ISABELLA COUNTY
PLANNING COMMISSION

November 8, 2007

A Regular Meeting of the Isabella County Planning Commission was held on November 8, 2007 in Room 225 of the Isabella County Building, 200 North Main Street, Mt. Pleasant, Michigan.

MEMBERS PRESENT:	Marilyn Fosburg, Craig Schripsema, Jerry Neyer, Richard Recker, Dan Hess, Bob Thompson.
MEMBERS ABSENT:	Christine Alwood, Vance Johnson, Gale Willoughby.
SUPPORT STAFF PRESENT:	Timothy Nieporte, Community Development Director Michael Zalewski, Planner/Zoning Administrator Brandy Freed, Recording Secretary

The meeting was called to order by Chairperson Thompson at 7:00 p.m.

The Pledge of Allegiance was recited by the Commission.

APPROVAL OF AGENDA

The Chair requested if there were any additions or deletions to the agenda.

A motion was made by Mr. Hess, supported by Mr. Recker, to approve the agenda as submitted.

Yes: Hess, Fosburg, Schripsema, Thompson, Neyer, Recker.
No: None.

Motion approved.

PREVIOUS MINUTES

Minutes of the October 11, 2007 regular meeting were circulated to the Commission prior to the meeting for their review.

A motion was made by Mr. Hess, supported by Ms. Fosburg, to approve the minutes of the October 11, 2007 meeting.

Mr. Thompson stated that on page 6 paragraph 3 of the October 11, 2007 minutes that stated, "there was a lot of anger on the part of Lincoln Township about taking any, some, or all of their suggestions," in reference to the proposed zoning ordinance. He did not want to come across as stating any animosity, all comments were taken seriously. The comments were all voted upon and some were rejected by the board and he knew that there were some hard feelings.

Yes: Hess, Fosburg, Schripsema, Thompson, Neyer, Recker.
No: None.

Motion approved.

PUBLIC COMMENT

Commissioner George Green stated that he thought that the meeting was supposed to be a joint meeting between the Board of Commissioners members and the Planning Commission in regards to the civil infractions/criminal misdemeanors.

Mr. Thompson stated the intent was to invite the Board of Commissioners for an informal discussion, not a joint meeting.

TOWNSHIP CONCERNS

None heard.

LIASON REPORTS

ZBA – Mr. Schripsema reported that there has been no ZBA meeting.

Parks & Recreation Commission – Mr. Willoughby was not in attendance.

Board of Commissioners – Ms. Alwood was not in attendance.

SPECIAL USE PERMIT #07-07

Mr. Thompson stated that the Commission will consider taking action on a Special Use Permit request submitted by Rolland Township for a Public and Institutional Use (Fire Hall) in accordance with Article XIX of the Isabella County Zoning Ordinance. The property, which is Lots 1-12 Block 24 in the Village of Blanchard, is located on the Northeast corner of Herbert Street and S. West County Line Road in Section 18 of Rolland Township. Parcel # 12-050-00-190-00.

Mr. Dan Shaw, Supervisor of Rolland Township, explained that they received this parcel as described, and cleared it for future use. The township would like build a new firehouse that would be able to house 8 vehicles & any future expansion. With the current setbacks, they are a few feet over; they could possibly reduce the size but would like to have as much room as possible.

Mr. Zalewski explained that the building is proposed to be set only 15' from the front property line along Herbert Street. With Public and Institutional Uses, the Zoning Ordinance specifically grants the planning commission the authority to establish setbacks and other conditions necessary for the use to conform with the character of the adjacent neighborhood. The building is proposed to be set at the same distance to the property line as the existing building that has been removed. The Township has also proposed landscaping along the south side of the building as well as along the side property lines. The planning commission can condition additional landscaping or screening if they feel it is necessary. It is also important to note that the building

is proposed to be set on the property in this manner to allow the fire trucks and equipment easy ingress/egress out of both sides of the building. This is important from a public safety and welfare standpoint and could be considered essential to properly service the neighborhood and the community.

Ms. Fosburg asked if there was enough room to turn the fire trucks into the proposed building with the short driveway along Herbert St.

Mr. Brian Hall, Rolland Township fire chief, stated that they would drive in toward the east and then back the truck in, this would provide enough room for the trucks. Parking of the trucks will take place within the parking area on the property.

Mr. Schripsema stated that he had concerns with the accuracy of the site plan; it states that the right of way is 34' off of Herbert St., but the plat book shows it as 35' on Herbert and 33' on Costa Bella. He also asked if the alley had been vacated and that 10' was being used as part of the legal description.

Mr. Shaw stated that yes, it had been vacated several years ago and is being used as part of the legal description.

Mr. Schripsema stated that this was in the R-2 zoning district. He also asked if there would be the required separation between the water well and the septic system. He inquired as to where the county drain manhole cover was going to be placed.

Mr. Shaw stated that the drain is basically a dry well and the road commission has little information on Blanchard drainage.

Mr. Schripsema stated he had a concern with planting on the property lines. The planting should be contained within the property lines.

Mr. Neyer inquired about what would be used for lighting.

Mr. Shaw stated that they would put up what was required by the zoning ordinance.

Ms. Fosburg asked about a dumpster on the property, if there is it needs to be screened.

Mr. Hall stated that they do not intend on having a dumpster.

A motion was made by Mr. Hess, supported by Mr. Recker, to Approve Special Use Permit #07-07 as proposed.

Mr. Schripsema asked if anything about the 14' setback on the south side needed to be stated

Mr. Nieporte explained that it is depicted in the site plan; the motion stated is to accept what is on the site plan.

Yes: Hess, Fosburg, Schripsema, Thompson, Neyer, Recker.

No: None.

Motion approved.

OPEN DISCUSSION REGARDING CRIMINAL MISDEMEANOR/CIVIL INFRACTIONS

Mr. Thompson stated that over the years the board has talked about criminal misdemeanors and civil infractions and have attempted to educate others about both of these processes.

Commissioner George Green stated that he speaks for himself and District 1, not the Board of Commissioners. He also stated that he had a conversation with Mr. Zalewski earlier in the week about civil infractions. There is an average of 50 complaints per year, of those 50 after they are sent the second notice, about 5 are criminal activities. Those 5 cases are sent letters stating if they do not comply, their case will be turned over to the prosecutor. Maybe those who do not comply need to be charged criminally. Denver Township is for civil infractions, Vernon Township against civil infractions, Gilmore Township is for civil infractions, Nottawa Township has not stated one way or the other what they would like to see and, Isabella Township is against civil infractions. Therefore why should a new process be setup for those who might need to be criminally charged?

Mr. Schripsema stated that of those 5 cases, would the prosecutor find a dumpster violation worthy of taking to court.

Mr. Green stated that he could not speak for the prosecutor. When he first started on the board, he talked to the prosecutor about why he had prosecuted 910 open intoxicant violations. The prosecutor told him that they were both elected officials and he would prosecute what he wanted and Mr. Green should do what he needed to do as a board of commissioner member.

Mr. Schripsema stated that he would guess that they would not as they have other things they need to worry about. He also stated that civil infractions would allow for fines to be issued. Depending on how the process is setup, fines could be issued and if they are not paid the person could be held in contempt of court or else county could hire someone to clean it up and tax it as a lien on the property, but we have not gotten that far yet.

Mr. Green stated that this would mean that the county would have to budget for someone to come in and clean up these areas, as well we would then be billing this thru taxation of the land.

Mr. Schripsema stated that this was an option, but there has not been anything written yet. The approach right now is to recommend that the Board of Commissioners adopt a general civil infractions ordinance.

Mr. Green stated that he would not know what he was going along with until the ordinance is written.

Mr. Thompson stated that the process would be the Board of Commissioners would have to adopt a general civil infractions ordinance. Then the departments would individually write language for their department and have to have it adopted by the Board of Commissioners.

Mr. Green stated that if the Board of Commissioners were to vote yes on the general ordinance, they could potentially get the written language and vote no on that. He also explained that there are enough hard times he wouldn't want to have to burden people with anymore taxes.

Mr. Neyer stated that the Board of Commissioners putting a general civil infraction ordinance in place, would allow the ability to given boards to recommend changing over to civil infractions.

Mr. Thompson stated that the framework has to first be set in place and then allow for the discussion of the specifics.

Mr. John Graham of Gilmore Township stated that at first he was against civil infractions because he didn't know anything about it and he was concerned with costs. The system currently in place is not working. There are issues in the township that have not been settled. Some of the issues in the township do not seem like they are important to the prosecutor. Civil infractions will speed of the process of getting things done and work as good if not better that what we have now.

Mr. Green stated that if a person is found in contempt of court and they go to jail they will still have a record. The fine is the incentive to get people to comply with the ordinance. Wise Township has never issued a ticket under civil infractions. Not convinced that changing over to civil infractions will make much difference.

Mr. Thompson stated the common theme, when the board members went to the townships, was enforcement issues. It does not appear that the current system is ~~not~~ working as well as it could.

Ms. Jackie Curtiss of Denver Township stated that in the letter that they had submitted a letter in June suggesting that a trial period of the civil infractions be implemented.

Mr. Hess stated that would be a discussion of the Board of Commissioners

Mr. Thompson stated that he would have no problem doing a 1 year trial period.

Mr. Green asked if we were to the point that we should be looking in to a zoning enforcement officer.

Mr. Harold Peckens of Gilmore Township stated that he is concerned with the timeline of solving these problems. The only complaints that come in are those that affect other people. There are illegal activities that go on and are not called in because they do not affect people.

Mr. Thompson stated that Mr. Willoughby has been concerned with driving up and down the road writing tickets. There would be some issues with the current zoning ordinance language, but we have to be responsible and make sure that the zoning language is what people want, then take action if need be. We need a mechanism that will be able to hit hard enough and quick enough to make an impact.

Mr. Recker stated that he would have a hard time believing that a zoning officer was needed if only 10% of 50 claims went unresolved. It appears as if many times people have not been

educated on what is right and wrong in zoning. Of the 90% o people who comply they probably didn't know they were not in compliance to begin with.

Mr. Graham stated that 90% of these cases could end up as misdemeanors now. If civil infractions were used they wouldn't have to worry about having a criminal record at that point.

Mr. Green stated that those 90% who get a letter, the letter is not criminal; the 5 people that get an appearance ticket will have something on their record.

Mr. Thompson stated that 4 out of 5 might comply if a ticket is issued and they still would not have a criminal record with civil infractions.

Mr. Schripsema stated right now those cases that are sitting dead nothing is happening with them, civil infractions would move this process along.

Mr. Green asked how long has the longest case taken.

Mr. Peckens stated that it has been seven years.

Mr. Zalewski stated that it is the goal of our office to get voluntary compliance and work with the property owners. The case that Harold is speaking of was opened in 2003 and an appearance ticket was issued in 2006. It went through the process and the judge dismissed it. We now have to start over with it. Under civil infractions when the judge tells the person they will need to clean up, or they will be fined.

Mr. Green stated that they would have to pay that day in court.

Mr. Zalewski stated that they may not have to pay that day in court, the judge may tell the person they have will have to pay the fine in thirty days if it is not cleaned up and another hearing will be set for 30 days and wave the fine if it is cleaned up.

Mr. Nieporte clarified that waving the fee is not in the ordinance. Waving the fee is in the hands of the judge and courts. It is not guaranteed that the judge will wave the fee.

Mr. Hess stated that if the case in Gilmore Township had been under civil infraction it may have already been taken care of.

Mr. Recker stated that 2 years ago there was public out cry for issues one being enforcement. The board is trying to address these and have something better than what we have now.

Mr. Nieporte stated that the case from 2003 got goofed up in the process, these types of things happen, it wasn't any one persons fault, but they don't happen often.

Mr. Green stated that whether civil infractions or criminal misdemeanors it would not have helped in Harold's case.

Mr. Peckens asked what is the timeline for a case to be complete in both instances, and also

could this particular case have been closed in a year?

Mr. Nieporte stated that our office will always try to get voluntary compliance. Our office would be willing to submit something monthly/quarterly to the townships to put in their newsletters in order to educate their people. He also stated that he would speculate that the process of civil infractions would be quicker, there would be no jury trials and it might be cheaper.

Mr. Green asked how many outstanding cases there currently are in the court process.

Mr. Zalewski stated that he sent 2 final notices out this week and there are 3 or 4 others out there.

Mr. Green stated that Gilmore has the oldest case and to move on we have to start all over.

Mr. Zalewski stated that in 2004 the appearance ticket was issued and it is still in the courts.

Mr. Green stated that these cases are assigned to a prosecutor; we should get a timeline as to when the case will be taken care of.

Mr. Recker stated that we need to educate the people, but also every one has to do their duty and be responsible.

Mr. Green asked what would happen if the Board of Commissioners were to adopt a general civil infraction ordinance, would the cases currently in the court process become civil infractions.

Mr. Nieporte explained that this would be a question for legal council, but there might be the option of dismissing the case and then refilling as a civil matter otherwise they would still be criminal and be processed under the current zoning ordinance.

Mr. Schripsema stated that if the Board of Commissioners adopts a general civil infractions ordinance it will not change the zoning ordinance. The planning commission would have to amend the ordinance to allow for civil infractions and write language for this.

Mr. Green stated that it would not help right away. As for a 1 year trial period, we would not start tomorrow if it was adopted by the Board of Commissioners. The trial period could potentially start 2 years from the date the general civil infractions ordinance is adopted.

A motion was made by Mr. Schripsema, supported by Ms. Fosburg, to strongly urge the Board of Commissioners adopt a general civil infractions ordinance ~~as written~~ similar to that written by civil council and to further allow the Planning Commission to then consider amending the Isabella County zoning ordinance for civil infractions enforcement.

Mr. Thompson stated that he would like staff to ensure that the townships are aware of the action that has been taken and have them either support or object to it with their boards.

Mr. Nieporte clarified that they are asking staff to submit a letter recommending to the Board of Commissioners that the Planning Commission would strongly urge them to consider a general civil infractions ordinance. If they choose to do adopt it, then consider allowing the Planning

Commission to pursue the criminal civil process in the zoning ordinance. He also clarified that the general civil infractions ordinance is not an action of the planning commission as well, the public hearing is held at the Board of Commissioners level.

Mr. Green stated that it will take a lot of support from the townships to get this passed.

Mr. Nieporte stated that all the townships and Board of Commission members were invited to this meeting via email or a letter.

The chair called for a roll call vote

Recker: Yes
Schripsema: Yes
Neyer: Yes
Fosburg: Yes
Hess: Yes
Thompson: Yes

Motion approved 6 to 0.

Mr. Green stated that only 3 of the commissioners represent townships in the jurisdiction of County zoning. He also stated that he would support a one year trial period of civil infractions.

REVIEW OF THE DRAFT REFORMATTED ZONING ORDINANCE

Mr. Thompson stated that the purpose of the reformatting of the zoning ordinance was to make it more user friendly without making any policy changes.

Mr. Nieporte explained that it is hard to educate anyone on zoning with the current zoning ordinance because there have been different amendments and different ways of doing things since it was adopted.

Mr. Thompson stated that at last months meeting they refrained from making changes that were mentioned because this is just a reformat. He also explained that the board would come back to making the changes later.

Mr. Neyer clarified that the table of contents would be completed before the public hearing.

Mr. John Graham stated that for the townships it would be better if future changes to the document be bold. If something is state mandated this should be expressed using a symbol so that the townships know that it is not something done at the county level.

A motion was made by Mr. Neyer, supported by Mr. Recker, to hold a public hearing on the reformatting of the Isabella County zoning ordinance on December 13, 2007 at 7:00 pm.

Yes: Hess, Schripsema, Thompson, Neyer, Recker.

No: Fosburg.

PUBLIC COMMENT

None heard.

STAFF COMMENTS

None heard.

PLANNING COMMISSIONER'S COMMENTS

Mr. Hess stated that he was glad to see a Commissioner at the meeting.

Ms. Fosburg stated that she attended a workshop on Green Infrastructure and planning to take advantage of ecology.

ADJOURNMENT

A motion was made by Mr. Hess, supported by Ms. Fosburg, to adjourn at 9:04 p.m.

Yes: Hess, Fosburg, Schripsema, Thompson, Neyer, Recker.
No: None.

Motion carried.

_____
Jerry Neyer, Secretary

Brandy Freed, Recording Secretary