mileage and lodging.

MTA Class
for Supervisor

Motion Carried

Dudiak moved, Oselka seconded to TABLE paying administrative hours for the Fire Chief until the previously appointed subcommittee can meet.

Admin.
Hours for
Fire Chief
TABLED

Motion Carried

Dudiak moved, Oselka seconded to approve Tele-Rad invoices for the Fire Department be paid for pager and chargers repair for a total of \$957.00.

Tele-Rad Invoices

Motion Carried

Dudiak moved, Oselka seconded to approve the attached resolution accepting the boundary survey for Townline Road Beach.

Resolution Accepting Survey for Townline Rd. Beach

Motion Carried

Oselka moved, Dudiak seconded to add the following items to the Board agenda:

Additions to Agenda

Payment #1 Hoder/Maudlin Water Main Extension

Dudiak Yes
Heit Yes
Oselka Yes
Rahm Yes
Rogers Yes

Motion Carried

Rogers moved, Oselka seconded to approve Payment #1 to Kamphuis Pipeline Company for \$311,418.31 for the water main extension project for Hoder/Maudlin Roads.

Payment #1 Kamphuis Pipeline

Dudiak Yes
Heit Yes
Oselka Yes
Rahm Yes
Rogers Yes

Motion Carried

Dudiak moved, Oselka seconded to approve \$6,000 for one year of the Copsmart Program.

Copsmart Program

Motion Carried

Public Comments were heard.

Heit moved, Rahm seconded to adjourn at 8:40 p.m.

Adjournment

Motion Carried

Submitted,

Paul Oselka
Clerk