

CHARTER TOWNSHIP OF DELTA
Public Meeting Room A
Delta Township Administration Building
7710 West Saginaw Highway
Lansing MI 48917

**TOWNSHIP BOARD REGULAR MEETING MINUTES FOR
MONDAY, JANUARY 5, 2009**

I. CALL TO ORDER

Supervisor Ken Fletcher called the meeting to order at 7:00 p.m.

II. OPENING CEREMONIES – Pledge of Allegiance

III. ROLL CALL

Members Present: Supervisor Kenneth Fletcher, Clerk Janice Vedder,
Treasurer Howard Pizzo, and Trustees Jan Cunningham,
Jeff Hicks, Barb Poma and Cara Spagnuolo

Members Absent: None

Others Present: Manager Richard Watkins, Planning Director Mark Graham,
Assistant Planner Jeff Huard, Executive Secretary Kathy Ernst
and Department Secretary Heather Bouck Pettinger

IV. PRESENTATIONS AND PROCLAMATIONS – None.

V. SET/ADJUST AGENDA –

Trustee Hicks requested the content of the minutes and a discussion on work sessions be added to the agenda.

VI. PUBLIC HEARINGS AND ACTION – None.

VII. COMMUNICATIONS – None.

VIII. PUBLIC COMMENTS FOR ITEMS NOT ON THE AGENDA *(maximum of two minutes)* – None.

IX. SPECIAL ORDERS OF THE DAY – None.

X. INTRODUCTION OF ORDINANCES – None.

XI. PASSAGE OF ORDINANCES –

1. Zoning Ordinance Amendments Pertaining to Wind Energy

Jeff Huard, Assistant Planner with the Township Planning Department introduced himself and proceeded with a brief history of the proposed ordinance and the intent of the ordinance. A comparison was made between the windmill at Horrock's and the language within the ordinance.

TRUSTEE POMA MOVED THE DELTA TOWNSHIP BOARD OF TRUSTEES APPROVE AND ADOPT THE PROPOSED AMENDMENTS TO THE DELTA TOWNSHIP ZONING ORDINANCE PERTAINING TO WIND ENERGY CONVERSION SYSTEMS, AS DESCRIBED IN CASE NO. 9-08-05, AS FOLLOWS:

**TABLE 1
ZONING ORDINANCE AMENDMENTS (VER. 12-31-08)
RE: WIND ENERGY CONVERSION SYSTEMS
CASE NO. 9-08-5**

1. ADD DEFINITIONS (SECTION 2.2.0):

WIND ENERGY CONVERSION SYSTEM: "WIND ENERGY CONVERSION SYSTEM" (WECS) IS ANY SYSTEM OR ASSEMBLY THAT CONTAINS ANY OR ALL OF THE FOLLOWING CHARACTERISTICS:

1. A WINDMILL, TURBINE OR ANY SIMILAR MACHINE DESIGNED TO BE OPERATED BY THE WIND;
2. A SURFACE AREA, EITHER VARIABLE OR FIXED, FOR UTILIZING THE WIND FOR ELECTRICAL OR MECHANICAL POWER;
3. A SHAFT, GEARING, BELT, OR COUPLING UTILIZED TO CONVEY THE ROTATION OF THE SURFACE AREAS TURNED BY THE WIND INTO A FORM SUITABLE FOR DRIVING A GENERATOR, ALTERNATOR, OR OTHER MECHANICAL OR ELECTRICITY PRODUCING DEVICE;
4. A GENERATOR, ALTERNATOR, OR OTHER DEVICE UTILIZED TO CONVERT THE MECHANICAL ENERGY GENERATED BY THE WIND INTO ELECTRICAL ENERGY;
5. A TOWER, PYLON, OR OTHER STRUCTURE UPON WHICH ANY, ALL, OR SOME COMBINATION OF THE ABOVE ARE MOUNTED, AND;
6. ANY WIND MONITORING STATION SHALL BE EXEMPT FROM THE REQUIREMENTS OF THIS ORDINANCE.

WIND ENERGY CONVERSION SYSTEM, SMALL: A WIND ENERGY CONVERSION SYSTEM CONSISTING OF WIND TURBINES, TOWERS, AND ASSOCIATED CONTROL OR CONVERSION ELECTRONICS, WHICH HAS A

RATED CAPACITY OF NOT MORE THAN 10 KILOWATTS (KW) AND WHICH IS INTENDED TO REDUCE OR REPLACE THE ON-SITE CONSUMPTION OF UTILITY POWER.

WIND ENERGY CONVERSION SYSTEM, LARGE: A WIND ENERGY CONVERSION SYSTEM CONSISTING OF A WIND TURBINE(S), TOWER, AND ASSOCIATED CONTROL OR CONVERSION ELECTRONICS, WHICH IF LOCATED IN THE RA, RB, RC, RD OR RE ZONING DISTRICT EXCEEDS **50 FEET** (AS DEFINED HEREIN), OR IF LOCATED IN THE NR, A1, A2, O, B1 OR B2 ZONING DISTRICT EXCEEDS **70 FEET** (AS DEFINED HEREIN), OR IF LOCATED IN EITHER THE I1 OR I2 ZONING DISTRICT HAS A RATED CAPACITY OF MORE THAN 10 KILOWATTS (KW).

2. ADD SECTION 3.24.0 SMALL WIND ENERGY CONVERSION SYSTEMS (WECS)

A. INTENT:

IT IS THE INTENT OF THIS SECTION TO REGULATE THE SAFE, EFFECTIVE, AND EFFICIENT USE OF SMALL WIND ENERGY CONVERSION SYSTEMS (WECS) INSTALLED TO REDUCE OR REPLACE THE ON-SITE CONSUMPTION OF ELECTRICITY SUPPLIED BY UTILITY COMPANIES.

B. PERMITTED LOCATIONS:

SMALL WECS SHALL BE PERMITTED AS AN ACCESSORY STRUCTURE IN EVERY ZONING DISTRICT PROVIDED THAT THEY COMPLY WITH THE STANDARDS AND REQUIREMENTS OF THIS SECTION. IN THE RA, RB, RC, RD & RE ZONING DISTRICTS, A PRINCIPAL STRUCTURE MUST FIRST BE ESTABLISHED ON THE PARCEL BEFORE A SMALL WECS MAY BE CONSTRUCTED/INSTALLED. WHERE TWO OR MORE ABUTTING LOTS ARE HELD UNDER SINGLE OWNERSHIP, THE OWNER MAY CONSTRUCT A SMALL WECS ON THE ABUTTING BUT SEPARATE LOT FROM THAT ON WHICH THE PRINCIPAL BUILDING IS LOCATED.

C. ADDITIONAL TURBINES:

SMALL WECS MAY INCLUDE MORE THAN ONE TURBINE AND/OR TOWER ON ANY NON-RESIDENTIALLY ZONED PROPERTY PROVIDED THAT ALL OTHER REQUIREMENTS OF THIS ORDINANCE ARE MET, AND PROVIDED THAT THE TOTAL OF ALL TURBINES ON ANY ONE PARCEL OR SITE DOES NOT EXCEED 10 KILOWATTS (KW) RATING. ON PARCELS ZONED RA, RB, RC, RD OR RE ONLY ONE TURBINE AND/OR TOWER MAY BE PERMITTED.

D. HEIGHT/ TOWERS:

- (1) FOR ANY PARCEL LOCATED IN THE RA, RB, RC, RD OR RE ZONING DISTRICT, THE MAXIMUM HEIGHT FOR A SMALL WECS SHALL NOT EXCEED **50 FEET**.
- (2) FOR ANY PARCEL LOCATED IN THE NR, A1, A2, O, B1 OR B2 ZONING DISTRICT, THE MAXIMUM HEIGHT FOR A SMALL WECS SHALL NOT EXCEED **70 FEET**.
- (3) FOR ANY PARCEL LOCATED IN THE I1 OR I2 ZONING DISTRICT THERE SHALL BE NO HEIGHT LIMIT FOR A WECS.
- (4) THE HEIGHT SHALL BE MEASURED FROM THE GROUND LEVEL TO THE ROTOR (THE CENTER POINT OF THE BLADES), OR THE TOP OF THE TOWER, WHICHEVER IS HIGHER. GROUND LEVEL SHALL BE THE AVERAGE GRADE MEASURED WITHIN 25 FEET OF THE BASE OF THE TOWER OR SUPPORTING STRUCTURE.
- (5) THE MINIMUM REQUIRED GROUND CLEARANCE BETWEEN THE LOWEST POINT OF THE BLADES AND THE AVERAGE GRADE SHALL BE A MINIMUM OF 20 FEET.
- (6) TOWERS AND SUPPORTING STRUCTURES SHALL EITHER MAINTAIN A GALVANIZED STEEL FINISH, OR, SUBJECT TO ANY APPLICABLE STANDARDS OF THE FAA, BE PAINTED AND MAINTAIN A NEUTRAL COLOR INTENDED TO REDUCE VISUAL OBTRUSIVENESS TO THE GREATEST EXTENT FEASIBLE.

E. SETBACKS:

- (1) THE BASE OF THE TOWER SHALL BE SETBACK FROM ALL PROPERTY LINES AT LEAST THE COMBINED HEIGHT OF THE ENTIRE STRUCTURE (TOWER + BLADES).
- (2) NO COMPONENT OF THE SMALL WECS, INCLUDING TOWER, GUY WIRES AND/OR ANCHORS ETC., MAY BE LOCATED IN THE REQUIRED FRONT SETBACK AREA FOR THE ZONING DISTRICT IN WHICH THE WECS IS LOCATED.
- (3) NO COMPONENT OF THE SMALL WECS, INCLUDING GUY WIRES AND ANCHORS, MAY EXTEND OVER OR BEYOND THE PROPERTY LINES ON WHICH THE WECS IS LOCATED.

F. NOISE:

A SMALL WECS SHALL COMPLY WITH THE REQUIREMENTS OF THE DELTA TOWNSHIP NOISE CONTROL ORDINANCE. THE SMALL WECS SHALL BE EXEMPT FROM THIS REQUIREMENT DURING RARE SHORT TERM EVENTS SUCH AS UTILITY OUTAGES AND/OR SEVERE WIND STORMS OR OTHER UNIQUE WEATHER EVENTS.

G. CERTIFICATION REQUIRED:

IN ORDER TO BE CONSTRUCTED, ERECTED OR INSTALLED IN DELTA TOWNSHIP, SMALL WECS MUST BE APPROVED BY A CERTIFICATION PROGRAM RECOGNIZED BY THE U.S. DEPARTMENT OF ENERGY OR THE AMERICAN WIND ENERGY ASSOCIATION (AWEA).

H. COMPLIANCE WITH MICHIGAN BUILDING CODE & MICHIGAN ELECTRIC CODE:

BUILDING & ELECTRICAL PERMITS ARE REQUIRED FOR SMALL WECS.

I. FAA COMPLIANCE:

SMALL WECS SHALL COMPLY WITH ALL APPLICABLE FEDERAL AVIATION ADMINISTRATION (FAA) REGULATIONS, INCLUDING ANY NECESSARY APPROVALS FOR INSTALLATIONS CLOSE TO AIRPORTS.

J. LIGHTING:

THE TOWERS AND OTHER STRUCTURES ASSOCIATED WITH A SMALL WECS SHALL NOT BE ARTIFICIALLY LIGHTED BY ANY MEANS OR IN ANY FASHION UNLESS REQUIRED BY THE FEDERAL AVIATION ADMINISTRATION (FAA).

K. UTILITY INTERCONNECTION:

NO SMALL WECS SHALL BE INSTALLED UNTIL EVIDENCE IS PROVIDED THAT THE UTILITY COMPANY HAS APPROVED THE CUSTOMER'S INTENT TO INSTALL AN INTERCONNECTED CUSTOMER-OWNED GENERATOR. OFF-GRID SYSTEMS SHALL BE EXEMPT FROM THIS REQUIREMENT.

L. ABANDONMENT:

ANY SMALL WECS THAT REMAINS NON-FUNCTIONAL OR INOPERATIVE FOR A PERIOD OF AT LEAST 365 CONTINUOUS DAYS SHALL BE DEEMED ABANDONED, AND THE ZONING ADMINISTRATOR MAY ORDER THE REMOVAL OF THE TURBINE, TOWER AND ANY ASSOCIATED EQUIPMENT.

3. **ADD SECTION 5.3.0(J) “LARGE WIND ENERGY CONVERSION SYSTEMS” NR DISTRICT.**
4. **ADD SECTION 6.3.0(S) “LARGE WIND ENERGY CONVERSION SYSTEMS” A1 DISTRICT.**
5. **ADD SECTION 7.3.0(R) “LARGE WIND ENERGY CONVERSION SYSTEMS” A2 DISTRICT.**
6. **ADD SECTION 8.3.0(L) “LARGE WIND ENERGY CONVERSION SYSTEMS” RA DISTRICT.**
7. **ADD SECTION 9.3.0(M) “LARGE WIND ENERGY CONVERSION SYSTEMS” RB DISTRICT.**
8. **ADD SECTION 10.3.0(N) “LARGE WIND ENERGY CONVERSION SYSTEMS” RC DISTRICT.**
9. **ADD SECTION 11.3.0(N) “LARGE WIND ENERGY CONVERSION SYSTEMS” RD DISTRICT.**
10. **ADD SECTION 12.3.0(N) “LARGE WIND ENERGY CONVERSION SYSTEMS” RE DISTRICT.**
11. **ADD SECTION 13.3.0(L) “LARGE WIND ENERGY CONVERSION SYSTEMS” O DISTRICT.**
12. **ADD SECTION 14.3.0(R) “LARGE WIND ENERGY CONVERSION SYSTEMS” B1 DISTRICT.**
13. **ADD SECTION 15.3.0(S) “LARGE WIND ENERGY CONVERSION SYSTEMS” B2 DISTRICT.**
14. **ADD SECTION 16.3.0(Q) “LARGE WIND ENERGY CONVERSION SYSTEMS” I1 DISTRICT.**
15. **ADD SECTION 17.3.0(BB) “LARGE WIND ENERGY CONVERSION SYSTEMS” I2 DISTRICT.**
16. **ADD SECTION 18.6.0 (J) “LARGE WIND ENERGY CONVERSION SYSTEMS.”**

(1) APPLICATION REQUIREMENTS:

(A) ALL SLU APPLICATIONS FOR LARGE WECS SHALL INCLUDE A SITE PLAN AS REQUIRED BY SECTION 18.2.0 AND PREPARED IN ACCORDANCE WITH CHAPTER 19 SHALL BE PROVIDED AS PART OF THE SPECIAL LAND USE PERMIT APPLICATION, AND INCLUDE THE FOLLOWING ADDITIONAL INFORMATION:

- (1) TOPOGRAPHIC CONTOURS AT TWO FOOT INTERVALS;
- (2) LOCATION, ELEVATION AND HEIGHT OF ANY PROPOSED TOWER;
- (3) LOCATION AND DIMENSIONS (INCLUDING HEIGHT) OF ALL EXISTING STRUCTURES LOCATED ON THE PROPOSED WECS SITE;
- (4) LOCATION AND DESIGN OF ALL ACCESS ROADS INTENDED TO BE CONSTRUCTED FOR ACCESS TO THE WECS SITE. ACCESS ROADS FOR WECS SHALL BE EXEMPT FROM THE

REQUIREMENTS OF THE TOWNSHIP'S PRIVATE ROAD
ORDINANCE;

- (5) CURRENT LAND USE AND ZONING CLASSIFICATION FOR ALL ADJACENT PARCELS;
 - (6) LOCATION AND DIMENSIONS (INCLUDING HEIGHT) OF ALL EXISTING STRUCTURES LOCATED WITHIN 500 FEET OF ANY PROPOSED TOWER LOCATION;
 - (7) LOCATION AND HEIGHT OF ANY TREE, POLE, ANTENNAE OR OTHER SIMILAR STRUCTURE OVER THIRTY-FIVE (35) FEET IN HEIGHT WITHIN 500 FEET OF ANY PROPOSED TOWER LOCATION.
- (B) THE APPLICANT SHALL SUBMIT AN IMPACT ANALYSIS AS PART OF THE SPECIAL LAND USE PERMIT APPLICATION, PREPARED BY A REGISTERED STRUCTURAL ENGINEER, EVALUATING THE LIKELY IMPACTS OF THE PROPOSED FACILITY REGARDING:
- (1) ANTICIPATED NOISE AND VIBRATION LEVELS AT ALL PROPERTY LINES;
 - (2) POTENTIAL IMPACTS ON WILDLIFE, INCLUDING NATIVE AND MIGRATING BIRDS;
 - (3) "SHADOW FLICKER" AND GLARE IMPACTS ON ALL ADJACENT PROPERTIES;
 - (4) RADIO AND/OR TELEVISION INTERFERENCE;
 - (5) AESTHETIC IMPACTS OF THE WECS, ESPECIALLY ON ADJACENT PROPERTIES.
- (C) DETAILED DRAWINGS OF THE STRUCTURAL COMPONENTS OF THE LARGE WECS, INCLUDING STRUCTURES, TOWER, BASE, AND FOOTINGS. A REGISTERED STRUCTURAL ENGINEER SHALL CERTIFY THE DRAWINGS AND ANY NECESSARY CALCULATIONS THAT THE SYSTEM COMPLIES WITH ALL APPLICABLE LOCAL AND STATE BUILDING AND ELECTRICAL CODES.
- (2) PRINCIPAL/ACCESSORY USE:
- (A) LARGE WECS MAY BE CONSIDERED AS EITHER A PRINCIPAL OR ACCESSORY USE. AN EXISTING USE ON THE SAME PARCEL(S) SHALL NOT PRECLUDE THE INSTALLATION OF A LARGE WECS.
- (3) SITE AND DEVELOPMENT REQUIREMENTS:
- (A) LARGE WECS SHALL MAINTAIN A MINIMUM SETBACK OF A LEAST TWO (2) TIMES THE TOWER AND BLADE HEIGHT FROM ANY PUBLIC ROAD RIGHT-OF-WAY LINE OR PROPERTY LINE.

- (B) LARGE WECS SHALL MAINTAIN A MINIMUM DISTANCE OF AT LEAST THE COMBINED TOWER AND BLADE HEIGHT FROM ANY HABITABLE STRUCTURE.
 - (C) LARGE WECS SHALL BE CONSTRUCTED SUCH THAT THE MINIMUM HEIGHT OF THE LOWEST POSITION OF THE BLADE IS AT LEAST THIRTY (30) FEET ABOVE THE GROUND.
 - (D) LARGE WECS SHALL BE EXEMPT FROM THE HEIGHT RESTRICTIONS IN THE ZONING DISTRICT IN WHICH IT IS LOCATED.
 - (E) LARGE WECS AND SUPPORTING STRUCTURES SHALL EITHER MAINTAIN A GALVANIZED STEEL FINISH, OR SUBJECT TO ANY APPLICABLE STANDARDS OF THE FAA, BE PAINTED AND MAINTAIN A NEUTRAL COLOR INTENDED TO REDUCE VISUAL OBTRUSIVENESS TO THE GREATEST EXTENT FEASIBLE.
 - (F) LARGE WECS SHALL MEET THE STANDARDS OF THE FEDERAL AVIATION ADMINISTRATION, THE FEDERAL COMMUNICATIONS COMMISSION AND ANY OTHER AGENCY OF THE STATE OF MICHIGAN OR FEDERAL GOVERNMENT WITH AUTHORITY TO REGULATE TOWERS AND TALL STRUCTURES. THE APPLICANT SHALL SUBMIT STATEMENTS, PERMITS AND/OR LICENSES FROM THE APPLICABLE AGENCIES ATTESTING TO COMPLIANCE WITH THE APPLICABLE STANDARDS PRIOR TO THE ISSUANCE OF A CERTIFICATE OF ZONING COMPLIANCE BY THE ZONING ADMINISTRATOR.
 - (G) THE TOWERS AND OTHER STRUCTURES ASSOCIATED WITH A LARGE WECS SHALL NOT BE ARTIFICIALLY LIGHTED BY ANY MEANS OR IN ANY FASHION UNLESS REQUIRED BY THE FEDERAL AVIATION ADMINISTRATION.
 - (H) NO ADVERTISING OR IDENTIFICATION MAY BE DISPLAYED ON ANY TOWER, STRUCTURE, OR OTHER COMPONENT OF A LARGE WECS EXCEPT FOR SAFETY/EMERGENCY PURPOSES AS REQUIRED BY THIS ORDINANCE.
- (4) SAFETY MEASURES:
- (A) THE LARGE WECS SHALL BE DESIGNED AND CERTIFIED BY A REGISTERED ENGINEER TO WITHSTAND WIND LOADING AND OTHER CONDITIONS EXPERIENCED IN SEVERE WEATHER, AS REQUIRED BY THE MICHIGAN BUILDING CODE.

- (B) A REGISTERED ENGINEER SHALL CERTIFY THAT THE LARGE WECS IS EQUIPPED WITH BOTH MANUAL AND AUTOMATIC CONTROLS TO LIMIT THE ROTATIONAL SPEED OF THE ROTOR BLADE SO IT DOES NOT EXCEED THE DESIGN LIMITS OF THE ROTOR.
 - (C) ALL COMPONENTS OF A LARGE WECS SHALL BE PROPERLY GROUNDED TO SAFELY SUSTAIN NATURAL LIGHTNING STRIKES IN CONFORMANCE WITH THE MICHIGAN BUILDING CODE AND MICHIGAN ELECTRICAL CODE.
 - (D) A REGISTERED ENGINEER SHALL CERTIFY THAT THE LARGE WECS IS DESIGNED AND CONSTRUCTED TO NOT CAUSE RADIO AND/OR TELEVISION INTERFERENCE.
 - (E) ALL LARGE WECS FACILITIES SHALL BE EQUIPPED WITH ANTI-CLIMBING DEVICES AND FEATURES. NO TOWER CLIMBING APPARATUS SHALL BE PERMITTED TO BE LOCATED WITHIN TWELVE (12) FEET OF THE GROUND.
 - (F) THE BASE OF ALL LARGE WECS FACILITIES, INCLUDING TOWERS, WIRE CABLE SUPPORTS, AND ACCESSORY BUILDINGS SHALL BE ENCLOSED BY A LOCKED PROTECTIVE CHAIN LINK FENCE A MINIMUM SIX (6) FEET IN HEIGHT. THE PLANNING COMMISSION MAY SPECIFY ADDITIONAL FENCING REQUIREMENTS RELATIVE TO THE HEIGHT AND TYPE OF FENCING AS DEEMED NECESSARY.
 - (G) ALL LARGE WECS STRUCTURES SHALL BE POSTED WITH AT LEAST ONE (1) SAFETY/WARNING SIGN. THE ZONING ADMINISTRATOR SHALL DETERMINE THE LOCATION AND PLACEMENT OF THE SIGNS. EACH SIGN SHALL NOT EXCEED TWO (2) SQUARE FEET IN SIZE, AND SHALL CONTAIN THE FOLLOWING INFORMATION:
 - 1. "WARNING: HIGH VOLTAGE."
 - 2. MANUFACTURER'S NAME.
 - 3. OPERATOR'S NAME.
 - 4. EMERGENCY PHONE NUMBER.
 - 5. EMERGENCY SHUTDOWN PROCEDURES.
- (5) ABANDONMENT:
- (1) ANY TIME A WECS REMAINS NON-FUNCTIONAL OR INOPERATIVE FOR A PERIOD OF AT LEAST 365 CONTINUOUS DAYS, THE OWNER SHALL NOTIFY THE ZONING ADMINISTRATOR AND SUPPLY HIM/HER

WITH A WRITTEN PLAN FOR THE FUTURE USAGE AND FUTURE MAINTENANCE OF THE WECS.

- (2) UPON FAILURE OF THE OWNER TO SUPPLY THE ZONING ADMINISTRATOR WITH AN ACCEPTABLE PLAN FOR THE FUTURE MAINTENANCE AND/OR FUTURE USE OF THE WECS, THE ZONING ADMINISTRATOR SHALL DETERMINE THE WECS TO BE A PUBLIC NUISANCE AND REQUIRE THE DEMOLITION/REMOVAL OF THE WECS ALONG WITH RESTORATION OF THE GROUNDS TO THE CONDITION WHICH EXISTED PRIOR TO THE CONSTRUCTION OF THE WECS.
- (3) IF DEEMED A PUBLIC NUISANCE AND A SAFETY HAZARD, THE WECS SHALL BE SUBJECT TO THE DANGEROUS BUILDINGS ORDINANCE. DEMOLITION, REMOVAL AND RESTORATION OF THE PROPERTY TO THE CONDITION THAT EXISTED PRIOR TO THE CONSTRUCTION OF THE WECS MAY THEN PROCEED IN COMPLIANCE WITH THE DANGEROUS BUILDING ORDINANCE.
- (4) IF, AFTER NOTIFICATION OF THE TOWNSHIP'S INTENT TO DEMOLISH OR REMOVE AND RESTORE THE WECS PURSUANT TO THE DANGEROUS BUILDINGS ORDINANCE, THE WECS HAS NOT BEEN REMOVED WITHIN 60 DAYS OF THE APPLICABLE DEADLINE, AND AFTER AT LEAST 30 DAYS WRITTEN NOTICE, THE TOWNSHIP MAY REMOVE OR SECURE THE REMOVAL OF THE WECS WITH THE ACTUAL COSTS AND REASONABLE ADMINISTRATION CHARGES TO BE BILLED DIRECTLY TO THE PROPERTY OWNER AND/OR USER OF THE WECS. THE PROPERTY OWNER OR WECS USER SHALL BE RESPONSIBLE FOR DEMOLITION, REMOVAL, AND RESTORING THE CONDITION OF THE PROPERTY TO THAT WHICH EXISTED PRIOR TO THE CONSTRUCTION OF THE LARGE WECS, AS WELL AS ANY COSTS AND ATTORNEY FEES INCURRED BY THE TOWNSHIP IN SECURING THE REMOVAL.
- (5) NOTWITHSTANDING THE REQUIREMENT OF AN ACCEPTABLE WRITTEN PLAN FOR FUTURE USE AND MAINTENANCE, IF AT ANY TIME THE ZONING ADMINISTRATOR DETERMINES THAT THE WECS OR ITS FACILITIES OR GROUNDS HAVE BECOME A PUBLIC NUISANCE OR A SAFETY HAZARD, THE WECS AND/OR ITS GROUNDS SHALL BE SUBJECT TO THE TOWNSHIP'S DANGEROUS BUILDING ORDINANCE.

17.ADD SECTION 18.7.0 (S) "LARGE WIND ENERGY CONVERSION SYSTEMS" A1 DISTRICT.

SAME REQUIREMENTS AS SECTION 18.6.0(J).

18. ADD SECTION 18.8.0 (R) “LARGE WIND ENERGY CONVERSION SYSTEMS” A2 DISTRICT.

SAME REQUIREMENTS AS SECTION 18.6.0(J).

19. ADD SECTION 18.9.0 (L) “LARGE WIND ENERGY CONVERSION SYSTEMS” RA DISTRICT.

SAME REQUIREMENTS AS SECTION 18.6.0(J).

20. ADD SECTION 18.10.0 (M) “LARGE WIND ENERGY CONVERSION SYSTEMS” RB DISTRICT.

SAME REQUIREMENTS AS SECTION 18.6.0(J).

21. ADD SECTION 18.11.0 (N) “LARGE WIND ENERGY CONVERSION SYSTEMS” RC DISTRICT.

SAME REQUIREMENTS AS SECTION 18.6.0(J).

22. ADD SECTION 18.12.0 (N) “LARGE WIND ENERGY CONVERSION SYSTEMS” RD DISTRICT.

SAME REQUIREMENTS AS SECTION 18.6.0(J).

23. ADD SECTION 18.13.0 (N) “LARGE WIND ENERGY CONVERSION SYSTEMS” RE DISTRICT.

SAME REQUIREMENTS AS SECTION 18.6.0(J).

24. ADD SECTION 18.14.0 (L) “LARGE WIND ENERGY CONVERSION SYSTEMS” O DISTRICT.

SAME REQUIREMENTS AS SECTION 18.6.0(J).

25. ADD SECTION 18.15.0 (R) “LARGE WIND ENERGY CONVERSION SYSTEMS” B1 DISTRICT.

SAME REQUIREMENTS AS SECTION 18.6.0(J).

26. ADD SECTION 18.16.0 (S) “LARGE WIND ENERGY CONVERSION SYSTEMS” B2 DISTRICT.

SAME REQUIREMENTS AS SECTION 18.6.0(J).

**27. ADD SECTION 18.17.0 (Q) “LARGE WIND ENERGY CONVERSION SYSTEMS”
I1 DISTRICT.**

SAME REQUIREMENTS AS SECTION 18.6.0(J).

**28. ADD SECTION 18.18.0 (BB) “LARGE WIND ENERGY CONVERSION SYSTEMS”
I2 DISTRICT.**

SAME REQUIREMENTS AS SECTION 18.6.0(J).

29. AMEND SECTION 3.8.0(2) “PERMITTED HEIGHT EXCEPTIONS.”

THE FOLLOWING TYPES OF STRUCTURAL APPURTENANCES SHALL BE PERMITTED TO EXCEED THE MAXIMUM BUILDING HEIGHT LIMITATIONS OF THIS ORDINANCE:

- (2) APPURTENANCES NECESSARY TO MECHANICAL OR STRUCTURAL FUNCTIONS, SUCH AS CHIMNEYS AND SMOKE STACKS, WATER TANKS, ELEVATOR AND STAIRWELL PENTHOUSES, SOLAR COLLECTORS, VENTILATORS, BULKHEADS, PERSONAL RADIO TOWERS INCLUDING MASTS AND AERIALS, PERSONAL TELEVISION ANTENNAS, FIRE AND HOSE TOWERS, WATER TRANSMISSION STRUCTURES, COOLING TOWERS, BARN AS AN ACCESSORY USE TO AN AGRICULTURAL ENTERPRISE, GRAIN ELEVATORS AND SILOS. SATELLITE DISH ANTENNAS SHALL CONFORM TO THE PROVISIONS OF SECTION 3.12.0. (AMENDED 4/3/00)

TRUSTEE SPAGNUOLO SUPPORTED THE MOTION.

ROLL CALL:

AYES: TRUSTEE CUNNINGHAM, TREASURER PIZZO,
TRUSTEE SPAGNUOLO, SUPERVISOR FLETCHER,
TRUSTEE HICKS, TRUSTEE POMA AND CLERK
VEDDER.

NAYS: NONE

ABSENT: NONE

MOTION PASSED 7 TO 0.

XII. CONSENT AGENDA –

TRUSTEE CUNNINGHAM MOVED THE CONSENT AGENDA BE PASSED WITH THE REMOVAL OF ITEM #4.

CLERK VEDDER SUPPORTED THE MOTION.

MOTION PASSED 7 TO 0.

3. Bills and Financial Transactions

TRUSTEE CUNNINGHAM MOVED THE TOWNSHIP BOARD APPROVE BILLS IN THE AMOUNT OF \$420,175.37.

CLERK VEDDER SUPPORTED THE MOTION. MOTION PASSED 7 TO 0.

XIII. ITEMS REMOVED FROM THE CONSENT AGENDA FOR DISCUSSION –

2. Minutes

Trustee Hicks requested the minutes be pulled from the consent agenda for discussion. His first concern raised was in regards to the December 15, 2008 minutes, item #14, property casualty insurance proposals 2009-2010. Trustee Cunningham indicated she was present for the vote on this item, as she left immediately following. The vote is to be corrected to reflect the passage of the matter, 6 to 1. Trustee Hicks further requested the descending vote be named.

Trustee Hicks inquired as to the overall integrity of the minutes. He feels the board minutes are bare bones in comparison to the boards and commissions of the township. He referenced that the discussion and individuals present at the meetings are not in the minutes. Minutes should reflect what takes place.

Supervisor Fletcher noticed this in comparison to the Planning Commission minutes. He found the Planning Commission minutes very helpful.

Clerk Vedder indicated that expanded minutes are beneficial from an historical standpoint and took a lot longer time. At the request of the previous boards the minutes have been narrowed down. The Michigan Township Association and attorney comments reference it is the motion and who voted on it that is required. From a litigation standpoint this is what is recommended. The Clerk's Office will be glad to make adjustments.

Clerk Vedder continued there is a strong stand to not allow any board members to influence the content of the minutes. There have been issues in the past in regards

to “I did not mean that”, “that was taken out of context”. There is an integrity issue when the actual minutes are asked to be manipulated. Further content will be added.

Trustee Hicks clarified his reference to “integrity” as to the whole of the minutes, not to call into question the accuracy of the minutes. Trustee Hicks would like the minutes to include further content for the benefit of the individuals who are unable to attend.

The second issue raised by Mr. Hicks regarded holding work sessions. Minutes for the work sessions conducted in the past would lend to having minutes for the regular meetings with minimal content. There is value in holding work sessions. The last work session brought about great discussion.

Trustee Poma concurs with Trustee Hicks regarding the lack of meat being reflected in the minutes. Trustee Poma inquired as to the length of time the recordings are kept. Clerk Vedder indicated that the recordings are destroyed upon the approval of the minutes by the board.

Trustee Cunningham would additionally like to see the general discussion in the minutes especially since they are going on the website for the public to view. Trustee Cunningham would also like the content to be expanded upon.

Treasurer Pizzo stated that the reports are relatively easy to refer back to. However, discussions that take place need to reflect a balanced discussion. When does the board come to agreement on what should be included?

Trustee Cunningham stated as parliamentarian of the board, Robert’s Rules of Order does state a summary needs to be provided. Trustee Cunningham does remind the board that stating out right that you want something to be a part of the record is always a good practice.

Trustee Hicks expressed that he did not feel that a back and forth battle on minute content would be problematic. The past has experienced many contentious hearings with boards and commissions without such issues.

Clerk Vedder expressed her desire to not have verbatim minutes. She reminded the board members that this board is much more of a political body than the Planning Commission.

Supervisor Fletcher suggested the minutes be forwarded to the Manager’s Office for proofing.

Clerk Vedder indicated that at times that does take place. However, the minutes are the responsibility of the Clerk’s Office and have to be completed to meet timelines.

Supervisor Fletcher stated no action will take place on the minutes this evening and the minutes will come back at the next meeting (January 21, 2009) for consideration.

XIV. ITEMS ADDED TO AGENDA UNDER SECTION V. SET/ADJUST AGENDA –

The requested added items by Trustee Hicks were address under item #2 Minutes, as noted above.

XV. OTHER BUSINESS –

6. SLUP for a Home Occupation – Bona Wirth

Mark Graham introduced the matter. Ms. Wirth purchased the property at 5220 W. Willow with the intention of establishing a nail salon in her home. The property is zoned residential and remain so. Under the terms of the zoning ordinance she does need a special land use permit for a home occupation. Ms. Wirth filed early in the year, a hearing was held before the planning commission on September 22nd. Ms. Wirth pulled that application and reapplied. The second hearing was held on October 27th. The Planning Commission recommended approval of the permit.

Bona Wirth, 5220 W. Willow Highway spoke to the board pleading her case. Ms. Wirth has experienced some marital problems and is living at the home alone. Ms. Wirth expressed her compliance with the ordinance requirements, has been a good neighbor and is looking to get her business started.

Trustee Poma inquired as to the expected number of clients being 8 per day and if this would generate adequate income for the applicant. Trustee Poma clarified the ten trip per day requirement. Ms. Wirth explained that many of her clientele ride together and are family members. Client levels fluctuate seasonally. The applicant stated she has been absent from the home for three days in December.

Treasurer Pizzo expressed his concern regarding the traffic and the parking. Ms. Wirth indicated that the home contained four bedrooms. If a family was living there, it is possible 3-4 cars could be there. Ms. Wirth intends to park her car in the back yard. This would be required if there were more home occupants that drove.

Trustee Cunningham confirmed there would be no employees.

Attorney Jerome L. Fine, 784 W. Lake Lansing Road. Attorney Fine represents Mr. and Mrs. Wirth. Attorney Fine extended his appreciation to the Planning Department. Attorney Fine indicated that there is an ordinance and the application is in compliance with the ordinance. Attorney Fine referenced the staff report prepared by the Planning Department.

Attorney Fine provided a summary of the issues that were raised in opposition to the permit and responded to each. The issues were: lowering of property values, danger to children, fumes, chemicals, traffic, parking and a potential change of character to the neighborhood.

Trustee Hicks asked if the minimum hours are in the recommendation. Ms. Wirth replied she tried to have all clients during the day however; some of her clients work and have to come at night.

Karla Garcia, 5212 West Willow, lives right next door. Ms. Garcia distributed written materials to the board. Ms. Garcia expressed her strong opposition to the permit. Ms. Garcia provided a list of reasons to support her opposition including: traffic interrupting privacy; exaggerated business hours and volume; house would not be primary home; intended to employ a second tech and a bookkeeper; inconsistent with claimed marital problems; traffic and parking concerns; business does not belong in a low-density residential zoning area; narrow driveway; emergency medical services at risk; back yard being a parking lot; fence damage; flammable materials; chemicals; alleged illness of applicant; jeopardizing refinancing opportunities of area homes.

David Conarton, 2007 Elmwood, spoke to the board regarding his special land use permit. Mr. Conarton operates a consulting business from his home. His business operates over the phone. He has approximately 3-4 clients per month stop for coffee. Mr. Conarton takes great pride in his yard and is concerned about the character change of the neighborhood that would be brought by the nail salon and the increased traffic. Mr. Conarton has resided in his home for 27 years.

Jamie Lawal – 4501 Gull Road, spoke as she is a client of Ms. Wirth. Ms. Lawal feels that many of the concerns raised are not valid. Ms. Lawal is supportive of Ms. Wirth's request.

Karen Schaffner, 611 Harvest Lane, spoke as she too is a client of Ms. Wirth. She spoke to Ms. Wirth's character. She has been a client for over six years. Ms. Schaffner has never experienced an odor from a nail salon outside of the building in which the salon conducted business. Ms. Schaffner feels strongly that Ms. Wirth should be able to commence her business operations.

Pauline Conarton, 2007 Elmwood addressed her opposition to the request based upon the traffic and her anticipated decline in property values. Mrs. Conarton stated the business belongs in the business district.

Shannon Duff, 5112 West Willow, expressed her concern over her mortgage situation. Ms. Duff's mortgage is under refinancing. She strongly feels that if the special land use permit is granted her property value will be directly impacted, her

mortgage requested denied, and her home will then be lost. Her children can't play in the driveway due to the traffic – the driveway is used to turn around.

Jean Peterson, 5311 Birchwood Way (her home backs to the subject property). Ms. Peterson is concerned about the value of her home. There is no objection to Ms. Wirth making a living, just not in her home. Ms. Peterson feels the applicant bought the home for the purpose of the business, does not reside there, and made improvements before obtaining the business permit.

Attorney Jerome Fine stated his acknowledgment of the neighbors' concerns but feels them to be alarmist. Property values are a direct reflection of the economy. Not all issues attached to refinancing are tied to the special land use permit. Many occupations require travel for work. This takes individuals away from their home. The requirements are within the ordinance. The business cannot be held against the applicant. The Planning Commission feels the requirements are met. Should the terms be violated, the applicant is subject to have the permit pulled. The business will not change the neighborhood. Many of the concerns raised are uses of right by the virtue of the fact the residential property is owned. The property was in foreclosure and vacant. The property is improved by being occupied. The granting of the permit is urged.

A comment from the audience is made, asking the board to consider the rights of the neighbors, not only the rights of the applicant.

Mr. Conarton approached the podium requesting to speak on behalf of the attorney representing the neighbors. Due to the weather and an accident, the attorney is in traffic and has not yet arrived to this meeting. Points of concern: (1) the neighbors have rights too (2) traffic (3) large volume of children in the area and increased bicycle use (4) zoning areas are for a purpose (5) applicant should not have invested in the area or the home before knowing if the permit was going to be granted.

Supervisor Fletcher inquired of Mr. Graham about the enforcement. Mr. Graham replied that as the Zoning Administrator, he is responsible for enforcement. Generally, investigation and compliance issues are done on a complaint basis. Mr. Graham reminded everyone that people need to be reasonable. Mr. Graham has, in the past, sought assistance from neighbors and the sheriff's department from time to time.

Trustee Cunningham inquired about the prior business location. Ms. Wirth operated at commercial nail salons in the past. This is the first Ms. Wirth will be conducting business from her home. Further, Trustee Cunningham felt a fence be a condition of the permit. Mr. Graham replied the fence can be an added condition, but requested any condition be as specific and detailed as possible.

As to the hours of operation, Mr. Graham indicated he has been given credit for that. There has been a lot of discussion about the hours of operation. Mr. Graham does not advocate any hours. Generally, based on the past, hours are 9am-8pm to allow for evening hours. Mr. Graham indicated that the hours can be limited. Trustee Cunningham raised a concern about the increased traffic related to school starting, including busing. Additionally, Trustee Cunningham expressed her thoughts that the starting time on Saturdays was too early as currently set.

Trustee Hicks looked to Mr. Graham for the implications should Ms. Wirth not have the home as her primary residence and she move. Mr. Graham responded the zoning ordinance is clear and mandates that the applicant live there. Staff is concerned due to the lack of a homestead exemption being on file. Numerous other documents have been provided in an effort to establish residency. If a determination was made she was not residing there, the board can revoke the permit. Mr. Graham has been with the township for 32 years and does not recall a permit ever being taken away.

Trustee Hicks stated he felt this board is not in position to take in tax considerations in relation to the homestead exemption being filed. The homestead is not dispositive of whether a home is a primary residence.

In response to Trustee Hicks' inquiry on other home occupancy permits in the township, Mr. Graham stated there are approximately 40. Approximately five of those are salon oriented. Mr. Graham further stated that he recalled past concerns over increased holiday traffic. Another issue, clogging drains for septic tanks and dies/chemicals.

CLERK VEDDER MOVED TO CLOSE THE PUBLIC HEARING.

TRUSTEE HICKS SUPPORTED THE MOTION. MOTION PASSED 7 TO 0.

CLERK VEDDER MOVED THE DELTA TOWNSHIP BOARD OF TRUSTEES **DENY** THE REQUEST FOR A SPECIAL LAND USE PERMIT FOR A NAIL SALON TO BE OPERATED AT 5220 W. WILLOW HIGHWAY AS REQUESTED IN CASE NO. 9-08-07, BASED ON THE FOLLOWING FINDINGS OF FACT:

1. THE NAIL SALON COULD GENERATE AN UNDULY BURDENSOME AMOUNT OF TRAFFIC, AND CORRESPONDING NOISE, WHICH COULD NEGATIVELY IMPACT ADJACENT RESIDENTIAL PROPERTIES. THE APPLICANT HAS INDICATED ON THE RECORD THAT SHE WISHES TO SERVE AS MANY AS EIGHT CUSTOMERS A DAY WHICH COULD GENERATE UP TO 16 TRIPS PER DAY WHICH IS CONTRARY TO SECTION 18.6.0 (D) (6) OF THE ORDINANCE WHICH LIMITS HOME OCCUPATIONS TO NO MORE THAN TEN TRIPS PER DAY.

2. THE PROPOSED HOME OCCUPATION WOULD BE CONTRARY TO SECTION 18.4.0 A (1) OF THE ZONING ORDINANCE WHICH MANDATES THAT THE HOME OCCUPATION “PROMOTE THE INTENT OF THE ZONING DISTRICT IN WHICH THE USE IS PROPOSED”. THE SUBJECT PARCEL, ZONED RB, LOW DENSITY RESIDENTIAL, IS NON-CONFORMING IN LOT WIDTH (75 FT. EXISTING VS. 80 FT. REQUIRED) AND LOT AREA (10,875 SQ. FT. EXISTING VS. 12,000 SQ. FT. REQUIRED). PERMITTING A MORE INTENSIVE USE, SUCH AS A HOME OCCUPATION, ON THE PROPERTY WOULD BE CONTRARY TO THE PURPOSE SECTION OF THE NON-CONFORMITIES CHAPTER, BEING SECTION 24.1.0 B WHICH STATES: “THE REGULATIONS CONTAINED IN THIS CHAPTER ARE DESIGNED TO ENSURE THAT SUCH NON-CONFORMITIES WILL BE PROPERLY REGULATED SO AS TO RESULT IN A MINIMUM OF DISHARMONY IN THE DISTRICTS IN WHICH THEY ARE LOCATED.

3. THE APPLICANT HAS NOT DEMONSTRATED COMPLIANCE WITH SECTION 18.6.0 (D) (4) OF THE ZONING ORDINANCE WHICH MANDATES THAT THE OPERATOR OF A HOME OCCUPATION RESIDE ON THE SUBJECT PARCEL.

TREASURER PIZZO SUPPORTED THE MOTION.

Clerk Vedder addressed the audience, stating that in making this motion, having worked on the home occupation ordinance many years ago, the intent was to make it to be as seamless as possible. The health, safety and welfare are to be protected by the zoning in the community. Clerk Vedder’s experience has been that home occupations involving hair and nails salons do not fit in a residential area but in a commercial area. They are disruptive to the neighborhood. This has nothing to do with the applicant or her situation. Clerk Vedder feels that the business does not fit in the area.

Trustee Hicks is not supportive of a motion that uses a homestead affidavit as a benchmark for residency. Trustee Hicks requested a friendly amendment to the proposed motion to remove the last sentence.

Trustee Spagnuolo left the meeting at 7:45 p.m.

THE PROPOSED AMENDMENT CARRIED 6 TO 0.

Clerk Vedder further stated she did not feel the use of township funds being utilized for enforcement and compliance of home occupancy permits to be efficient.

Trustee Spagnuolo returned to the meeting at 7:48 p.m.

Trustee Hicks further added the decision is not related to the number of individuals that support or oppose the permit. The bottom line is whether the ordinance and related requirements were met.

ROLL CALL:

AYES: TREASURER PIZZO, TRUSTEE SPAGNUOLO,
SUPERVISOR FLETCHER, TRUSTEE HICKS, TRUSTEE
POMA, CLERK VEDDER AND TRUSTEE CUNNINGHAM.

NAYS: NONE

ABSENT: NONE

MOTION PASSED 7 TO 0.

XVI. OLD BUSINESS – None.

XVII. OFFICERS, DEPARTMENTAL REPORTS AND COMMITTEE MINUTES –

Manager Watkins report:

- The Willow Woods Special Assessment allocated to Delta Township was 44% of the project. The general benefit allocated seems excessive. The amount charged is \$74,800. Generally the township allocation is 10-20%. Council has been retained and an appeal is being filed. The bid for the entire project was \$62,000.
- There has been a house fire on Delta River Drive. The house was a complete lost with estimated damage of \$440,000.
- The Creyts Road residents are being notified regarding the sidewalk and pathway project. Staff is holding informational meetings, starting tomorrow.
- An International City Management Association (ICMA) grant has been applied for in the amount of \$41,000. The purpose is to create an increased collaboration with the township and the library. The funds will be used for entrepreneurial projects and promotion. The manager's office would oversee the entire project. The actual resource would be the library. Trustee Poma would like to be notified of the in kind staff time provided in relation to the grant.
- The Red Cedar Grill has closed the Lansing Mall location.
- A start up company has contacted Delta and the manager's office is working with them.
- The old O'Rafferty School was toured recently by Mark Graham and Jenny Wolfert. In follow-up, there is a meeting set with former Lansing City Mayor David Hollister. This is to establish a link with Michigan State University for the University to utilize the building as an incubator.

- Committee meetings need to be set. There are matters to be discussed in Utilities, Transportation and Administrative. If the chairpersons would contact the manager's office and set-up meetings it would be appreciated.
- The Government Relations Meeting of the Chamber is Wednesday, at 8:00 a.m. at the Sheraton.

John Hanieski, Chair of the Delta Township Economic Development Committee, 8583 West Eaton Highway invited the board members to attend the EDC meeting set for Thursday, January 8th at 4p.m. in Room B. The EDC agenda for the upcoming year will be examined. The retreat from last summer will be revisited.

XVII. PUBLIC COMMENTS FOR ITEMS NOT ON AGENDA *(maximum five minutes)* –

Pat Harington, 1709 Marcy Road, spoke promoting sidewalks and the non-motorized transportation plan. If there is sidewalk shoveling that needs to be done in school zones, please let him know. Mr. Harington expressed his desire that the sidewalk and non-motorized transportation plan be kept alive and on the front burner to be worked on. The Chanticleer Trail project is not done yet.

XIX. ADJOURNMENT

TRUSTEE CUNNINGHAM MOVED THE MEETING ADJOURN AT 9:07 P.M.

TRUSTEE POMA SUPPORTED THE MOTION. MOTION PASSED 7 TO 0.

CHARTER TOWNSHIP OF DELTA

JANICE VEDDER, TOWNSHIP CLERK

KENNETH FLETCHER, TOWNSHIP SUPERVISOR