I Call to Order and Attendance

The meeting was called to order at 7:33 p.m. by Chairman Eby. All members were present.

II Minutes of January 4, 2007 Meeting

Gregory made a motion, supported by Alexander, to approve the minutes of the January 4, 2007 meeting as presented. The motion passed by a unanimous voice vote of the members present.

III Public Hearing: Sub Area Master Plan

Packet items: 1/24/07 letter from Bonnie Elkins

Eby opened the public hearing.

Michalek explained that we are still waiting on information from the consultant. He stated that he would suggest removing this from the agenda until the information is received. Once the information is received, the public hearing would be re-advertised.

There was no public comment.

Eby closed the public hearing.

Anderson made a motion supported by Neal to remove the public hearing for the Sub Area Master Plan from the agenda. The motion passed by unanimous voice vote of the members present.

IV Cases

1. Case #23B-98 Rich Jackimowicz, SPECIAL USE PERMIT, Level III Resource Mining
& Extraction, E. Mitchell Road, Section 6, Springvale Township

Legal Notice: A request by Rich Jackimowicz for a Special Use Permit for a Level III Resource Mining and Extraction operation with a Redi Mix Plant to be located on the south side of E. Mitchell Rd., Section 6, T34N-R4W, Springvale Township. The parcel is approximately 27.2 acres, zoned FF-2 Farm and Forest with a tax parcel number 24-14-20-06-300-008. The review is per Section 2102-10 of the Emmet County Zoning Ordinance.

Packet Items: revised permit requirements, 1/22/07 letter from Marilyn Kruskie, 1/23/07 letter from Cynthia Hill & Lyn Gabel, 1/24/07 letter from Carl & Nancy Dulin, proposed phasing plan, proposed phasing plan-aerial view.

Additional handouts: 1/31/07 email from Kathy Gay

Doernenburg explained that this request is for an expansion of an existing mining operation. The location of the parcel was shown on the tax parcel map. Permit conditions have been drafted based on the existing permit, previous reviews, and the recommendations of the Planning Commission. The applicant now has a phasing plan on file that he has agreed to. This was shown and explained. The phasing plan would require only one area at a time to be mined and reclamation of that area before moving on to the next phase. The applicant would like some latitude for the Zoning Administrator to allow slight deviation from the phasing plan if the phases were mined out of order. There were letters of concern received that referenced the hours of operation, dangerous road conditions, harming the environment, and disturbing the scenic area. A question was posed in regards to what would be done with the stumps. The stumps are currently burned on site and the applicant would like to continue that process. Additional visual screening was also discussed at the last meeting. It was noted that the applicant was working to be deemed necessary by the Zoning Administrator, it would be added along the north side of the berm. Doernenburg noted that the draft motion still mention both parcels. Only the one parcel is being considered for the mining. The additional thirteen acres are not part of this request.

The applicant was not present.

Jones asked what the acreage of the parcel proposed to be mined is. Michalek stated that it is approximately 27.2 acres. Doernenburg passed out the revised suggested motion. She stated that there is a plan that shows the dimensions and acreage of each phase.

The draft permit conditions were discussed.

Scott had some concerns. Item 11 doesn’t specify what aggregate materials will be allowed to be brought onto the site. There are materials that shouldn’t be brought onto the site. How should this be stated? Also, item 15 states that the operation will be reviewed one year from the date of approval. Can this be revised to state that there will be yearly inspections? Did the Road Commission approve the entrance as it is now?

Doernenburg stated that the Road Commission’s preliminary approval was for the redi-mix operation. It is not known if a commercial drive will be required for the mining operation. She stated that item 14 seems to address some of the concern with aggregate materials being brought onto the site as it states that no debris or rubble from off-site shall be stored or disposed of on the property.

Jones suggested comparing the language that was used on the other area mining operations to determine how to word this item. Derrohn stated that the applicant should advise us what materials he wants to bring onto the site.

Michalek suggested the wording of item 15 to read ‘Permit to be reviewed by Emmet County Planning and Zoning staff on a yearly basis.’ Neal asked if this limits the visits allowed. Does this need to state ‘as deemed appropriate’? After discussion, Michalek stated that perhaps this should be modified to avoid any trespass issues.

Scott stated that he is uncomfortable discussing hours of operation without the applicant present. Alexander asked what the township stated in their recommendation. Scott replied that they recommended Monday-Friday 8 a.m. to 5 p.m. This was based hours of operation on the current permit. Alexander asked if there have been any complaints regarding this operation. Scott replied that there haven’t been any. Derrohn stated that perhaps the Saturday hours could be shortened. Scott agreed that this would help alleviate some of the neighbor’s concerns. Eby asked what the history is with mining operations. Doernenburg replied that it varies but could be investigated.

Eby opened the floor to public comment.
Carl Dulin stated that he and his wife are concerned about the hours of operation. They prefer the suggested hours from Springvale Township, Monday-Friday 8 a.m. to 5 p.m. He added that if they are going to be crushing the noise levels and distances from properties should be looked at. He is concerned that this is becoming a commercial venture. If aggregate material is coming in, what is he doing? This should be looked at closer.

Neal asked for clarification on the performance bond. When would it be required? Michalek stated that it is written that if the next phase is done prior to reclamation of the previous phase, a performance bond would be required.

The hours of operation, types of aggregate materials allowed, and items 4, 11, 14, 15 on the permit requirements need to be looked into.

Jones made a motion supported by Scott to postpone this case until the next regular meeting due to lack of information. The motion passed by a unanimous voice vote.

2. **Case #150D-98 Gerald McConnell, REZONE, R-2B to PUD-2, 1589 & 1619 Anderson Rd, Section 7, Bear Creek Township**

   **Legal Notice:** A request by Gerald McConnell to rezone property located at 1619 & 1589 Anderson Road from R-2B General Residential to PUD-2 Planned Unit Development. The properties are tax parcels numbered 24-01-19-07-300-004 & 24-01-19-07-300-007. The proposed PUD-2 encompasses 3.64 acres with retail sales uses proposed. The request includes modifications to the PUD-2 perimeter setback and sign standards to allow B-2 standards to apply to both setbacks and signage. The request is per Article XVIII of the Zoning Ordinance.

   **Packet items:** Request & location map, tax parcel map, application, zoning evaluation form, 1/11/07 site plan, 1/19/07 letter from W.C. Germond

Michalek showed the location of the parcel using the tax parcel map. The parcels are located on Anderson Road. He showed the surrounding businesses and uses in the area. The parcel across the street has been approved for retail uses. The current zoning and an aerial of the area was shown. The proposal is a combination of two lots. There is a temporary use permit valid for two years from the Zoning Board of Appeals for outdoor display and sales. The proposal is for a PUD-2 for the entire parcel with retail sales uses proposed. As part of PUD-2, R-1A use would be allowed by right. The applicant has requested modifications to the PUD-2 perimeter setback and sign standards to allow the B-2 standards to apply. Bear Creek Township didn’t discuss the setback modification at their meeting. They felt that it should be discussed once a site plan is presented. Bear Creek Township Planning Commission recommended approval. Anderson added that as the Township Board meets after the County Planning Commission meeting, Denny Keiser spoke with the Bear Creek Township Board and received an ok to act without the Board reviewing the case first.

Eby inquired about the setbacks. Is a 50’ setback adequate? Neal stated that there is a church with a preschool and playground to the south. This may need to be considered when looking at the setback issues. Michalek stated that there are quite a few trees between the properties. Anderson stated that there were concerns with the setbacks at the Bear Creek meeting as well. They chose to remove setbacks from the discussion on the preliminary PUD and review them at either the final PUD review or site plan review. Michalek stated that the PUD-2 is a rezone and it would run with the property whether there was action on the property or not. He pointed out that Lowe’s, Wal-Mart, Home Depot, and the rest of the surrounding area businesses were allowed B-2 level signage.

Dick Oelke representing the applicant stated that they were asked to keep the plan simple in order to focus the discussion on the PUD-2 request first. He stated that the layout and grading of the parcel may limit the uses. He stated that he was told by Denny Keiser that the Bear Creek Master Plan shows this area as business use.

The applicant, Gerald McConnell, stated that he and his wife own Brewbaker’s Furniture in Onaway, MI which has been in business for 47 years. They would like to come into and become part of the community in order to better service Northern Michigan in the area of furniture retail. Their store carries furniture, electronics, and home appliances. Their plan would be to have their son operate as the store manager. They are applying for the PUD-2 and would like to be allowed the B-2 setbacks and signage. They have been researching the building size needed to make it economically feasible for them. McConnell passed out photos of the Onaway building and explained that this is the type of structure that he would propose. He stated that it is a metal building with the sides hidden. 40,000 yards of dirt will have to be moved and the floor would be approximately 6’ higher than the road.
Eby asked which of the setbacks would interfere the most with their plans. Oelke responded that they would need some setback relief on either the north or south sides and also on the east side. The parking lot and the grading use up a lot of the site. Eby asked what would be protruding on the rear of the building. Oelke replied that the northeast corner would be closer than the 50’ setback.

Eby asked what the township Master Plan shows for this area. Michalek replied that it shows this and the surrounding properties as commercial use. Anderson stated that the Bear Creek Township Master Plan has always shown this area to be commercial. The commercial uses on the highway should be the less intensive commercial uses such as offices and the heavier commercial uses, such as retail, located on Anderson Road. Eby asked where the Township wanted to draw the line on the setbacks. Anderson replied that because of the slope on the back of the property, it was stated that there would be no possible exit to US-131. She stated that the Township was willing to look at the possibilities of some setback relief, but they weren’t ready to make concessions now because the information isn’t available.

Michalek stated that this current request is a rezone to PUD-2. The question is whether this is an appropriate location for a retail use with B-2 signage.

Eby opened the floor to public comment.

Michael Golas owns the property to the northeast of this property. He is concerned with his property ‘sliding’ into their property. If the setbacks were lessened, his property would run into theirs. Anderson asked how deep the tree line is between their properties. Golas replied approximately 40-50’.

Jones made a motion to waive the normal second hearing on a rezoning matter as there have been multiple discussions on this property including Zoning Board of Appeals action. The motion was supported by Anderson and passed on the following roll-call vote: Yes; Eby, Neal, Jones, Scott, Gregory, Laughbaum, Anderson, Derrohn, Alexander. No; None. Absent; None.

Anderson then made a motion to recommend approval to the Board of Commissioners Case #150D-98, a request by Gerald McConnell to rezone property located at 1619 & 1589 Anderson Road from R-2B General Residential to PUD-2 Planned Unit Development. The properties are tax parcels numbered 24-01-19-07-300-004 & 24-01-19-07-300-007. The proposed PUD-2 encompasses 3.64 acres with retail sales uses proposed. The request includes sign standards to allow B-2 standards to apply. The request is per Article XVIII of the Zoning Ordinance. The proposal will include the removal of existing temporary use permit for outdoor display and sales at the residence. The motion was supported by Jones and passed on the following roll-call vote: Yes; Eby, Neal, Jones, Scott, Gregory, Laughbaum, Anderson, Derrohn, Alexander. No; None. Absent; None.

3. Case #2-07 Robert & Kelly Hallenbeck, SPECIAL USE PERMIT, Home Occupation-Retail, 9176 Banwell Road, Section 7, Littlefield Township

Legal Notice: A request by Robert & Kelly Hallenbeck for a Special Use Permit for a Home Occupation to operate a retail sales business of mobile audio, video and accessories at their residence located at 9176 Banwell Road. The property is tax parcel number 24-07-17-23-100-013 and is zoned FF-1 Farm and Forest. The request is per Section 2102-12 of the Zoning Ordinance.

Packet items: Request & location map, tax parcel map, application, site plan, home occupation use form, zoning evaluation form.

Additional handouts: Email comments from Scott & June Hymas, phone comments from Gail Hand.

Doernenburg explained that this is a request for a home occupation for the retail sale of mobile audio, video, and accessories. The property is located on the south side of Banwell Road. Lakeview Road is the closest intersection. She pointed out other approved home occupations in this area. The site plan was shown. The applicant is proposing to use an 11x13 portion of an existing accessory building for the home occupation. There has been a phone call and a letter of concern from two of the neighbors. Their concerns were regarding this property being so far from a major retail center and the traffic. There is enough parking for two cars now due to snow, however, parking should be adequate in the summer. The proposed hours of operation are 9 a.m. to 6 p.m. Littlefield Township Planning Committee has recommended approval.

The applicant, Robert Hallenbeck, stated that he has had a side business for awhile and is applying for the home...
occupation to generate business before he made the move to lease a space. The only thing that has changed on the exterior of the building is that one garage door has been closed off and a small window and a door were added in its place. The nature of the business is installing car audio, remote starters, security systems, etc. He needs a space for his customers to come in and fill out paperwork and for some display of his products. Hallenbeck stated that there is only room to service a few people at a time and this would be by appointment only.

Derrohn stated that at the Township meeting, it was discussed that perhaps this is more of a service business rather than retail sales as people would only be there to drop off their vehicles and to fill out their paperwork.

Anderson asked if there would be outside storage of vehicles. Hallenbeck stated that there would not.

Eby opened the floor to public comment.

Bambi Hoffbauer stated that her family owns the property surrounding this parcel. They have been aware of the applicant’s intentions to utilize this property for his business and they don’t have a problem with this request. The applicants were originally renting this property from her parents and now own the property on land contract. Hoffbauer stated that she hears the body shop up the road and the sewer trucks in the area more than anything the applicant does. She doesn’t see why there should be an issue for a small business to be located here.

Eby stated that the parking is vague on the site plan. Perhaps an area should be identified for parking on the plan. There was some discussion about parking and the amount of vehicles that would be worked on at a time.

Derrohn made a motion to approve Case #2-07, Robert & Kelly Hallenbeck for a Special Use Permit for a Home Occupation to conduct a service sales business of mobile audio, video and accessories at 9176 Banwell Road, Section 23, Littlefield Township, as shown on the site plan dated 1/11/07PZ and as indicated in the Home Occupation Use Plan because the proposed use meets the standards of Section 2102-12 of the Zoning Ordinance and the Township has recommended approval and on the conditions that the sign be limited to 2 sq.ft., the area of the accessory building to be occupied for the use may not exceed 600 sq. ft., there will be no outdoor display, the hours of operation will be 9 a.m. to 6 p.m. Monday, Tuesday, Wednesday, Friday, and Saturday, and all vehicular uses will be confined to the drive and parking area as depicted. The motion was supported by Laughbaum and passed on the following roll-call vote: Yes; Eby, Neal, Jones, Scott, Gregory, Laughbaum, Anderson, Derrohn, Alexander. No; None. Absent; None.

4. Case #99B-83 Emmet County, AMEND PUD-1, Pellston Airport, Sections 21, 22, 27, 28, 29, & 33, McKinley Township

Legal Notice: A request by Emmet County to amend the Preliminary Mixed Use PUD-1 Master Plan Overlay for the Pellston Regional Airport on an approximately 1,457.66 acre parcel, zoned FF-2 Farm and Forest, R-2B General Residential, SR-1 Scenic Resource, and, I-2 General Industrial, to consolidate zoning and allow I-2 uses on all airport parcels owned by Emmet County. The tax parcel numbers are 24-10-10-21-300-003, 21-300-005, 22-300-002, 27-100-001, 27-310-003, 28-100-001, 29-200-001, 33-100-001, and 33-300-004 located in Sections 21, 22, 27, 28, 29, and 33 of T37N-R4W, McKinley Township. The purpose of the PUD-1 Overlay District is to permit the uses of the airport to operate and expand without the limitations of several different zoning district classifications that exist as underlying districts. The PUD Master Plan includes all airport uses, as they exist, including future uses and hanger areas shown on the Airport Layout Plan. The review is per Article XVIII, of the Emmet County Zoning Ordinance.


Additional handouts: 2/1/07 letter from Richard Sarchenko, 1/30/07 site plan.

Michalek explained that this request is to amend the PUD-1 that was put in place in October of 2002. He showed the parcel location on tax parcel map. In 1989, the zoning was changed from I-2 to include areas of R-2B, FF-2, and SR-1. The SR-1 zone was put in place as a buffer to the river. A PUD-1 was placed on the airport properties in October 2002, which include zoning R-2B, FF-2, SR-1, and I-2 uses on all parcels except those located along Ely Road. An aerial of the area was shown. This is a preliminary PUD review which gives the County the opportunity to explore options of bringing in I-2 uses to the airport area.

Alexander asked if there has been much inquiry from businesses looking for areas of Industrial zoning. Michalek replied that he does get calls.
Anderson asked if this case had been advertised. Michalek stated that it had been advertised and the Township meets on February 7, 2007.

Derrohn asked why the entire area wasn’t proposed to be rezoned instead of just the County owned lands. Michalek replied that if landowners wished to do so, they could look at rezoning their property as well.

Eby asked if this request was premature. Michalek stated that it would be premature to request that the other parcels be rezoned. Doernenburg stated that this request isn’t a rezone request; it’s a request to amend the PUD so it would be an overlay. Derrohn stated that she feels that it would be spot zoning. Gregory stated that before the northern parcels were zoned FF-2, there were plans for an east-west runway in that area. Laughbaum stated that he would question the parcel located at Orchard and Ely road. It is a wet, hilly parcel and industrial uses would be out of place there. He stated that the industrial uses make sense closer to the highway. Michalek stated that I-2 zoning allows for multiple uses and the Final PUD approval and/or site plan reviews would still need to come before the Planning Commission.

Lyn Johnson, Emmet County Controller, stated that they have had inquiries about extension of storage and hangers in these areas. The area north of Ely Road along Orchard Road is part of an approach which limits what could be built there. The State wants Ely Road to be relocated away from the runway. Primarily, any development would be within the fence line of the airport and along the west side of the site. Due to Federal guidelines, any development would have to be an airport related activity.

Eby opened the floor to public comment.

Kevin Pike owns property at 4877 E. Robinson Road. He is concerned with having industrial activity next to his property. He has just built an expensive home and would like to keep it as a scenic property. He has had to fight a motorcycle track in the area already. Michalek replied that there already is I-2 zoning on the properties near his. Pike stated that he would like to look into purchasing some of the surrounding properties. He was directed to inquire with Lyn Johnson. Johnson stated that there would be restrictions on any possible sales of property.

Laughbaum asked if the SR-1 zoning would stay in place along the river. Michalek stated that he would suggest it to stay zoned that way as it was put in place as a protection zone. Derrohn stated that she wouldn’t want to see that changed either.

Eby stated that he is concerned at the lack of public input and the fact that as the Township has yet to meet, there has been no feedback from them either. Michalek stated that he has received one call in favor of the request and one against. The individual that called against the proposal stated that they may look at selling their property if the request is approved. Alexander asked if there is property available inside the Village of Pellston. Michalek stated that the County owned properties in the Village are zoned industrial, but they are located at the end of the runway and would be a less desired location with very limited uses. Alexander asked why the state wanted Ely Road moved. Johnson replied that it is due to the size of the aircraft landing at the airport.

Michalek stated that there is a special Planning Commission meeting scheduled for February 19, 2007 and this case could be heard again then if desired.

There was some concern about hearing this case at the special meeting because Eby and Derrohn will not be able to attend that meeting. After discussion, and confirmation that a quorum would be in attendance, Jones made a motion to defer this case to the February 19, 2007 special meeting. The motion was supported by Gregory and passed with a unanimous voice vote of the members present.

A short break was taken.

V Public comments: None

VI Other business:

- Cemetery Discussion:
  Packet items: revised amendment wording, information on cemetery creation
Doernenburg stated that she has done some research and found out that cemeteries are regulated by the State of Michigan. The only exception to this is that the cemetery be one acre or less and only for family usage. 40 acres are required as well as a $25,000 bond. There is an application process in which the State would determine the need for the cemetery and experience of the operator. The Health Department also regulates cemeteries. She also stated that pet cemeteries are not regulated. The Department of Agriculture regulates the burying of animals.

Eby asked if cemeteries were added to the Farm and Forest zones, if they would also be removed from the Residential zones. He asked if residential land should be used up for cemeteries.

Michalek stated that they are probably included in residential zones because there was a cemetery that exists in a residential zone. Some research would have to be done on this issue.

Doernenburg stated that the ordinance requires 10 acres in a residential zone and it would be a Special Use Permit.

This will be reviewed again at the next regular meeting.

- **Case #148E-77**

  Spartan Stores Fuel, LLC, SPECIAL USE PERMIT & SITE PLAN REVIEW, Gasoline Station & Retail Store, US-31 N, Section 33, Bear Creek Township

  **Legal Notice:** A request by Spartan Stores Fuel, LLC for a Special Use Permit to allow a gasoline station to be located on the southwest corner of property located at 1185 N US-31 Hwy., Section 33, T35N-R5W, Bear Creek Township. The parcel encompasses 0.67 acres of the approximately 12 acres site and is zoned B-2 General Business with a tax parcel number of 24-01-16-33-200-017. The review is per Section 1001-6 and 901-1 of the Emmet County Zoning Ordinance.

  **Packet items:** Request & location map, tax parcel map, application, site plan review checklist, impact statement, water well record, site storm water management plan, site storm water management sketches, zoning evaluation form, 1/9/07 site plan, 1/9/07 site utility plan, 1/9/07 elevations, 1/25/07 site plan, 1/25/07, site utility plan, 1/25/07 elevations.

  Michalek explained that this case came in after the deadline and will be heard officially at the March 1, 2007 Planning Commission meeting. Much of the details will be reserved for the public hearing.

  This property is located at the corner of Rice Street and US-31. The proposal is for a gasoline/convenience store in front of the Glen’s Market plaza. The gas station would be a special use on the property with the convenience store as the primary use. The aerial map of the area was shown and Michalek pointed out the surrounding businesses. The proposed building would be located in the grassy parcel that currently has large spruce trees on it. Michalek showed the original site plan that was reviewed by staff and explained that at that time, staff had expressed some concerns regarding routing of traffic. The updated site plan has addressed some of those issues and has been designed according to the newly amended storm water drainage standards. He pointed out some of the proposed traffic calming areas that would be controlled using stop signs. The trucks would come in via Rice Street and exit out using a rumble strip which provides trucks with the 50’ radial turn needed. There is some concern about the public using that intersection and a three way stop has been implemented. One of the other concerns is how to tie this business together with the others in the area Columns have been added to gas station canopy to help alleviate some design concerns. Photos of Ken’s Market in Indian River were shown as it is another Spartan Stores property and would have the same use.

  Darline Wethington from Spartan Stores stated that they have been in the gas business for about two years now. She explained that Spartan Stores acquired a number of family owned stores in the area. They are trying both to keep up with the competition and to bring better value to customers. Fuel centers add to the value. They have eleven sites now and do cross marketing between the gas stations and the grocery store by offering a discount on gas for buying certain grocery items or amounts. This has captured a lot of the customer base. Wethington stated that they are in agreement that traffic is an issue and that a safer solution needs to be looked at.

  John Kraus, the engineer on this project, showed a blowup of the site plan. He explained that the rumble strip would be installed to discourage the public from driving through the truck area. The pavement is raised in that area and they realize that it may not have as much of an effect in the winter, but feel that once people know about it, they will avoid that area. He stated that the traffic control is still being worked on. Kraus stated that he met with the Township supervisor along with Planning staff about a month ago to go over their plan. The new site plan is a
result of addressing some of the issues that came up. He stated that he feels that this design blends the site with Glen’s and the columns and detail of the canopy helps soften the transition. The plan includes landscaping to soften the site with various ornamental grasses and plants. The fuel system that would be used is the best that is available today. There are double wall tanks that are constantly monitored. The monitoring system alerts the attendant in the station of any issues and also sends the information directly to Spartan Stores. The storm water retention basin will capture the water and this will be brought to a fuel/water separator where any fuel will be removed. The water will then be directed to a pit with of stone to filter again. They have talked to MDOT in regards to the possibility of using the storm sewer on Rice Street. This is a possibility as well.

Jones stated that he only sees two tanks on the plan. Is there a mixing tank? Kraus replied that there is one large tank that holds unleaded regular grade gas and the other tank has two compartments, one for premium grade gas and the other for diesel. He explained that if you buy the mid-grade unleaded gas, it actually comes from both the premium grade and regular grade gas tanks and is mixed in the lines.

There was some discussion on the design of the canopy and the removal of the trees from the site. Kraus stated that they have struggled with the canopy because they want to make it look like it belongs with the Glen’s store, yet add detail to soften it. The snow and wind also create some issues.

Anderson stated that she has some concerns with the truck maneuvering area, but is not sure what the answer is. Jones stated that it is a very tight site. Michalek stated that it would add to the congestion of the area.

- **Planning Commission meeting date for April:**
  After multiple members stated that they would not be able to attend the scheduled April meeting, the meeting date was changed to Wednesday April 11, 2007.

- **SOB update:**
  *Packet items: Ordinance wording, negative secondary effects of SOB summary, letter from Scott Bergthold, CD-ROM ‘Secondary Effects Studies and Reports’*

Michalek stated that the lawsuit was settled at the 4762 US HWY 131 site. The handouts that were included in the packets address the issues of the current ordinance. The CD enclosed contains information to review regarding cases that led to the new ordinance. A summary of key cases was also enclosed. A new ordinance has been reviewed with an Attorney, Scott Bergthold. Locations within the County have been established that will allow for sexually oriented businesses to operate.

Civil Counsel, Kathy Abbott, stated that Mr. Bergthold is an expert in this area. She explained that these businesses are first amendment uses and must be treated differently. The focus has to be on regulating secondary effects, such as blight, loss of property value, crime, etc., and not the actual use itself. Abbott explained that there has been a special meeting set up for February 19, 2007 at 7:30 p.m. in which Mr. Bergthold will be teleconferenced in to review the materials and to answer any questions. This will be a public meeting with a public hearing scheduled for March 1, 2007. They are also trying to organize a special Board of Commissioners meeting for the same purpose. She passed out copies of the order signed by the judge regarding 4762 US HWY 131. The terms of the agreement are laid out including limitations to the signage. This is something that is specific to this case; content of signs cannot be regulated by the Ordinance. Abbott explained that when a business of this type comes in for review, it will be a Zoning Administrator’s review only. They will be expected to follow the standards of the ordinance regarding drainage, height limitations, and the like; however site plan review cannot be required. Abbott explained that this section of the ordinance is important to be worked through in order to create a legislative history. The locations of these businesses can be restricted in regards to schools, churches, daycares, etc. She stated that this will be a continual process of remapping should another business come to the area or a new daycare or the like open up. Abbott stated that they would like to include the Townships and Villages at the Board of Commissioners meeting because there is an option for them to impose licensing requirements that the County cannot. Abbott added that with this court case, one of the concerns was the proximity to the residential component of the PUD, but as of now, there is no development of the residential section. She noted that Farm and Forest land isn’t included in the residential district buffer.

- **Review by-laws:**
  The bylaws needed to be updated to reflect the changes of PA110 of 2006. The policies were incorporated as
much as possible because by themselves they may not be legally defensible. The handout has the changes highlighted.

Neal stated that he is frustrated between the Ordinance and the Comprehensive Plan. It doesn’t seem like they have a tight connection to one another. Perhaps the phrase ‘per the Comprehensive Plan could be added to Article II c,d,& f.. He stated that he would also like something added about ongoing maintenance of ordinances under ‘purposes.’ Jones stated that the Comprehensive Plan is a guideline. Eby stated that he isn’t sure about making the addition to Article II c) as some of the decisions that the Planning Commission make are not related to the Comprehensive Plan. Michalek suggested adding h) ‘To uphold and maintain the integrity of the County Zoning Ordinance.’ and staff will continue to work on item h).

It was noted that Article XII, 4a) should state: ‘A request for postponement of Cases…’ Also, 4d) regulates the time frame for township review of cases. Abbott stated that cases such as PUDs or site plan reviews may take additional hearings to decide, however text amendment requests go to every township and when changes need to be made to the Ordinance, a quick response is necessary. Michalek added that if a township wishes to have input on a text amendment and there is a conflict with their meeting dates, perhaps they would need to reschedule their meetings in order to give the County a timely response. Scott concurred, stating that Springvale Township did reorganize their meeting schedule for that purpose. Abbott clarified that cases can still be postponed if additional information is required from the applicant or the township. Doernenburg added that due to the recent Ordinance text amendment, staff has more leverage to require all information be turned in before cases are presented. Michalek suggested that the members review the by-laws and be prepared to discuss and potentially approve them at the February 19, 2007 special meeting.

- **Enforcement Report:** Distributed, no discussion.

**VII Adjournment**
Chairman Eby called the meeting adjourned at 10:45 p.m.

________________________________________

James Scott, Secretary

Date