

**Charter Township of Elmwood
Special Meeting of the Board
June 22, 2009 in the Fire Station Bay**

Call to Order:

Supervisor Kelly called the meeting to order at 6:37p.m.

Pledge of Allegiance:

Supervisor Kelly led the Pledge of Allegiance.

Roll Call:

Present:

Jack Kelly, Debbie Street, Connie Preston, Terry Lautner, Don Gallagher, and Dave Darga

Excused:

Mary Barrows.

Declaration of Conflict of Interest:

None stated.

Public Hearing: Proposed Elmwood Township Zoning Ordinance:

Supervisor Kelly gave an overview of the Zoning Ordinance process and stated that each person wishing to offer comment on the proposed ordinance would be given 4 minutes in which to do so.

Supervisor Kelly opened the Public Hearing at 6:40p.m.

Shawn Goss 11226 S. West Bay Shore Dr. stated that he has been to many of the meetings regarding this proposed ordinance and cannot believe anyone would pass it. He is opposed to a landscape architect having to sign plans for landscaping along M22 and Cherry Bend Rd. He questioned the banned native species trees. Why would the ordinance want to prevent selling along side of the road? The proposed ordinance is too prohibitive and too restrictive.

Fred Sorensen 9185 E. Hoxie Rd. read a letter, which was submitted for the record, from Gary Garvin, Bob Brick, Ted Lockwood, and himself. They believe that the proposed ordinance is very restrictive and non-flexible and stifles allowed uses of land. It is basically a "can't do" ordinance. They are opposed to the 5 acre minimum lot size in the Ag. District. Farming activities are subject to supplemental regulations within the ordinance. The Private Road grade limits of no more than 7% are overly oppressive. Why is an Elmwood Twp. private road forced to meet a grade standard higher than the county's? The proposed ordinance will inflict even more restrictions on commercial property and more "can't do" interpretations will prevail. They are opposed to architectural standards. It goes beyond the scope of the ordinance of

protecting the health, safety, and welfare of the people. This proposed ordinance is prohibitive rather than a reasonable document to regulate growth.

Meeghan Siera 9606 E. Cherry Bend Rd. stated that the proposed ordinance is not perfect. She is concerned that that this version will be pushed through. She would like to see the ordinance returned to the P.C. for further revisions. The P.C. listened to her and others and did include Farm Market language. Being a farmer, she would like the minimum lot size in the Ag. District to be reduced to 2 ½ acres. She is concerned about parking for the Little League games and that an accident may happen.

Gene Meeuwenberg 9795 E. Cherry Bend Rd. read a letter and submitted it for the record. He is concerned about Lake Front issues. Mandated vegetative buffering and increased water front set backs is an erosion of property rights. Local zoning should be a helpful guide for its people so that they may enjoy their properties and property rights. Pictures in the proposed ordinance on page 3-24 are taken from the Minnesota DNR. Our shoreline is 95% developed. He asked the P.C. three times to remove Section 3.24, but this section has been moved forward unchanged. He is in favor of a 30ft. minimum water front set back.

Robert Gregory 6635 S. Center Hwy. is an Ag. producer of cherries and apples and serves on the Bingham Twp. P.C. He expressed concern that this proposed ordinance will take property rights without due process. He is opposed to the 5 acre minimum in the Ag. District. Agricultural uses should be looked at further. Wine production is a new Ag. use and is not now a permitted use. He favors seriously looking at Ag. and open spaces.

Dave Colby 11800 S. West Bay Shore Dr. is strongly opposed to the proposed ordinance. He feels passage of this ordinance will take away life, liberty, and the pursuit of happiness in Elmwood Twp. This ordinance should be thrown away. No one wants it. He conducted a straw vote, and none of the public in attendance was in favor of the proposed ordinance.

Larry Whiting submitted his written remarks for the record. He was shocked to see that the effect to the existing R-2 District represents extreme down-zoning. Two family dwellings would be eliminated as a choice in the proposed new LDR District. He owns property in the existing R-2 District and bought there because two family dwellings are allowed. R-2 District minimum lot size is now 12,500 sq. ft. The proposed ordinance would change R-2 to LDR, making it eight times more restrictive. This is very, very excessive. Ordinances are supposed to be designed to permit a degree of flexibility, but these changes put an unnecessary burden on the R-2 District land owners who want a variety of choices and flexibility with two family dwelling housing. He also stated that Home Based Businesses would be prohibited in the new LDR District and objects to this. He has always worked out of his home with no disruption to his neighbors. He is not satisfied with the above proposed changes and feels it is over regulating.

Pete Soffey stated that Section 14.2.B speaks about phasing out non-conforming houses and structures. How do you phase out? He feels that if you have to have a vegetative buffer then taxes should go down.

Connie Rumbach 8228 E. Hoxie Rd. is not in favor of a 5 acre minimum lot size in the Ag. District – that is too much. She is for a 2 to 2 ½ minimum lot size. An open space easement will not work. The Master Plan discourages scattered housing on oversized lots in the Ag. District.

George Pruitt is against the proposed lake front set back and buffering language. He owns a sign business and believes a sign ordinance should be flexible enough to keep up with technology for the commercial districts.

Ed Goss 11154 S. West Bay Shore Dr. is opposed to the 5 acre minimum. He would prefer a 1 acre minimum. Working families can't afford even a 2 ½ acre lot. We have already lost our grade school. His 33 acres on M22 and Cedar Lake is in a natural state, and he will keep it that way. He is sick of the fighting going on and would like to see some cohesiveness within the township.

Bela Antal 10447 S. West Bay Shore Dr. asked, What is the water's edge? Is an entire building non-conforming? The current ordinance has been working. Why do we need to change?

Becky Collier 11681 S. West Bay Shore Dr. is opposed to changing the current ordinance. It's working. Do not devalue her property. She is a tax payer and takes care of her property. She wants fair market value for her property. A non-conforming property may not be able to be financed.

Tom Awrey 8401 S. West Bay Shore Dr. stated that the State says he can groom his beach. Why should the township be more restrictive? Why do we need all that vegetation? It is not right to tell a property owner what to do on their own property.

Stan Kuchnerkavich 9690 E. Cherry Bend Rd. submitted his written remarks for the record. The document forwarded from the P.C. is a "smart growth" ordinance with regulatory takings. There will be form-based zoning in C-1. He suggests dropping architectural controls. Forget shoreline buffers and meandering paths. This will be an enforcement nightmare. He feels that the 5 acre minimum is too large. Drop the open space requirements. Make all Ag. uses permitted by right in the Ag. District. He suggests that the Sign Ordinance be re-done. Distinguish between municipal and private water and sewer. Drop A, B, & C from Section 3.20. Draft doesn't define where public marinas are allowed. Having all buildings in C-1 face and be parallel to the road does not respect unique sights. He advises the Board to step back and read and deliberate on the ordinance carefully and then give it back to the P.C. with suggestions.

Michael Awrey 8590 S. West Bay Shore Dr. stated that his deed indicates that he owns to the water's edge. A buffer zone would basically fall into eminent domain and the township would have to pay for it. This would result in loss of tax revenue. Plan carefully.

John Stanek said that this is not Grand Rapids or Oregon – it is Elmwood Township. This is not a good ordinance. The Z.O. should be for property rights.

Meeghan Siera 9606 E. Cherry Bend Rd. stated that people are frustrated, and some are misinformed. She advocates sending the proposed ordinance back to the P.C. It is almost a totally new P.C. at this point. The Board has not done anything to anyone. She asked that there be no further division within the township.

Tom Britton 8261 E. Lakeview Hills Rd. believes that the 5 acre minimum will not work. Landowners should not be told what to do with their own property. There should be more thought given to changes. Times change, and the ordinance can be amended.

Gary Rushton 10243 E. Cherry Bend Rd. asked that people not be chased away in the commercial districts. Commercial property owners pay taxes. We need to keep business people and residents. Costs for Fire, EMS, and DPW go up every year. Work towards getting more residents in the township.

Tom Awrey 8401 S. West Bay Shore Dr. said that vegetation is for wildlife. His beach is clear of vegetation and wildlife comes to his beach.

John Gallagher 9300 E. Breithaupt Rd. stated that the proposed ordinance has permitted land uses in the Ag. District that are subject to supplemental regulations. This is an insult. He requested clarification from the P.C. three times on this issue with no response. Ag. is in transition. Wineries and tasting rooms should be welcomed. The height restriction on windmills should be raised to 400 ft. The Planning Commission and the community need to come together. Protect the health, safety, and welfare of the township residents and don't create hardships on the people. The community is disconnected from the P.C. The Planning Commission needs to understand the community.

Carol Morris feels that it is excessive to have a landscape architect sign off on landscaping plans on M22 and Cherry Bend Rd. She also asked how the P.C. is supposed to know native from non-native trees and what trees are ornamental. Does the P.C. really want to spend their time looking at landscaping?

Ron Novak 10029 E. Cherry Bend Rd. is concerned that the proposed ordinance would prohibit him from starting his business until 7:00am. He currently starts unloading trucks at 6:00am and they are unloaded and gone before traffic.

Anne Bugai Reynolds 12500 S. Bugai Rd believes that the 5 acre minimum is too large. A one acre minimum would be better for families coming into the area. Send the proposed ordinance back to the P.C. to re-think a number of items.

Roger Bohl 12480 S. West Bay Shore Dr. said that he keeps hearing buffer zone and non-conforming. What do they mean? Send the ordinance back to the P.C. for a re-write and then come together again. Need to grandfather for life. He has a problem with the 5 acre minimum lot size. That is too large and will go wild. Go back and clarify. 225 pages are too much for an ordinance. That is micro-managing. Keep it simple. Don't try and solve every problem that may come up in the future. Go back to less than 100 pages. 50 pages are probably too long.

Mike Morris 7230 E. Harrys Rd. advises returning the proposed ordinance to the P.C with instructions to listen to the people and make the ordinance simpler. If they do not listen, then the Board should do the ordinance themselves.

Ron Rhoades 8447 E. Lincoln Rd. believes that the 5 acre minimum lot size is excessive. It chews through too much land and hurts moderate income folks. Drop supplemental regulations for uses in the Ag. District. All agricultural uses should be permitted.

Mark Leugers 10505 E. Cherry Bend Rd. said that zoning is to protect your own property rights as well as your neighbor's. But where to draw the line is difficult to know.

Charlie Kaufman 7976 S. Lakeview Dr. has 150 ft. of lake front property. It would be very expensive to have to create a buffer zone for 150 ft. of shoreline. He feels the township is trying to create conformity through landscaping. He is also concerned about the proposed waterfront set back. He asked if grass is a natural vegetative buffer. His grass goes down to the sand. If people use the proper fertilizer, there is no problem. Protect the lakes by requiring better septic systems. Many things in the ordinance seem vague. A meandering 8 ft. pathway? He does not want to become non-conforming in case he wants to sell his property. He is concerned about Article 14 and wanting to phase out non-conforming structures. How do you deal with both sides? Look at the items presented and identify the real problems.

Ken Coffman 11741 S. West Bay Shore Dr. stated that there seems to be a lot of opposition to the document. What is the process? Is there a point at which the residents vote? Or does the Board decide?

Tony Ansoerge 10101 E. Carter Rd. brought up that the Essential Services section of the proposed ordinance is identical to the current ordinance. The township attorney has said that it is non-enforceable. He struggles with people making comment and nothing being done. Why is the proposed ordinance so large? Return it to the P.C. for more work.

Hugh Zeits 9990 E. Grandview Rd. stated that a farmer needs to be able to sell off land as easily as anyone else can. He feels this is not an ordinance but a wish list. For a PUD, 55 of 100 acres could not be developed. You should be able to use your property as you see fit.

Opportunity to be heard was given to all.

Supervisor Kelly closed the Public Hearing at 8:25pm.

Supervisor Kelly explained the process involved in creating a Zoning Ordinance. The Planning Commission solicits input from staff, professional planner(s), and the public. When they are satisfied with the proposed document, it is sent to the County Planning Commission for their review and comment. The county P.C. serves in an advisory capacity only. The document is returned to either the Board or the Planning Commission for review and revision. The Board then makes final determination on the proposed ordinance.

The Board is not in a hurry to pass this ordinance. There will be no decision tonight. The Board will discuss this ordinance in a series of meetings and possibly have another Public Hearing.

Trustee Comments:

Trustee Lautner stated that if the Board adopts the ordinance, the people can gather signatures and take the ordinance to referendum for a public vote.

Clerk Preston agreed with Trustee Lautner's comments.

Trustee Lautner said that simpler is better. This proposed ordinance is too excessive.

Treasurer Street agreed with Trustee Lautner. She is a proponent of small government.

Trustee Gallagher thanked everyone for coming this evening. He shared that he had lots of marks in his copy of the ordinance and that a lot of his concerns are the same as were heard here tonight.

Supervisor Kelly stated that special meetings will be held in July and August to discuss the comments made tonight at this Public Hearing. He thanked everyone for coming and advised that the next Board meeting is July 13th at 7:00pm.

He informed everyone that there is a Blood Drive on Friday, June 26th at the Township Hall. The Community Picnic is Saturday, July 18th (with a rain date of July 25th) at the Elmwood Township Park.

Public Comment:

Ken Coffman thanked Supervisor Kelly for explaining the Zoning Ordinance process.

Hugh Zeits said that with a PUD, you could have a road of 900 ft. with no other exit. Fire trucks, ambulances, everyone else would be blocked in.

Adjournment:

Supervisor Kelly adjourned the meeting at 8:42pm.