

**Frankfort Planning Commission
Regular Meeting Minutes
March 9, 2010**

Call to Order: 7:00 PM

Roll Call: Condon, Duncan, Hommel, McLaughlin, Ogilvie, and Storrer (*vacancy*) **Excused:** Larson, Martin

Public Present: Bob Dittrich, Jim Campbell, Jackie McLaughlin, Kim Fairchild, Eric Van Dussen, Sandy Skees, Will Wolfe, Joan Wolfe, Mary Armstrong, and Bonnie Warren

City Officials: JoAnn Holwerda, Bill Higman, Bob Johnson, and Josh Mills

Quorum present

Approval of FEB 9, 2010 Regular Meeting minutes and FEB 23 2010 Special Meeting minutes. Moved Storrer; seconded Condon; Motion passed.

Approval of Agenda amended to add discussion regarding a public forum on renewable energy under New Business; moved McLaughlin; seconded Duncan. All ayes; Motion passed.

Public Comments & Correspondence Concerning Items Not on the Agenda:

Bob Dittrich has been on the subcommittee to review comments, a difficult but rewarding process and he is very positively impressed with the quality of the comments.

McLaughlin read a statement, aided by Jim Olson, Friends of Betsie Bay (FoBB) attorney, signifying that the Tobin ruling was not based on a procedural error as implied by Chip Smith at the Special Meeting on February 23, 2010. She asks that Smith receive a copy of the Tobin consent judgment and the November 20th ruling. **McLaughlin** discloses that she is both a member and board member of FoBB

Ogilvie declined to comment due to a conflict of interest with Mr. Olson as his personal attorney. He supports McLaughlin's request to forward said documents.

Reports to the Commission:

Chair report on Master Plan Draft Status: a copy of The Smart Code as a template for clarifying form-based zoning was distributed to the Planning Commission as well as The Annual Report for City Council.

Motion to submit Annual Report of the Planning Commission to City Council moved by Duncan, seconded by Storrer. All ayes; motion passed

Subcommittee Reports:

Subcommittee on Public Comments: **Pat Storrer** states out of the 15 drafts sent out to other municipalities, the subcommittee has received one response from the Benzie County Planning Commission. Out of the 212 comments received, 195 were on biomass and 17 others had multiple comments on the Master Plan. 190 of the comments on biomass were overwhelming against a biomass plant. Storrer thanks the subcommittee and the public for their respectful, high quality responses.

Subcommittee on Capital Improvement Plan: **McLaughlin** submits a brief agenda with notes for the first meeting on February 23rd and a division of labor is established to inventory city-owned property and prioritize improvement needs. Three reports will be used to compile the inventory list. **Storrer** offers to supply spreadsheet. Per **Ogilvie**, this is a requirement of the Planning Enabling

Act.

Subcommittee on By-Laws by Andrew Martin – No report

City Superintendent Report – Josh Mills provides copy of the Grant Application to the DEQ - Coastal Zone Management Division for a Planning and Zoning Grant and advises about a condition in the application that requires “components of form-based zoning”. **McLaughlin** perceives that as being locked into following a form-based code. A discussion about the possible meaning of “components” follows. **Mills** reports on the commencement of Phase II Water and Sewer Improvements and status of Dock project.

Unfinished Business- None

New Business

Motion to Open Nominations for Planning Commission Officers and Representative: Chairperson, Vice Chairperson, Secretary and Representative to the Zoning Board of Appeals moved by Condon; seconded by Storrer.

Motion to table nomination moved by Duncan; seconded by Hommel; all ayes; motion passed. **Duncan** will be resigning due to health. **McLaughlin** asks about the process for interested persons, who are to submit an application to the City. An ad will be run in the newspaper; and previous applications will be reviewed as well.

Motion to have a Special meeting to be facilitated by MLUI for public education and discussion on alternative energy moved by McLaughlin; seconded Storrer; All ayes; motion passed. **Mills** suggests that a multi-municipality task force might be formed to explore the pros and cons of all forms of renewable energy.

Motion to direct Wade Trim consultant to create a Zoning Ordinance with components of form-based zoning. Moved Storrer; seconded Duncan. All ayes. Motion passed.

Discussion: McLaughlin uncomfortable with being locked into form-based zoning via the grant and the ambiguity of the term “components”. **Ogilvie** gives explanation of Euclidian vs. Form-based zoning and examples of the precision of form-based coding. **McLaughlin** concerned that the details of form-based zoning can also be too limiting, as in prohibiting flat roofs when living roofs are becoming so popular. **Storrer** suggests that prescriptive language is equally true for both forms of zoning. **Ogilvie** cites the limitations of prescriptive, rigid form-based codes as important consideration. These types of codes are being developed in response to traditional Euclidian zoning, which is being blamed for sprawl. Form-based code allows for more livable communities based on a context of building form vs. land use separation and this best accomplishes the goal of maintaining the character of Frankfort. Form-based may be better for more sensitive areas i.e. around the bay. **Condon** concerned how “sensitive” will be determined. **Mills** clarifies that form-based zoning puts more emphasis on design. **Storrer** referring to the greater expense of form-based code feels that their budget limitation is a protection. **McLaughlin** asserts that the decision has already been made by the CZM grant requirements. **Mills** questions the hesitation and concerns over form-based code. **Ogilvie** feels that it is easier for the general public to read and understand. **Mills** responds that at the end of the day, they will still get the setbacks and permitted uses they want. He suggests that perhaps form-based coding has not been challenged in court because it works.

Public Input on Agenda Items only

Josh Mills asks when the commission wants to finalize the document and have a public hearing. An extension will carry them into the end of June.

Storrer responds that the Review committee will potentially provide a summary report with corrected

draft to review by April 13th. **Ogilvie** estimates earliest date as the last week in April. **McLaughlin** suggests larger location for the public hearing.

Joanne Holwerda: clarifies her understanding that elements of the form-based code would apply to the districts or sections of town that need to be form-based and that it is spelled out in the grant. She feels that the key word is “components” and that it sounds like a simpler, clearer document that will help the city immensely with any challenges.

Eric Van Dussen: asks if and when the Planning Commission is going to direct Wade Trim in the redraft to which **Ogilvie**, responds March 23rd with a review before April 13th

Van Dussen questions if there is a possibility in the discussion of renewable energy to include the issue of conservation. On the Tobin litigation, he says that the opinion from Jim Olson seemed to be contrary to that given to Wade Trim, and that his understanding is that Frankfort is not taking a position on the appeal and not filing briefs with the court. He would like to see what the city attorney opines on the interpretation of the consent judgment.

Sandy Skees, Bridge St. asks who will chair the Renewable Energy meeting as a friend has offered his expertise.

Ogilvie references the “serious charge” that the Planning Commission had slipped the word “biomass” into the Master Plan. His research shows that the issue of biomass was mentioned at the Mar. 7, 2009 Vision Fair on the subject of what would make Frankfort unique. Renewable energy was mentioned in its many forms. It was also mentioned in a written survey. In addition there were 3 written comments about energy. The first appearance of the word ‘biomass’ was in the first draft Master Plan document. Under Goals on page 61, the specific phrase in question was listed under how to accomplish the goal. 69.4% of the survey respondents either agreed or strongly agreed with the question as it was presented in the survey. A story of a township that lost a new employer because there was no ordinance or master plan provision to allow for it so the employer built the facility in another township made an impression on them.

Mary Armstrong: says that the word “focus” is what upset everyone. **Ogilvie**, responds that it has been there since it was in the original on Nov. 20th and that they didn’t change a word adding “there was no word of ‘focus’ those prior times”.

Van Dussen: the questions that were asked in the survey did not ask people if they wanted Frankfort to prioritize with a focus on biomass, did it? **Ogilvie:** No, it didn’t

Van Dussen, paraphrasing that basically what Ogilvie is saying is that one township supervisor told a story in a meeting and because of this one story it became a priority for Frankfort. He asked if Wade Trim chose the specific language of “prioritizing”. **Ogilvie**, responding: I guess.

Van Dussen: is there a possibility for it to be amended? **Ogilvie:** I don’t know.

Kim Fairchild: I think one of the problems is a word that’s not in there: alarmist.

Joan Wolfe: We get a plan presented to us and we get to suggest changes, correct? I suggest strongly that you leave out the different kinds of energy that can be produced. I think the letter we wrote left out “pollution”. Legislation is of little use unless you put in the standards.

Ogilvie says that he was responding more to the allegation that they had slipped something in. “We have listened, read and researched in your interest”.

Van Dussen asks if coal is considered biomass?

Ogilvie affirms. He notes how his house has two biomass plants - his two heaters - and can come in many forms, noting that Middlebury College is being fueled by human excrement.

Motion by Duncan to adjourn; seconded Condon; all ayes; motion passed. Meeting Adjourned 8:38pm

Next Meeting: Regular Meeting on April 13, 2010, City Hall at 7:00 pm. Special Meeting and Subcommittee Meeting(s) as posted in the interim.

Commissioner Handouts: Draft Minutes for 9 FEB 2010 handed out at special meeting, draft minutes of Special Meeting by e-mail for 23 February 2010, and Planning Memorandum from Chairman, dated 4 March 2010 by email.