

HALFMOON TOWNSHIP OPEN SPACE PRESERVATION BOARD
REGULAR MEETING - MINUTES
MARCH 21st, 2012

1. CALL TO ORDER

Chair Ron Hoover called the meeting to order at 7:04pm. Other members present were Bob Eberhart, Ben Pisoni, Joe Tylka, Jerry Brown, and Andy Merritt. Staff present was Susan Steele, Manager; Amy Smith, OSPB Administrator, and Rebekah Seymour, Recording Secretary. No Audience present.

2. PLEDGE OF ALLEGIANCE

3. MINUTES

- ***MOTION: Mr. Pisoni moved to approve the minutes of February 1st, 2012; Mr. Eberhart seconded; Vote 6-0-0; Motion carried.***

4. 10% EXCEPTION LANGUAGE

Ms. Steele reviewed THE OSPP clause on farm worker housing. Mr. Pisoni inquired as to the definition of “cluster” since it is undefined in the code. Mr. Brown speculated that it was perhaps defined in the building codes and that the township was in favor of clustering. Ms. Smith read the definition of cluster from the code as, “a group of 2 or more residential units in an area not exceeding more than 2 acres per dwelling unit with adjoining or abutting areas.” Mr. Hoover commented that, that seemed to be a very loose definition. Mr. Brown stated that it would be up to the Planning Commission to change that. Mr. Eberhart asked where the definition came from. Ms. Smith said that the definition could be found in the OSPB code and that it was also in the original code as well. Mr. Pisoni stated that a cluster is not deducted from the 10% and provides a big advantage for someone who does cluster. Mr. Eberhart suggested that the cluster definition could be changed. Mr. Brown stated that the Planning Commission should look at it before it would be changed. Mr. Pisoni suggested that if a building is going from farm housing to rental housing that it should be deducted from the 10% and not based upon whether it is clustered or not. Ms. Steele asked if the intent of the clause was that if you have land in Open Space they allow you to put farm housing on it and take that out of the 10% but if any land is taken out of farming it has to stay in the Open Space program. There was discussion whether farm worker housing should still receive payment if no longer in used as farm worker housing and used as a rental unit. Mr. Brown stated that, that portion of the property should come out of the 10% and the Open Space program should not be paying a lease for it. Mr. Hoover agreed and asked if the language supported that. Ms. Steele stated the language does not provide that if you take farm worker housing and change it to rental housing that it then becomes part of the 10% exemption which was Mr. Brown’s point. Why should the OSPP pay for something the landowner is making money from? Mr. Hoover commented that it would appear that there would be two different deals for landowners who built farm worker housing that turned rental as to if the dwellings are clustered or not clustered (clustered not deducted from 10% and not clustered does get taken out of 10%). Mr. Pisoni reiterated that by

definition there really isn't much of a cluster. Mr. Brown asked if there are sewer issues if you put a dwelling on less than two acres. Ms. Smith asked if they would want to pay lease payments on a dwelling that was being used as a rental and why not take the rental housing clause out. Mr. Pisoni questioned what would happen if that 10% was already taken out somewhere else and then switches farm worker housing to rental. Ms. Steele stated that the land the dwelling is on if part of the 10% exemption is out of the open space program and is subject to zoning. Mr. Hoover questioned that if they did take the dwelling out of the 10%, how much would be taken out if it was only one unit. Mr. Brown asked if the land has to be subdivided because it is farm worker housing. Ms. Smith stated she didn't think you could put more than one dwelling on a certain amount of acreage. Ms. Steele stated that if you are making one lot into two then you have to subdivide but she wasn't sure if that includes farm worker housing. Ms. Steele also stated that if the land was taken out of the 10% then it must be subdivided. Mr. Hoover stated that the township recognizes that the land is in the Open Space program and pays a lease on it. Mr. Brown stated that it doesn't mean all the 10% is taken out at the same time, it is eligible for up to 10%. Mr. Hoover stated that he understood the 10% to be an opportunity for the landowner to subdivide and sell lots to make some money. Mr. Brown stated that the original intent was to protect the farm community against the financial difficulties that pop up yearly. Mr. Brown further stated that the landowner is someone who wants in the program and doesn't want the land developed, that the ability to sell lots is just for an emergency deal. Ms. Smith asked who decides if it was an emergency. Mr. Brown answered the landowner does, that the Open Space Board has no control over that and that the 10% option is up to them; no one has to say it's an emergency or not it's up to the landowner.

There was discussion regarding zoning regulations, whether farm worker housing should be subdivided or subject to 10% exemption when being used for rental properties. Mr. Brown stated the landowner is profiting from the township lease payment as well as a rental payment.

Mr. Merritt stated that when talking about rentals and the idea of profiting from the program what would happen if a farmer decided that he is done with agriculture and rents out his fields for a profit; does it fall under this rule. Mr. Brown stated that the land is still being farmed and is still in Open Space program so it cannot be built on. Mr. Pisoni stated that he did not see the difference between farmers making a profit for renting the fields to someone else or renting the farm worker housing, they are still making a profit. Mr. Merritt stated that he didn't see a distinction between changing farm worker housing to rental housing. Mr. Tylka stated that things change so renting it to the general public, if that housing has little acreage, it's not enough money to care about and the land still stays open. Mr. Hoover stated that it might be wise to strike the rental housing clause from the ordinance. Ms. Steele agreed and stated that the open space doesn't need to get into rental property definitions when farm worker housing is already protected and the zoning does the rest. Mr. Tylka stated that the paragraph should be entirely struck since the Open Space is worried more about the appearance of the property and perhaps add to paragraph two that the landowner can refer to zoning chapters about how to subdivide and sell land.

- ***MOTION: Mr. Hoover moved to strike paragraph #3 and add to paragraph #2 to refer to Zoning Chapter 255; Mr. Tylka seconded; No discussion held; Vote 5-0-0; Motion carried.***

The Open Space Board suggested deleting the word tax from tax parcel from paragraph #4. Mr. Eberhart suggested adding permitted accessory uses so that a landowner could build something such as a shed.

- ***MOTION: Mr. Hoover moved to strike the word tax and add the phrase “and permitted accessory uses” to paragraph #4; Mr. Eberhart seconded; No discussion held; Vote 5-0-0; Motion carried.***

Ms. Smith suggested that for Section E, paragraph #1 that the number of acres be changed from 10 to 11 since that was the amount of acreage needed to apply to the program. Mr. Hoover agreed.

- ***MOTION: Mr. Hoover moved to change 10 acres to 11 acres in Section E, paragraph #1; Mr. Eberhart seconded; No discussion held; Vote 5-0-0; Motion carried.***

Ms. Steele stated that Ms. Yurchak (not present) had suggested simplified language for paragraph #2. Mr. Hoover asked why that paragraph was even necessary. Ms. Steele stated that it was just to say the land would remain in the open space. Mr. Hoover stated he just figured that was implied. Ms. Steele commented the paragraph was just to ensure that it was stated.

- ***MOTION: Mr. Eberhart moved to accept the simplified language suggested by Ms. Yurchak for Section E, paragraph #2; Mr. Tylka seconded; No discussion held; Vote 5-0-0; Motion carried.***

Ms. Steele stated that Ms. Yurchak had suggested removing Section E, paragraph #5 since a recommendation has no force in the ordinance. Ms. Smith stated that since you can't enforce it than why keep it. Mr. Eberhart stated that if you changed that here than every occurrence of this would need changed.

- ***MOTION: Mr. Eberhart moved to keep Section E, paragraph #5 as written; Mr. Brown seconded; No discussion held; Vote 5-0-0; Motion carried.***

Mr. Eberhart suggested that saying “an exception” implies that a landowner could only be taken once. Ms. Steele stated that she could ask Ms. Yurchak to draft language that would clarify that the 10% can be broken up and taken out at different times. Mr. Brown suggested changing the word may to will to give an absolute that a subdivision would be granted. Mr. Hoover stated that if an owner is seeking a subdivision than it should be allowed. Ms. Smith stated that Ms. Yurchak would suggest the word “shall” instead of “will”. Ms. Steele suggested that at this point perhaps the board could discuss how advance payments would be paid back if the property is taken out of the program. Ms.

Steele stated that the Section F introductory paragraph would be tabled until Ms. Yurchak could look at suggestions and draft new language.

- ***MOTION: Mr. Hoover moved to accept the suggestions made by Ms. Yurchak for Section F, paragraphs #1-3 as submitted; Mr. Pisoni seconded; No discussion held; No discussion held; Vote 5-0-0; Motion carried.***

Ms. Steele stated that paragraph #4 starts to deal with cluster configuration. Mr. Eberhart stated that the buildings being contiguous, it keeps them from being spread out. Mr. Tylka stated that he liked the idea but there was no way to police this. Ms. Steele suggested striking this paragraph because paragraph #5 would be enough.

- ***MOTION: Mr. Pisoni moved to removed Section F, paragraph #4 in its entirety; Mr. Tylka seconded; No discussion held; Vote 5-0-0; Motion carried.***
- ***MOTION: Mr. Pisoni moved to accept Section F, paragraph #5 as drafted by Ms. Yurchak with the “possible parameters” phrase deleted; Mr. Eberhart seconded; No discussion held; Vote 5-0-0; Motion carried.***
- ***MOTION: Mr. Hoover moved to accept Section F, paragraph #6 as drafted by Ms. Yurchak; Mr. Eberhart seconded; No discussion held; Vote 5-0-0; Motion carried.***

Mr. Tylka suggested that perhaps they could add a clause about paying advanced payments back here. Mr. Hoover agreed and suggested perhaps a new section.

5. OTHER BUSINESS

Mr. Eberhart stated he wanted to talk about the idea of grandfathering. Mr. Pisoni stated that the BOS voted for resident except the current board until their term expires. Ms Steele stated that the BOS replaced landowner as resident and the current board is grandfathered in for years served and everyone has served for four years except Mr. Tylka. Ms. Steel further stated that Mr. Pisoni is the Board of Supervisor representative and Mr. Eberhart is the Planning Commission representative so they will be appointed each year by their boards. Ms. Steele stated that the 4 other members were all residents except Jerry and he is grandfathered until his term ends and everyone’s term ends in 2013 except Mr. Tylka (who only served a year) and Mr. Eberhart and Mr. Pisoni (who are appointed by another board to serve). There was a discussion about when the term ends or begins in accordance with grandfathering. Mr. Pisoni stated that once the ordinance is changed the board has to decide which board member is for which term because they don’t want everyone’s term to expire the same year. Mr. Brown asked what the difference was since they could all be re-appointed the same year. Ms. Steele stated that the BOS was going to open up OSPB terms not just to re-appointments but to all township residents on the website. Ms. Steele further stated that it would be decided, if there was interest, by interviewing the interested candidates. Mr. Hoover stated that his understanding was that the re-appointments would be staggered so that in January 2013 that two members would rotate off with the option of coming back. Mr. Steele stated that

the board members would need to decide who the two were but she was just saying that in 2013 everyone except Mr. Tylka has served their four years and they would need to pick their two (Mr. Eberhart and Mr. Pisoni were are not included in that since they are nominated by their boards). Ms. Steele stated that if Mr. Brown's was picked then he would have to be replaced by a resident. Mr. Eberhart stated that he remembered it being that the grandfathering would keep Mr. Brown eligible for the OSPB. Mr. Eberhart suggested that someone should check the motion. Ms. Smith stated that the motion was to change landowner to resident excluding present membership and the BOS decided that despite the OSPB's strong feelings to keep it landowner for Mr. Brown voted to change it to resident after lengthy discussions. Mr. Pisoni stated that it was so Mr. Brown did not have to be removed immediately. Ms. Steele suggested that Mr. Pisoni should wait for Mr. Yurchak to draft the new language and then bring to the BOS's attention that it does not include Mr. Brown. Mr. Pisoni disagreed and stated that the motion needed to be reviewed, regardless of what Ms. Yurchak says. Ms. Steele stated she wasn't saying what Ms. Yurchak said; but the BOS that it was told to her it was supposed to be resident. Mr. Eberhart stated the issue was whether Mr. Brown was excluded. Ms. Smith stated that Ms. Yurchak had stated at the BOS meeting that nobody was really grandfathered when their term is up. Mr. Eberhart stated that the motion itself grandfathered Mr. Brown in. Ms. Steele suggested that staff would review the tape of the BOS meeting.

6. CITIZEN'S COMMENTS

There were no citizen's comments.

7. ADJOURNMENT

The meeting was adjourned at 9:20pm. Mr. Merritt left at 7:30pm.

- ***MOTION: Mr. Pisoni motioned to adjourn the meeting at 9:20pm; Mr. Tylka seconded; Vote 5-0-0; Motion carried.***