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ZONING BOARD MINUTES OF MEETING HELD JANUARY 25, 2000

A regular meeting of the Charter Township of Texas Zoning Board was held on Tuesday, January 25, 2000 commencing at 7:00 p.m. at the Texas Township Hall. Members present: Steve Bosch, Chairman, George Sprau, Barbara Huber, Bryan Lewis, Suzzette Deaux, Tom Hamming. Members absent: Steve Woollam. Building Official Bruce Derby, Zoning Administrator Jeff Mais, Planning Consultant Jay Kilpatrick, Township Attorney Lynda E. Thomsen, and 5 interested persons were also present.

1. **CALL TO ORDER and ROLL CALL**

Chairman Bosch called the meeting to order at approximately 7:00 p.m. Roll was called with the results shown above.

2. **SET AGENDA**

Chairman Bosch reviewed the agenda.

3. **APPROVAL OF MINUTES and MISCELLANEOUS**

Mr. Sprau **moved** to approve the minutes of the January 11, 2000 meeting, with corrections on page one to add Barbara Huber as present and to correct the spelling of the names of Ms. Deaux and Mr. Lewis. Ms. Huber **supported** the motion, and it carried.

4. **Fiskars, Inc.**

Item No. ZB99-09-121

Property: 6805 Beatrice Dr. (02-155-015)

Request: Site Plan Review - Addition.

Nothing new has been received. Mr. Derby reported that by letter, the applicant had asked the Board to leave this item on the table until March or April. That letter was not provided to the Zoning Board, but Ms. Huber made a **motion** to leave this item on the agenda, for action no later than April. Ms. Deaux **supported** the motion, and it **carried**.

5. **Tamara Ricketts**

Item ZB99-10-121

Property: 5030 South 9th Street

Request: Site plan amendment

Mr. Mais reported that the applicant did not submit a special exception use application in time for consideration at this meeting. A warning citation has been issued. This matter was left on the table, for consideration at the February 22, 2000 meeting.

6. **Message Express Company**

Item 00-100

Property: Consumers Power Right-of-way (03-401-010)

Request: Special Exception Use: Replacement of Consumer's Pole with higher pole

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Ken Bobo addressed the Board for the applicant. Three items were to be addressed at this meeting: the coverage area of existing towers; EBT zoning; and paved access. The zoning of the subject property has been confirmed as EBT. Mr. Bobo submitted two maps to the Zoning Board, showing the coverage area of planned towers, with and without this tower. He stated that the applicant will request a variance from the paved access. If it is not granted, the applicant will provide the paved access.

The Zoning Board reviewed the coverage maps. Mr. Sprau suggested that if the pole were placed farther south, better coverage could be provided. Mr. Bobo explained that the ordinance does not permit a telecommunications tower in the zoning classifications that are located south of this site. The Consumers pole is located near the south boundary of the EBT zoning. Mr. Sprau suggested that the tower could be constructed more toward the east and south boundaries of the KVCC property. Mr. Bobo responded that there are covenants on that land that restrict its use. A tower is not permitted. Mr. Sprau asked why Message Express does not place a tower north and east of I-94 and 9th, on land zoned for industrial use. Mr. Bobo said that the company needs to provide coverage south of I-94.

Chairman Bosch commented that the applicant has provided the coverage information that was requested. The applicant has confirmed the zoning. This tower will fill a hole in the coverage area. Mr. Lewis asked about the paved access issue. Chairman Bosch said that approval would have to be conditional on a variance, or on compliance with the paving requirement.

Chairman Bosch informed those present that he has investigated the issue of providing service to phones outside buildings and to those inside buildings. His investigation confirms Mr. Bobo's representations that it is more difficult to provide service inside buildings. It is Chairman Bosch's opinion that people want the service indoors. Mr. Lewis asked what ordinance provisions apply. There was discussion of the telecommunications tower ordinance amendment, and the attorney also gave a brief recap of the federal law concerning limitations on local authority to regulate these towers.

Mr. Ron Verleger asked whether approval would give Message Express exclusive rights. The Zoning Board explained that exclusive rights are not being given. Mr. Verleger asked whether reception problems are the result of the towers or the signal or the phones. The Zoning Board discussed the federal restrictions on the wattage of the handheld phones, as compared to in-car phones with antennas.

There being no further comments, Mr. Lewis made a **motion** to grant the Special Exception Use Permit, subject to site plan review requirements, and also subject to a paved access or a variance from that requirement. Ms. Huber **supported** the motion, and it **carried** 6-0.

7. Message Express

Item: 00-101

Property: Consumers Power Right-of-way (03-401-010)

Request: Site plan review

This site plan was submitted at an earlier meeting. Mr. Bobo appeared for the applicant. The Zoning Board reviewed the plans for compliance with the standards of the ordinance.

Mr. Lewis noted that the ordinance requires that a registered, professional engineer in the State of Michigan must certify the safety of the structure. That has not been done. The Zoning Board does not have authority to waive that requirement.

Mr. Sprau commented that the ordinance authorizes the Zoning Board to reduce the setbacks. Chairman Bosch noted that the Right of Way is 100 feet wide, and the pole is 125 feet in height. Mr. Lewis commented that once a P.E. has certified the safety of the pole, the fall zone issue will be moot. There are no buildings in the immediately adjacent areas, but Mr. Sprau commented that it would be helpful, and consistent with past practice of the Zoning Board, if KVCC provides a letter stating that it does not object to the tower. Ms. Huber mentioned that in previous cases, the towers were collapsible structures, so the fall zone was smaller. She would like to have information about the collapse characteristics of this structure.

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Mr. Derby informed the Zoning Board that the wooden pole is an engineered structure, and the applicant can provide detailed information about its strength. Mr. Bobo stated that the applicant will provide that information.

The Zoning Board discussed screening, and decided that screening cannot be provided. Mr. Bobo commented that FCC standards do not require lighting of this structure, and all necessary FCC clearances have been obtained.

There was additional discussion of setbacks. Mr. Sprau reminded the Board that in previous cases, the setbacks were measured from the boundaries of the parcel within which the leased area was established. Chairman Bosch commented that the Sprint tower did not satisfy the setback standards of the ordinance from the right of way line of I-94.

Mr. Sprau asked Mr. Bobo what Message Express plans for additional towers in the Township. Mr. Bobo informed the Zoning Board that he spoke to company representatives the day before the meeting, and they did not give him any indication that they have any plans for additional towers in the township.

Ms. Huber raised the issue of removal of the tower upon abandonment. Mr. Bobo told the Board that the master deed addresses that issue. Thereupon, Ms. Huber made a **motion** to approve the site plan, on the following conditions:

1. the applicant must provide a letter signed by a P. E. in Michigan, certifying that this specific 125 foot tower is safe, and specifying that it meets state and local loading standards and regulations concerning weather (wind and snow loadings);
2. the applicant must provide a letter from KVCC or an easement from KVCC indicating agreement with the construction of this tower in this location;
3. the applicant must provide a copy of the master lease with Consumers Power showing satisfactory provisions requiring removal of the tower and replacement with a standard pole when use for telecommunications purposes is discontinued;
4. the applicant must either pave the access road or obtain a variance from the ZBA from that requirement.

Mr. Lewis **supported** the motion, and it **carried** unanimously.

MISCELLANEOUS

Next, the Zoning Board turned its attention to the Rural Residential ordinance amendments that Planning Consultant Jay Kilpatrick prepared. The draft in the packets the members had received was an early draft, and Mr. Derby prepared copies of the more recent draft and of a map showing areas Mr. Kilpatrick recommends for rezoning.

Mr. Kilpatrick then explained for the members some recent developments in the statutes concerning the Right to Farm Act. This amendment would take a step toward the long-term plan provisions, which mention rural residential type uses, and would also help the township address concerns that have arisen because of the amendments to state law. One major issue is concern about intensive livestock operations, which have been imposed upon some communities. The Rural Residential district would eliminate agricultural uses as permitted uses in areas in that zoning district. Mr. Kilpatrick has also drafted language that would amend the R-1 and R-2 districts, to delete agricultural uses. Until the Generally Accepted Agricultural and Management Practice standards are issued by the Department of Agriculture, we are all somewhat in the dark about what the law will permit.

Mr. Bosch asked whether Rural Residential is a commonly used term. Mr. Kilpatrick responded in the affirmative. It is frequently used in situations where there are not public utilities, and where access to parcels is from existing county roads, as a transition district between agricultural districts and residential districts. Mr. Hamming commented that he does not like the idea of Rural Residential east of 8th Street.

Mr. Lewis asked what Mr. Kilpatrick believes is the likelihood of intensive livestock farming in the township. Mr. Kilpatrick responded that he believes it is unlikely, because of the value of the land. Mr. Lewis stated that he understood the new law makes a distinction between intensive farming and smaller scale

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farming. Mr. Kilpatrick responded that the new law as enacted does not include that sort of distinction. That may be incorporated into the GAAMPS, but as yet, they are not available. Mr. Kilpatrick then noted that if land is rezoned to Rural Residential, it will create a lot of legal nonconforming uses. Attorney Thomsen commented that there are questions whether the general zoning principles limiting legal nonconforming uses will continue to apply under the new law. Discussion followed.

Ron Verleger asked whether Rural Residential would permit keeping a horse. Attorney Thomsen responded that a horse might be a use accessory to residential uses, but that should be discussed at a public hearing. She recommended that notice of the hearing be worded to give the Zoning Board flexibility. An unidentified person said he owns 109 acres, and objects to the minimum 2-acre parcels. Currently, only 80,000 square feet are required in the Agriculture district. Requiring 2 acres will reduce the number of lots he can create. It was noted that most of those present had reviewed a December 28 draft of the ordinance, not the January 14th draft.

The Zoning Board decided to hold a public hearing on March 14, 2000, on the ordinance amendments, and asked Mr. Kilpatrick to provide them with revised text amendments to consider at that public hearing.

It was then noted that the Texas Corners Land Use Plan revision has been set for public hearing on February 22, 2000. It will be an appendix to the newly adopted Land Use Plan.

The Zoning Board then considered its goals for the year 2000, which are:

1. Review the terms used in the commercial districts and other parts of the ordinance;
2. Survey farmers in the community;
3. Conduct a general review of the zoning ordinance;
4. Have joint meetings with Planning Commissions from neighboring townships;
5. Consider adopting landscaping provisions.

Mr. Derby reported that the Bronson proposal is set for consideration at a special meeting on February 8. At some time in the future, Fiskars will return. Corporate Woods will probably return when a road is accepted as a public road. There is a possibility of another fast food business on 9th Street.

There being no further business, the meeting was adjourned at 9:15 p.m.

Respectfully submitted,
Bryan Lewis, Secretary

Date minutes prepared: January 26, 2000

Date minutes approved: