

KENT COUNTY BOARD OF COMMISSIONERS

*Tuesday, November 26, 2002
Administration Building - Room 310*

Meeting called to order at 8:30 a.m. by Chair Steven R. Heacock.

Present: Commissioners Agee, Boelema, Buege, Hiddema, Horton, Koorndyk, Kuhn, Kuipers, Mast, Mayhue, McGuire, Morgan, Morren, Postmus, Sak, Vaughn, Vonk, Wahlfield, Chair Heacock – 19.

Absent: None.

Invocation: Commissioner Mayhue gave the invocation.
The Pledge of Allegiance followed.

Note: The Ford International Airport Master Plan Update that was scheduled to be presented today by Airport Director Jim Koslosky will be rescheduled.

PUBLIC COMMENT

Judy Barnes, Executive Vice President of the Home & Building Association (“HBA”) of Greater Grand Rapids - **(PDR)** Although opposed generally to PDR, the HBA does support the proposed changes to the ordinance. Read a statement from the HBA (copy of which is on file in the Office of the County Clerk).

Emery Freeman, 7261 Peninsular NE, Rockford – **(Myers Lake) Supports** the land acquisition at Myers Lake and would like to see the park enlarged.

Joe Walker, 2706 Hall Street SE, East Grand Rapids - **(PDR - Supports)** Is a member of United Growth for Kent County and believes this to be a sound approach to rational growth in Kent County.

Uko Zylstra, 2326 Paris Avenue SE, Grand Rapids - **(PDR – Supports?)** Professor at Calvin College who agrees with many of the arguments in favor of the PDR program. History reveals that civilizations that neglect agricultural foundations will gradually fall into decline. Trends in the past 50-60 years point to a significant decline in the sustainability of the agricultural foundation in the U.S. What we do may impact other counties if we go down the path of preserving agricultural land.

Bill Bussey, 5276 Connemard Court SE, Grand Rapids - **(PDR – Opposes?)** We don’t need to preserve farms for production. Today efficiency has increased in farm production. There is not enough information on long-term effects and he cautioned Commissioners on their decision.

Criste Sauve, 7548 Sunfish Drive, Rockford - **(PDR & Myers Lake- Supports both)** She is pro-preserving some farmland. We need usable land. As far as the land acquisition at Myers Lake, she believes this to be a once in a lifetime chance and would like to see all residents of Kent County enjoy it.

Kent Hildebrand, 2134 Durant SE, Grand Rapids - **(PDR - Opposes)** He is against PDR in its present form. Farming nationwide is healthy. Believes this to be a political agenda for three reasons: 1) permanent; 2) no requirement that land has to be farmed; 3) hurried to a vote under this BOC.

Nadine Prawdzik, 7383 Hessler NE, Rockford - **(Myers Lake - Supports)** Owner of the property being sold to the County. Always wanted it preserved for public use.

Robin Prawdzik White, 7381 Hessler NE, Rockford - **(Myers Lake - Supports)** Encourages Myers Lake park expansion and many lake residents are in favor.

Rusty Richter, 6671 Airfield Court, Byron Center - **(PDR - Opposes)** Opposed from the beginning, concerned about permanence and funding. What are the administrative costs?

Rick White, 7381 Hessler NE, Rockford - **(Myers Lake - Supports)** A neighbor of Myers Lake park, there is very little crime. This land acquisition is needed due to lake front congestion.

Al Calderon, (no address given) - **(PDR – Opposes?)** Representing the Hispanic migrant workers in Kent County, they are opposed to PDRs.

Julie Rietberg, 660 Kenmoor Avenue SE, Grand Rapids - **(PDR - Opposes)** As a person who operates and lives on the “family farm” stated that this is about not saving the farm, but saving the farmer. Encouraged the BOC to look at amendments, do more research.

Larry Zahm, 2411 Nine Mile Road, Grand Rapids - **(PDR - Supports)** Farmer from Alpine Township said that we should look at the bigger picture. We are running out of open space. We need more control over our resources.

Reverend Andrew DeBraber, 8 Valley SW, Grand Rapids - **(PDR - Supports)** Representing the Faith in Motion organization, read a statement from the organization in support of the PDR ordinance (copy of which is on file in the Office of the County Clerk).

Michael Cagen, 156 Campau Court NW, Grand Rapids - **(PDR - Opposes)** Against PDR for the following reasons: 1) will not stop urban sprawl – will force development to go to surrounding counties; 2) doesn't want tax dollars used to help out one industry; 3) smaller supply of farmland means less crop, lower crop supply means there is greater value for the remaining crop so increased land values occurring from free market forces will help the farm to thrive.

Edward Bolt, 233 Glenhaven, Grand Rapids - **(PDR - Supports)** As an architect and Grand Rapids resident he is supportive of the PDR proposal. This is about protection of open space. There is a greater good, beyond individual rights, which we must consider.

Rusty Merchant, 111 Pearl Street, Grand Rapids - **(PDR)** Represents the Grand Rapids Area Chamber of Commerce and is supportive of some of the proposed amendments. Proposed a sunset, not a 5-year review and a carefully written escape clause.

Jim Telman, 2140 44th Street, Grand Rapids - **(PDR – Opposes)** Here on behalf of Tom Staahl. Asked that Commissioners Horton and Kuhn abstain and recuse themselves in this matter as Commissioner Horton owns land within the proposed area and Commissioner Kuhn did some consultant work for MSU United Growth Project. Also, there are some inconsistencies within the ordinance.

Don Zerial, 7377 Cascade Terrace, Cascade Township - **(PDR - Opposes)** You cannot stop progress for several reasons: 1) farming is hard work; 2) cost of doing business; 3) market forces - cannot stop supply and demand; 4) government subsidies; and 5) children of farmers don't want to be farmers. Where are the funds coming from?

Art Tanis, 4736 Remembrance Road, Walker - **(PDR)** The City of Walker did a survey in which 52% of the respondents are for farmland preservation.

Dan DeVol, 1045 Conlon SE, Grand Rapids - **(PDR - Opposes)** Objects to tax dollars used to purchase PDRs. To combat sprawl, we need to look at zoning.

Gene Szpeinski, 5867 Long Point Court, Ada Township - **(PDR - Opposes)** The PDR is not ready to be passed.

Evert Vermeer, 2655 Capilano Drive SE, Grand Rapids - **(PDR - Supports)** Chairman of the MSU/Kent Citizens Council. The council studied PDRs and the Council voted to ask the BOC to pass the PDR ordinance. There is much that has to be done in addition, but it is a step in the right direction.

Don Lee, 1965 Francis SE, Grand Rapids - **(Myers Lake & PDR – Supports both)** Grew up in the city but was fortunate to experience Myers Lake as a child. Is supportive of PDR as well, thinks limiting development outside city will move people to develop areas in the city.

SPECIAL ORDER OF BUSINESS

Retiree Recognition

Chair Heacock presented service awards to the following retirees:

William L. DeGroot / Aeronautics / 27 years

Elaine Hudson / Aeronautics / 7 years

Janice E. Glynn / Circuit Court / 30 years

Mary K. Cadwell (Kathy) / Health Department / 34 years

Cheryl L. Kronemeyer / Information Technology / 25 years

Robert A. Start / Sheriff Department / 30 years

Janis "John" Rikans / Sheriff Department / 30 years

Marc E. Faasse / Sheriff Department / 29 years

Harry Kooistra / Sheriff Department / 30 years

Robert D. Peters / Sheriff Department / 30 years

Charles C. Brown / Sheriff Department / 29 years

Edward J. Knott, Jr. / Sheriff Department / 29 years

Brian D. Robinson / Sheriff Department / 29 years

CONSENT AGENDA

- a) Approval of the Minutes of October 24, 2002 Worksession, November 7, 2002 Public Hearing, November 14, 2002 Meeting and November 19, 2002 Worksession
- b) November 19, 2002, Finance Committee Meeting Minutes
(Reports of Claims and Allowances)
- c) Resolutions:

11-26-02-161 – PETITION TO ABANDON A PORTION OF THE ESBAUGH COUNTY DRAIN / DRAIN COMMISSIONER

WHEREAS, the Esbaugh Drain is an established county drain serving lands in Cascade Township, Kent County; and

WHEREAS, a portion of the Esbaugh Drain has ceased to be of public utility and is no longer necessary or conducive to the public health, convenience, or welfare.

NOW, THEREFORE, BE IT RESOLVED, that the Kent County Board of Commissioners does hereby petition the Kent County Drain Commissioner to abandon a portion of the Esbaugh Drain as allowed by and pursuant to Chapter 17 of the Michigan Drain Code of 1956, as amended; and

BE IT FURTHER RESOLVED, that the Kent County Board of Commissioners authorizes the Board Chair to execute the petition and that a copy of this Resolution shall be attached thereto.

11-26-02-162 - PETITION TO ABANDON A PORTION OF THE McKNIGHT COUNTY DRAIN / DRAIN COMMISSIONER

WHEREAS, the McKnight Drain is an established county drain serving lands in Cascade Township, Kent County; and

WHEREAS, a portion of the McKnight Drain has ceased to be of public utility and is no longer necessary or conducive to the public health, convenience, or welfare.

NOW, THEREFORE, BE IT RESOLVED, that the Kent County Board of Commissioners does hereby petition the Kent County Drain Commissioner to abandon a portion of the McKnight Drain as allowed by and pursuant to Chapter 17 of the Michigan Drain Code of 1956, as amended; and

BE IT FURTHER RESOLVED, that the Kent County Board of Commissioners authorizes the Board Chair to execute the petition and that a copy of this Resolution shall be attached thereto.

11-26-02-163 – 457 DEFERRED COMPENSATION PLAN REVISIONS / HUMAN RESOURCES

WHEREAS, the Economic Growth and Tax Relief Reconciliation Act of 2001 has been incorporated into the Kent County Deferred Compensation Program; and

WHEREAS, the amendment will allow individuals to use catch up provisions and increased contributions in accordance with Federal regulations; and

WHEREAS, the amendment of the plan will adopt coordination of limits provision in accordance with Federal regulations.

NOW, THEREFORE, BE IT RESOLVED that the amended and restated Kent County Deferred Compensation Plan attached hereto is adopted effective January 1, 2003; and

BE IT FURTHER RESOLVED, that the County Administrator/Controller is authorized and directed to execute the amended and restated plan and to inform eligible employees of the terms and conditions of the Plan.

11-26-02-164 – SISTERS EMPOWERING SISTERS AND WOMEN’S HEALTH NETWORK GRANT SUBMISSIONS AND BUDGET AMENDMENT / HEALTH DEPARTMENT

WHEREAS, funds are available from the Grand Rapids Affiliate of the Susan G. Komen Foundation for breast health activities and for a promotional campaign for the Women’s Health Network (WHN); and

WHEREAS, the Health Department will use the grants to fund two complementary programs. The first is a continuation of the Sisters Empowering Sisters Program, and the second is a promotional campaign for WHN; and

WHEREAS, the Sisters Empowering Sisters Program is designed to educate African-American women regarding breast health practices and resources; offer case management to women who, although age appropriate for mammograms, have not received a mammogram during the past year; and continue and enhance a peer educator training to empower African-American women to share accurate information about breast health practices and resources; and

WHEREAS, the promotional campaign for WHN is designed to reward participants for completing their appointments; advertise the availability of mammograms; and translate WHN materials into Vietnamese and contract for Asian language interpretation services. The impact of the campaign and future promotional direction will be evaluated by surveying clients at appointments; and

WHEREAS, grant funds will be used for existing staff, supplies, other expenses, travel, and administrative costs; and

NOW, THEREFORE, BE IT RESOLVED that the Kent County Board of Commissioners hereby approves the Health Department’s request to accept additional grant funding and to appropriate an additional \$81,681 to the Health Department budget, if awarded. The Health Department will accept \$47,223 for the Sisters Empowering Sisters Program, and \$34,458 for the Women’s Health Network promotional campaign.

11-26-02-165 – APPROVAL OF THE MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY (DEQ) AGREEMENT FOR FY2003 / HEALTH DEPARTMENT

WHEREAS, the Environmental Health Division performs certain technical services relating to non-community water supply, long-term drinking water monitoring, swimming pools, drinking water supply, and on-site sewage. Funding for these activities is managed by the Department of Environmental Quality (DEQ) that requires the Health Department to enter into a contractual agreement; and

WHEREAS, the DEQ agreement that provides funding for Environmental Health services expired on September 30, 2002. The proposed agreement with the DEQ will replace the existing agreement and contains continuation language while the new contract is being reviewed

and signed. The contract covers the 2002-03 fiscal year; and

WHEREAS, the contractual requirements set forth in this agreement are consistent with past program requirements. Payments will be made to the Health Department on a monthly basis with the Health Department providing quarterly reporting. Total funding provided by the DEQ for Environmental Health services is \$432,082; and

WHEREAS, the Health Department prepared its 2003 budget request using estimated funding figures. The actual contract amount is \$8,463 higher than expected.

NOW, THEREFORE, BE IT RESOLVED that the Kent County Board of Commissioners approves the Department of Environmental Quality Agreement for FY03, and to appropriate an additional \$8,463 in State funding to the Health Department.

11-26-02-166 – FY 2003 BUDGET ADJUSTMENTS – APPROPRIATE AN ADDITIONAL
\$1,686,896 / COMMUNITY MENTAL HEALTH

WHEREAS, the Kent County Community Mental Health (CMH) Department prepared its 2003 budget request using estimated funding figures prior to receiving provider contracts. The amended budget includes an increase in revenue to cover planned rate increases/costs of living adjustments, the reduction of the Montcalm County substance abuse funding, and the reduction of substance abuse funding for the Salvation Army, which will be provided directly to the Salvation Army; and

WHEREAS, the Development Disabilities Division also increased by \$284,000 for the Self-Determination Project that was approved by the CMH Board subsequent to the submission of the budget to the County. Funding from the CMH fund balance is being requested for this activity.

NOW, THEREFORE, BE IT RESOLVED that the Kent County Board of Commissioners approves the appropriation of an additional \$1,686,896 in funding to the 2003 Community Mental Health budget.

Motion by Commissioner Mayhue, supported by Commissioner Sak, to approve the consent agenda items.

Motion carried:

Yeas: Agee, Boelema, Buege, Hiddema, Horton, Koorndyk, Kuhn, Kuipers, Mast, Mayhue, McGuire, Morgan, Morren, Postmus, Sak, Vaughn, Vonk, Wahlfield, Chair Heacock - 19.

Nays: 0.

ADMINISTRATIVE HEARING

Denial of FOIA Request / Sheriff

Motion by Commissioner Morren, supported by Commissioner Sak, to move into an administrative hearing for the purpose of an administrative hearing.

Motion carried by voice vote.

At 10:02 a.m., an administrative hearing was held to consider an appeal for an FOIA request which was submitted to the Sheriff's Department. Civil Counsel Sherry Batzer explained that an appeal was taken by Attorney Deborah Labelle of Ann Arbor. Legal counsel reviewed this and an opinion was issued recommending that the Board of Commissioners grant the appeal in part and deny the appeal in part. This involves juvenile records held by both the Kent County Jail and the Juvenile Detention Facility. The records of the Kent County jail concerning juveniles

who are adjudicated will be released. The records of the Kent County Juvenile Detention Facility cannot be provided by the Sheriff's Department so what we have is a partial grant of records and a partial denial of records. We will also release some policies concerning the education and recreational activities of juveniles in the Kent County jail. The Board of Commissioners is acting as an appeal board.

There was no public comment.

Motion by Commissioner Morren, supported by Commissioner Wahlfield, to move out of the administrative hearing.

Motion carried by voice vote and the hearing was closed at 10:07 a.m.

RESOLUTIONS

11-26-02-167 – APPEAL OF DENIED FREEDOM OF INFORMATION ACT (FOIA) REQUEST / SHERIFF

WHEREAS, the Sheriff Department denied Attorney Deborah LaBelle's Freedom of Information Act (FOIA) request for arrest and detention records of Kent County juveniles, and policies and procedures related to the housing, education, recreation, medical and psychological treatment of detained juveniles; and

WHEREAS, Attorney LaBelle appealed the Sheriff Department's denial of her request; and

WHEREAS, the appeal was referred to outside counsel for review, and an opinion was received recommending that the denial of the Sheriff Department be affirmed in part and reversed in part; and

WHEREAS, Civil Counsel has reviewed the opinion and concurs with its recommendation; and

WHEREAS, the Board, as required by the County's FOIA Policy, has conducted a hearing on the appeal and made appropriate inquiry.

NOW, THEREFORE, BE IT RESOLVED that the Kent County Board of Commissioners, being fully informed in the premises, hereby affirms in part and reverses in part the denial of Deborah LaBelle's FOIA request.

Motion by Commissioner Buege, supported by Commissioner Horton, that the resolution be adopted.

Motion carried by voice vote.

11-26-02-168 – SENIOR MILLAGE ALLOCATIONS FOR 2003 / ADMINISTRATOR'S OFFICE

WHEREAS, the Area Agency on Aging of Western Michigan, Inc. (AAAWM) holds three-year contracts with more than 20 agencies to provide services with funding from the Kent County Senior Millage. Under the terms of the contracts, the funding level is evaluated annually based on new program proposals, current year operations and available funding; and

WHEREAS, in early October, the Kent County Senior Millage Review Committee reviewed 2003 funding requests and made recommendations regarding funding for each service. These recommendations were forwarded to the AAWM Executive Committee on October 28, 2002, which is now recommending them to the County; and

WHEREAS, in addition to the annual contracts, senior millage funds will also be used to provide services and prescription assistance to seniors through purchase of service and voucher arrangements. Amounts to be allocated through this process have been included on the attached bid tabulation and recommendation sheet; and

WHEREAS, three agencies failed to submit 2003 funding proposals by the deadline for consideration for 2003 funding. Services provided by those agencies will be subject to an open bid process. Funds equal to last year's allocation for these services have been set aside so that proposals for those services can be evaluated and recommended for approval by the Board of Commissioners in December.

NOW, THEREFORE, BE IT RESOLVED, that the Kent County Board of Commissioners hereby approves the allocation of \$4,096,160 in Senior Millage funds for 2003 as recommended by the Area Agency on Aging of Western Michigan, Inc. (AAAWM).

Motion by Commissioner Postmus, supported by Commissioner Mast, that the resolution be adopted.

Motion carried:

Yeas: Agee, Boelema, Buege, Hiddema, Horton, Koorndyk, Kuhn, Kuipers, Mast, Mayhue, McGuire, Morgan, Morren, Postmus, Sak, Vaughn, Vonk, Wahlfield, Chair Heacock - 19.

Nays: 0.

11-26-02-169 – CONTINUE TO IMPLEMENT THE ADMINISTRATIVE OFFICE REORGANIZATION APPROVED BY THE BOARD DECEMBER 13, 2001 / ADMINISTRATOR'S OFFICE

WHEREAS, the Board of Commissioners, on December 13, 2001, approved a report regarding the reorganization of the Administrator's Office and the Administrative Services Departments; and

WHEREAS, the intent was to make specific recommendations to the Board over the course of several years to complete the "vision" outlined in the report, as situations made it conducive for such change.

WHEREAS, with retirements of three key Administrative Services Department Directors and the transfer of the Parks Department to the County Administrator's Office, the following steps in the evolving reorganization process can take place:

- 1) Create a Deputy County Administrator/Controller position (pay grade 33)
- 2) Administratively formalize the Parks Department reporting to the Deputy County Administrator/Controller
- 3) Shift the Facilities Management Department from reporting to the Administrator/Controller to the Deputy County Administrator/Controller

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners approves the reclassification of an Assistant County Administrator Position (MPP Grade 32) to a Deputy County Administrator/Controller Position (MPP Grade 33), formalizes the reporting structure of the Parks Department to the Deputy County Administrator/Controller, and places the Facilities Management Department under the supervision of the Deputy County Administrator/Controller effective January 1, 2003.

Motion by Commissioner Mast, supported by Commissioner McGuire, that the resolution be adopted.

Motion carried by voice vote.

11-26-02-170 – AMEND JUNE 1956 RESOLUTION (WHICH CREATED THE AERONAUTICS BOARD) TO ESTABLISH A POLICE DEPARTMENT/ AIRPORT

WHEREAS, the Michigan Aeronautics Code confers upon political subdivisions the authority to create airport police departments with full police powers at airports created pursuant to the Act; and

WHEREAS, the resolution creating the Kent County Airport Board of Control (now the Kent County Aeronautics Board) delegated the following powers, authorities and duties, among others, to the Kent County Aeronautics Board:

(3) To adopt and amend all needful rules and regulations for the management, government and use of Airport property, provide penalties for the violation of such rules and regulations and appoint Airport guards to enforce them.

WHEREAS, in order to fulfill their full police powers, the officers at the Gerald R. Ford International Airport have been deputized by the Kent County Sheriffs Department; and

WHEREAS, the Michigan Council on Law Enforcement Standards (MCOLES) has issued an opinion that the officers with the present police department at the Gerald R. Ford International Airport can no longer be certified unless the department derives its authority directly through statutory authorization rather than as deputies of the Kent County Sheriffs Department; and

WHEREAS, it is necessary to amend the 1956 resolution creating the Kent County Aeronautics Board in order to add language with respect to police, and to confer upon it the power to create an airport police agency with full police powers under the Aeronautics Code;

NOW THEREFORE BE IT RESOLVED by the Board of Commissioners of the County of Kent, Michigan that subparagraph 3 of the 1956 resolution creating the Kent County Airport Board of Control (now, Aeronautics Board) is amended in its entirety and replaced with the following in order to confer upon the Kent County Aeronautics Board the powers, authorities and duties:

“(3) To adopt and amend all necessary rules, regulations, and ordinances for the management, government and use of any properties under its control, whether within or outside of its territorial limits; appoint airport guards or police, with full police powers; establish penalties for the violation or rules, regulations, and ordinances, and enforce the penalties.

(a) The jurisdiction of the law enforcement officers to whom the powers and authority of peace and police officers are granted hereunder shall include all property owned or leased by the County of Kent as and for the Gerald R. Ford International Airport and this jurisdiction shall extend to any public right of way traversing the property.

(b) Law enforcement officers to whom the powers and authority of peace and police officers are granted shall meet the minimum standards of the Michigan Law Enforcement Officers Training Council Act of 1965, 1965 P.A. 203, being MCL 28.601 to 28.616, as amended.

(c) Nothing contained herein shall limit the jurisdiction of state, county or municipal peace officers.”

In all other respects, the resolution of 1956 creating the Kent County Airport Board of Control (now, Aeronautics Board) shall remain in full force and effect.

Motion by Commissioner Koorndyk, supported by Commissioner Kuhn, that the resolution be adopted.

Motion carried by voice vote.

11-26-02-171 – JUSTICE TASK FORCE REPORT / BOARD OF COMMISSIONERS

WHEREAS, Chair Heacock established the Justice Task Force in May 2002 with the following mission and charge: To study and make recommendations to the Board of Commissioners regarding the delivery of justice in Kent County, recognizing the role of the Board of Commissioners and administration in the delivery of justice in the County; and

WHEREAS, a Task Force involving more than 20 individuals met and assigned focus groups which developed and reported back to the Task Force the following recommendations, to be implemented over the next year:

- 1) Establish a schedule of three annual meetings between members of the Board of Commissioners, members of the Judiciary, the Prosecutor, the Sheriff, and the legal community to review justice system activity information and data to be used in planning.
- 2) Develop an integrated, uniform process that coordinates collection activities from all involved County offices.
- 3) The Task Force and Circuit Court leadership should review the findings of the National Center for State Courts (NCSC) report on case scheduling and case flow management, and monitor and report on its implementation.
- 4) Discuss with local units the use of appearance tickets as an alternative to booking for certain offenses.
- 5) Be more proactive and collaborative in seeking grants to serve at-risk individuals.
- 6) Track the effectiveness of probation and other alternative sentencing programs.
- 7) Survey customers of the system (i.e. attorneys, plaintiffs, defendants, victims, witnesses and family members).

- 8) Conduct a countywide survey to determine public perceptions of the Justice System.
- 9) Offer life and work skills training to individuals incarcerated for certain lighter offenses.

NOW, THEREFORE, BE IT RESOLVED that the Kent County Board of Commissioners hereby accepts the report of the Justice Task Force and authorizes the Administrator/Controller to implement the recommendations contained therein, and to report regularly to the Board on the progress thereof.

Motion by Commissioner Koorndyk, supported by Commissioner Vonk, that the resolution be adopted.

Motion carried by voice vote.

11-26-02-172 – ACCEPT DONATION OF 55 ACRES FOR NATURE PRESERVE / PARKS DEPARTMENT

WHEREAS, Mr. John Lepard desires to donate approximately 55 acres of land located in Caledonia Township to Kent County for a nature preserve; and

WHEREAS, the subject property meets the requirements of the 1998 Kent County Parks, Recreation, and Natural Areas Master Plan due to existence of unique plant species and types; and

WHEREAS, the donation is contingent upon the County naming the park after the Lepard family; and

WHEREAS, the donation meets the requirements of the Parks Donor Recognition Policy recently adopted by the Board and the appraised value of the property is \$1,046,000; and

WHEREAS, Caledonia Township has committed \$100,000 toward development of the park, expected to include parking and trails.

NOW THEREFORE BE IT RESOLVED, that the Board accepts the donation of 55 acres from Mr. John Lepard and authorizes the park to be named after the Lepard family; and

BE IT FURTHER RESOLVED, that the Board authorizes Chair Heacock to sign execute documents necessary to effectuate the transfer of ownership of the property.

Motion by Commissioner Morgan, supported by Commissioner Morren, that the resolution be adopted.

Motion carried:

Yeas: Agee, Boelema, Buege, Hiddema, Horton, Koorndyk, Kuhn, Kuipers, Mast, Mayhue, McGuire, Morgan, Morren, Postmus, Sak, Vaughn, Vonk, Wahlfield, Chair Heacock - 19.

Nays: 0.

11-26-02-173 – PURCHASE OF LAND FOR MYERS LAKE PARK / PARKS DEPARTMENT

WHEREAS, Nadine Prawdjik and Richard White and Robin Prawdjik-White are willing to sell property located at 7356-7408 Hessler Drive consisting of six parcels on 2.3 acres: two with lakefront homes, two vacant lakefront lots, one single-family residence, and a vacant lot with outbuilding, for a price of \$1,018,000; and

WHEREAS, the Board authorized the submittal of a grant application to the Michigan Department of Natural Resources for a 74 percent grant for purchase of the property; and

WHEREAS, the DNR is not able to approve the grant due to the great excess of requests compared to available grant funds; and

WHEREAS, the proposed purchase meets the requirements for land acquisition in the 1998 Kent County Parks, Recreation, and Natural Areas Master Plan as the property is adjacent to an existing County park and has significant water resources; and

WHEREAS, the proposed purchase likely represents the last opportunity to significantly expand Myers Lake Park, which services park users on a regional basis.

NOW THEREFORE BE IT RESOLVED, that the Board of Commissioners authorizes the purchase of 2.3 acres of land located at 7356-7408 Hessler Drive from Nadine Prawdjik and Richard White and Robin Prawdjik-White for a price to be determined by appraisal and not to exceed \$1,018,000; and

BE IT FURTHER RESOLVED that the Board authorizes the Chair of the Board to execute necessary documentation to complete the purchase.

Motion by Commissioner Wahlfield, supported by Commissioner McGuire, that the resolution be adopted.

(Commissioner Morgan submitted letters of support for the purchase of land for Myers Lake Park, copies of which are on file in the Office of the County Clerk.)

Motion carried:

Yeas: Agee, Boelema, Buege, Horton, Koorndyk, Kuhn, Kuipers, Mast, Mayhue, McGuire, Morgan, Morren, Postmus, Sak, Vaughn, Vonk, Wahlfield, Chair Heacock - 18.

Nays: Hiddema - 1.

REPORTS

There were no reports.

MISCELLANEOUS

11-26-02-174 – PURCHASE OF DEVELOPMENT RIGHTS ORDINANCE

WHEREAS, Chair Heacock appointed the Urban Sprawl Subcommittee in January 2000 and commissioned it to study sprawl issues and determine whether the County could enact policy to reduce the negative impacts of sprawl; and

WHEREAS, the County Board of Commissioners accepted the Urban Sprawl Subcommittee Report on October 21, 2002; and

WHEREAS, the report contained five recommendations outlining potential actions of the County to reduce the negative impacts of sprawl; and

WHEREAS, one recommendation was to create a Purchase of Development Rights Program (PDR) as a method of preserving green space; and

WHEREAS, a PDR Taskforce worked to develop a PDR program since June 2002, submitted a preliminary report to the Board of Commissioners, held two public information meetings and submitted a final report to the Board of Commissioners in October 2002; and

WHEREAS, the PDR Taskforce recommends enactment of the Kent County Farmland Development Rights Ordinance to preserve green space, allow property owners and local units of government to utilize PDR's, and position the County to receive private non-profit foundation dollars, federal funds and potential future state funding for PDR's; and

WHEREAS, enactment of the Kent County Farmland Development Rights Ordinance shall provide for establishment of a Kent County Farmland Preservation Program, a County Agricultural Preservation Board, and a farmland preservation fund, among other things; and

WHEREAS, the policies and procedures established by the Kent County Farmland Development Rights Ordinance are authorized by Township Master Plans, Farmland and Open Space Preservation Act, State Agricultural Preservation Fund, Conservation and Historic Preservation Easement Act, portions of the County Zoning Act, and other state and local laws, rules, regulations, and policies.

NOW THEREFORE BE IT RESOLVED, that the Board of Commissioners hereby enacts the Farmland Development Rights Ordinance with an effective date of January 1, 2003.

Kent County Farmland Development Rights Ordinance

Adopted by County Board of Commissioners on _____

Ordinance NO. _____

AN ORDINANCE creating the Kent County Farmland Preservation Program which protects farmland by acquiring development rights voluntarily offered by landowners, authorizes the cash purchase and/or installment purchases of such development rights, places an agricultural conservation easement on the property which restricts future development, and provides the standards and procedures for the purchase of development rights and the placement of an agricultural conservation easement.

THE PEOPLE OF THE COUNTY OF KENT, MICHIGAN, DO ORDAIN:

Section 1: Declaration of Purpose

A. *Economic importance of farmland and agriculture.* Kent County's agricultural land is a unique and economically important resource. These lands support a locally important and globally unique agricultural industry that includes; dairy, livestock, food from grains, vegetables, fruit, and nursery and greenhouse crops. Kent County's climate, topography, and accessibility make it uniquely suited to the production, processing, and distribution of agricultural products on a regional, national, and international level.

Kent County's economic base is also supported by a variety of agriculturally related businesses including; farm equipment, fuel, veterinarians, grain dealers, packaging plants, and professional services.

- B. Importance of other non-agricultural attributes of farmland.* In addition to its economic benefits, the county's farmland contributes significantly to the open space and natural resource benefits, including rural character, scenic beauty, cultural heritage, hunting and other recreational opportunities, and the environmental benefits including watershed protection and wildlife habitat. By enhancing the scenic beauty and rural character of the county and providing other open space benefits, the county's farmland increases the overall quality of life and makes the county an attractive place to live and work for all of the county's residents.
- C. The extent of development and farmland loss.* Because of the county's natural resources, productive farmland and rural character, it has become a desirable place to live and work. The population growth in Kent County has continued to increase dramatically. As the population increases and people move out into the countryside, agricultural land is converted to residential and other developed uses. There has also been a corresponding increase in residential parcels and loss of farmland.
- D. The Impact of farmland loss.* Land suitable for farming is an irreplaceable natural resource with soil and topographic characteristics that have been enhanced by generations of agricultural use. When such land is converted to residential or other more developed uses that do not require those special characteristics, a critical community resource is permanently lost to the citizens of the county. Residential development in agricultural areas also makes farming more difficult by increasing conflict over farming practices and increased trespass, liability exposure and property damage. Because agricultural land is an invaluable economic, natural and aesthetic resource, the county should make an effort to maintain agricultural land in a substantially undeveloped state to ensure the long-term viability of agriculture and to create a long-term business environment for agriculture in the county.
- E. State and local policies.* It is the policy of the State of Michigan and Kent County to protect, preserve and enhance farmland as evidenced by Township Master Plans, the Farmland and Open Space Preservation Act, the State Agricultural Preservation Fund, the Conservation and Historic Preservation Easement Act, portions of the County Zoning Act, and other state and local statutes and policies. These measures by themselves, however, have not effectively provided sufficient long-term protection of farmland in Kent County from the pressure of increasing residential and commercial development.

- F. Value of development rights.* Generally, farmland has a greater market value for future residential development than the market for farming. The features of good farmland, such as perkable soils and open space views, are also the features desired for residential home sites. This fact encourages the speculative purchase of farmland at high prices for future residential development, regardless of the current zoning of such lands. Farmland which has a greater development potential and market value than its agricultural value does not attract sustained agricultural investment and eventually is sold to non-farmers and removed from agricultural use.
- G. Purpose of the program.* It is the purpose of the Kent County Farmland Preservation Program and this development rights ordinance to protect farmland in order to maintain a long-term business environment for agriculture in the county, to preserve the rural character and scenic attributes of the county, to enhance important environmental benefits and to maintain the quality of life of county residents.
- H. Mechanism to achieve purpose.* The purchase of development rights and the placement of an agricultural conservation easement on farmland through the Kent County Farmland Preservation Program as provided for in this Ordinance is a public purpose of Kent County. Acquisition of development rights requires that the County enter into agreements with property owners to obtain such development rights. Properties on which the County has purchased development rights and entered into an agricultural conservation easement should remain substantially undeveloped in order to remain viable for agricultural use.
- I. Intent of Ordinance.* The intent of this ordinance is to provide a mechanism for Farmland preservation. It is not the intent of this ordinance to make a statement regarding the funding principles of this or any future County Board of Commissioners. The funding of activities under this ordinance will remain the prerogative of future County Boards of Commissioners. Further, while the intent of this ordinance is to initially seek Development rights for 25,000 acres of Farmland, the actual number of acres for which Development rights will be purchased will also remain the prerogative of future County Boards of Commissioners.

Section 2: Definitions

- A. "Agricultural conservation easement" means a conveyance by a written instrument, in which, subject to permitted uses, the owner relinquishes to the public in perpetuity his or her development rights and makes a covenant running with the land not to undertake development.

- B. "Agricultural use" means substantially undeveloped land devoted to the production of plants and animals useful to humans, including forages and sod crops; grains, feed crops, and field crops; dairy and dairy products; poultry and poultry products; livestock, including breeding and grazing of cattle, swine, captive cervidae, and similar animals; berries; herbs; flowers; seeds; grasses; nursery stock; fruits; vegetables; Christmas trees; and other similar uses and activities. Agricultural use includes use in a federal acreage set-aside program, a federal conservation reserve program, or a wetland reserve program. Agricultural use does not include the management and harvesting of a woodlot.
- C. "Development" means an activity that materially alters or affects the existing conditions or use of any land in a manner that is inconsistent with an agricultural use.
- D. "Development rights" means an interest in land that includes the right to construct a building or structure, to improve land for development, to divide a parcel for development purposes or to extract minerals incidental to a permitted use or as set forth in an agricultural conservation easement.
- E. "Farmland" means 1 or more of the following:
- (i) A farm of 40 or more acres in 1 ownership, with 51% or more of the land area devoted to an agricultural use.
 - (ii) A farm of 5 acres or more in 1 ownership, but less than 40 acres, with 51% or more of the land area devoted to an agricultural use, that has produced a gross annual income from agriculture of \$200.00 per year or more per acre of cleared and tillable land. A farm described in this subparagraph enrolled in a federal acreage set-aside program or a federal conservation reserve program is considered to have produced a gross annual income from agriculture of \$200.00 per year or more per acre of cleared and tillable land.
 - (iii) A farm designated by the department of agriculture as a specialty farm in 1 ownership that has produced a gross annual income of \$2,000.00 or more from an agricultural use. Specialty farms include, but are not limited to, greenhouses; equine breeding and grazing; the breeding and grazing of cervidae, pheasants, and other game animals; bees and bee products; mushrooms; aquaculture; and other similar uses and activities.
 - (iv) Parcels of land in Township, described above do not have to be contiguous but must constitute an integral part of a farming operation being conducted on land otherwise qualifying as farmland.
- F. "Intensity of development" means the height, bulk, area, density, setback, use, and other similar characteristics of development.
- G. "Parcel" means a quantity of land in the possession of a single owner.

- G. "Permitted use" means any use expressly authorized within an agricultural conservation easement consistent with the farming operation or that does not adversely affect the productivity or agricultural use of the land. Storage, retail or wholesale marketing, or processing of agricultural products is a permitted use in a farming operation if more than 50% of the stored, processed, or merchandised products are produced by the farm operator for at least 3 of the immediately preceding 5 years. Permitted use includes oil and gas exploration and extraction, but does not include other mineral development that is inconsistent with an agricultural use.
- I. "Property owner" means the party or parties having a freehold estate or fee simple interest in land.
- J. "PDR program" means a program as defined in the County Zoning Act for the purchase of development rights by a county.

Section 3: Authorization

- A. Pursuant to the County Zoning Act, the County Board of Commissioners is authorized to purchase the development rights of farmland throughout the County. Such acquisition may be by purchase, gift, grant, bequest, devise, covenant or contract. The County shall only purchase development rights on farmland that are voluntarily offered for sale by a property owner.
- B. The County is authorized to enter into installment purchase contracts, options, and agreements or take receipt of tax-deductible donations of easements, consistent with applicable law. The County is authorized to pay interest on the declining unpaid principal balance at a legal rate of interest consistent with prevailing market conditions at the time of execution of the installment purchase contract.
- C. The County may contract with recognized and legally established nonprofit land trusts or other experienced and qualified individuals, parties or entities that would assist the County in the process of negotiating easements and purchase contracts, establishing baseline studies and procedures for monitoring, and actual monitoring of any agricultural conservation easements acquired under this Ordinance.
- D. The County is authorized to seek grants from federal and State government and private foundations, organizations and individuals for funding for expenditures incurred in carrying out this ordinance.

Section 4: County Agricultural Preservation Board

- A. The County Board of Commissioners shall create a seven member body under this Ordinance to be named the County Agricultural Preservation Board. The seven voting members shall be residents of the county and will be appointed by the County Board of Commissioners and will include: (a) one County Commissioner, (b) three individuals with agricultural interests, (c) one

representative from township government, (d) one individual with real estate or development interests, and (e) one individual representing local conservation interests.

- B. Members of the County Agricultural Preservation Board shall serve three-year terms, with the exception that the County Commissioner representative shall be designated on an annual basis. The initial term shall be staggered so that one of the agricultural representatives and the real estate representative serve an initial one-year term, another agricultural representative and the local township representative serve an initial two-year term and the third agricultural representative and the local conservation representative serve an initial three-year term. Members may be re-appointed to successive three-year terms by the County Board of Commissioners. The County Board of Commissioners shall have the discretion to remove members for inefficiency, neglect of duty or malfeasance in office. Vacancies due to removal or resignation shall be filled for the remainder of a term by appointment by the County Board of Commissioners. Members shall not be compensated for their services although reimbursement for attending meetings, for mileage and for other approved expenses shall be provided in accordance with the Standing Rules of the County Board of Commissioners as they pertain to County boards and committees.
- C. The County Agricultural Preservation Board shall oversee the county's farmland preservation program and shall be responsible for:
- i. Establishing selection criteria for the ranking and prioritization of applications to the program. The selection criteria must be approved by the County Board of Commissioners prior to each application cycle.
 - ii. Establishing a points-based appraisal formula for determining the value of the agricultural conservation easements, which shall be subject to the approval of the County Board of Commissioners.
 - iii. Reviewing and providing oversight in scoring all applications according to the adopted selection criteria.
 - iv. Ranking and prioritizing the top scoring applications for acquisition and making recommendations to the County Board of Commissioners for the purchase of development rights.
 - v. Approving the restrictions and permitted uses under the agricultural conservation easement.
 - vi. Establishing the price to be offered to the property owner and authorize negotiations for the purchase of development rights and agricultural conservation easement. All purchases of development rights and agricultural conservation easements must be approved by the County Board of Commissioners.
 - vii. Establishing monitoring procedures and overseeing subsequent monitoring to insure compliance with the agricultural conservation easement. Enforcement of the agricultural conservation easement in the case of non-compliance shall be the responsibility of the County Board of Commissioners.

- D. Individual County Agricultural Preservation Board members may not sell development rights to farmland under this ordinance during their term of office. Individual County Agricultural Preservation Board members shall disclose any potential conflict of interest and may not vote when a conflict exists. Conflicts of interest include, but are not confined to, situations where (1) the member is a close relative of the applicant; (2) the board member has a close business association or ties with the applicant; (3) the board member, a relative, or a business associate could receive financial gain or benefit from the acceptance of the application.
- E. To the extent of available funding and as approved by the County Board of Commissioners after consultation with the County Agricultural Preservation Board, the County may contract with qualified and experienced individuals or entities for consulting or staffing services.
- F. The County Agricultural Preservation Board shall provide the County Board of Commissioners an annual report outlining the administration of the program, issues addressed and outcomes of the program for the proceeding year, including the selection criteria, number of applications, number of eligible properties, agricultural value, Development rights purchased, and other information regarding the status and activities undertaken with respect to this ordinance.

Section 5: Eligibility for Application

Any property owner may submit an application to the county farmland preservation program provided the application meets the following guidelines:

- A. The property owner has signed the application, indicating interest in voluntarily selling the development rights to the parcel.
- B. At least 51% of the parcel's area is devoted to an active agricultural use and no more than 49% of the parcel may be devoted to non-agricultural open space consisting of wetlands, woodlands, or otherwise unusable land.
- C. The County shall not purchase development rights under a development rights ordinance from land subject to a city, village, or township zoning ordinance unless all of the following requirements are met:
 - i. The development rights ordinance provisions for the PDR program are consistent with the plan upon which the city, village, or township zoning are based.
 - ii. The legislative body of the city, village, or township adopts a resolution authorizing the PDR program to apply in the city, village, or township.
 - iii. The city, village or township provides the county with written approval of the purchase.

- D. The property is not planned for commercial or industrial uses under the Township, City or Village Master Plan or located with the 2020 Urban Services District Plan established by the Grand Valley Metro Council.
- E. Agricultural activities are a permitted use on the parcel under all applicable zoning ordinances.

Section 6: Criteria for Reviewing and Ranking Applications

The County Agricultural Preservation Board shall establish selection criteria for ranking and prioritizing all eligible parcels submitted to the County Farmland Preservation Program which criteria shall be subject to the approval of the County Board of Commissioners. The selection criteria shall place an emphasis on farmland that:

- A. As part of the application procedure for the specific proposed purchase of development rights, the city, village, or township provides the county with written approval of the purchase.
- B. Has a productive capacity suited for the production of feed, food and fiber and has a greater potential for long-term agricultural production. Specific selection criteria may be based on soil classifications, parcel size, agricultural income, enrollment in the Farmland and Open Space Preservation Act, or the implementation of a soil conservation plan.
- C. Is under the threat of development. Specific selection criteria may be based on proximity to public sanitary sewer or water, the extent of development activity in the township or the amount of road frontage.
- D. Complements other farmland protection efforts in the County. Specific selection criteria may include proximity to other permanently protected farmland, proximity to other protected lands or surrounding land enrolled in the State Farmland and Open Space Preservation Act, or inclusion in an agricultural zoning district.
- E. Has additional matching funds provided by a local unit of government, landowner or private sources.
- F. Other factors considered important by the County Agricultural Preservation Board such as unique physical, historical or environmental characteristics.

Section 7: Application and Selection Process

- A. The County shall on an annual basis, at the discretion of the County Agricultural Preservation Board, conduct a voluntary application and selection process for property owners who wish to sell development rights under the County farmland preservation program.
- B. The County Agricultural Preservation Board shall begin each application cycle by giving notice at least 90 days in advance of the application deadline that the County is accepting applications to the County farmland preservation program.

Notification shall be given in newspapers of general circulation within the County, through the County Farm Bureau, County Conservation District, County MSU-Extension Service, local township offices and other organizations.

- C. The application may require information to be filled out by the property owner, the county Conservation District and the local unit of government.
- D. All applications represent the applicant's intent to sell the development rights of the property to the County subject to mutually acceptable terms. The application will remain active per annual written approval of landowner, provided there is no subsequent modifications to the scoring criteria or application that requires additional information. Local cities, villages, and townships will be asked to sign a letter of continued support for standing landowner applications and all applications, both new and old, will be scored and ranked for each cycle.
- E. The County Agricultural Preservation Board shall give notice to each city, village, or township in which an applicant for the purchase of development rights has been received, and the disposition of that application.
- F. At the close of the application deadline, an initial determination of eligibility shall be completed by the County Agricultural Preservation Board or designated staff. The property owner shall be notified if their application is not eligible for the program. Each application shall be evaluated and scored according to selection criteria approved by the County Agricultural Preservation Board and the County Board of Commissioners prior to the application cycle.
- G. The County Agricultural Preservation Board shall rank parcels according to the selection criteria score but shall also individually evaluate and prioritize the top scoring parcels. The County Agricultural Preservation Board may reprioritize the top scoring parcels based on individual review of each application and establishing a priority on which development rights should be purchased first based on available funds.

The written rationale for reprioritization of the top scoring parcels shall be included with each application.

- H. The final ranking and prioritization of applications shall be submitted to the County Board of Commissioners for their approval.
- I. Agricultural value shall be based upon a price established by the County Agricultural Preservation Board using a state certified appraiser or a points based appraisal method established in section 10.
- J. Upon mutual agreement to the terms of the purchase by the property owner and the County Agricultural Preservation Board, but before the approval of the County Board of Commissioners, a title search shall be completed before signing and recording of the agricultural conservation easement. Any questions or

concerns regarding clear title to the property shall be resolved prior to signing of the agricultural conservation easement. All individuals, parties or entities with an interest in the property must be willing to agree to the terms and provisions of the agricultural conservation easement.

- K. Each purchase of development rights and agricultural conservation easement requires the approval of the County Board of Commissioners. The County Board of Commissioners may alter the recommendation by the County Agricultural Preservation Board to purchase the development rights at its discretion.
- L. Once the application has been approved for purchase by the County Board of Commissioners, the county and the property owners shall sign the agricultural conservation easement and it shall be legally recorded with the County Clerk's office.
- M. The County shall notify the appropriate local unit of government of each agricultural conservation easement.
- N. The agricultural conservation easement will be monitored in accordance with procedures and guidelines established by the County Agricultural Preservation Board.

Section 8: Agricultural Conservation Easement Provisions

- A. Upon the agreement of the sale of development rights by the County Agricultural Preservation Board, the property owner and the County Board of Commissioners, the County and the property owner shall execute an agricultural conservation easement, approved by the County Agricultural Preservation Board and the County Board of Commissioners, that will perpetually protect the parcel's agricultural use by preventing any use that would significantly impair or interfere with the agricultural value or use of the farmland. The agricultural conservation easement shall contain a provision indicating that the easement runs with the land and may not be terminated except as provided for in this Ordinance and the easement.
- B. Restrictions on that portion of the property included in the agricultural conservation easement shall include, but not be limited to, the following:
 - i. Property shall not be divided into parcels less than 40 acres in size.
 - ii. The construction of residences for new owners of any divisions shall be prohibited.
 - iii. Construction of any other buildings, unless they are built for uses consistent with farming operations shall be prohibited.
 - iv. Commercial or industrial activity that is inconsistent with a typical farming operation shall be prohibited.
 - v. Excavation of topsoil, sand, gravel, rock, minerals or other materials that significantly impairs or interferes with the agricultural values of the property shall not take place without prior written approval of the County Board of Commissioners or its designee.

- C. Permitted uses and retained development rights in the agricultural conservation easement shall include, but not be limited to, the following:
- i. Construction of buildings necessary for and consistent with agricultural uses.
 - ii. The right to construct one additional residence for an individual essential to the farm operation as defined in section 36110(5) of the Natural Resources and Environmental Protection Act, MCL 324.36110(5); MSA 13A.36110(5). Structure built must be in conformance with all applicable federal, state and local laws, ordinances and regulations.
 - iii. The right to maintain, renovate, add on to, or replace existing structures. Structure built must be in conformance with all applicable federal, state and local laws, ordinances and regulations.
 - iv. The right to sell, mortgage, bequeath or donate the property, provided any conveyance will remain subject to terms of the easement.

Section 9: Duration of the Agricultural Conservation Easement

- A. The agricultural conservation easement shall run with the land regardless of transfers in property ownership. It is the intent of this ordinance to preserve valuable farmland through the establishment of permanent conservation easements. Development rights acquired pursuant to this Ordinance shall be held by the County in perpetuity and the development rights may be repurchased by the landowner only when a court of competent jurisdiction has determined through eminent domain that the use of those development rights is necessary for a specific public interest, need or purpose.
- B. Upon a court's determination of eminent domain and that the purchase of the development rights from the County is necessary or a specific public interest, need or purpose, the parties exercising the use of the development rights through eminent domain or the landowner shall pay the fair market value of those development rights at the time of their purchase to the County, as determined by a State Certified Appraiser or utilizing the points based appraisal in section 10, before the termination of the agricultural conservation easement. The value of the development rights shall be determined as the difference between the fair market value of the property with all development rights intact and the value of the property for agricultural use with an agricultural conservation easement in place or the value of the developments. If the appraiser has a conflict of interest associated with a potential appraisal, the appraiser shall report the conflict to the County and the County shall select another appraiser to complete the appraisal.
- C. The County will deposit the proceeds from any repurchases into the farmland preservation fund and the proceeds shall be used to purchase additional development rights and agricultural conservation easements on additional farmland within the county.

Section 10: Determining the Value of the Agricultural Conservation Easement

- A. The County Agricultural Preservation Board shall utilize a state certified appraiser to determine the value of the development rights or shall establish a points-based appraisal method and formula for determining the value of the agricultural conservation easement prior to each application cycle. The appraisal may calculate the value of the development rights as the difference between the fair market value of the property with all development rights intact and the value of the property for agricultural use with an agricultural conservation easement in place. The County Agricultural Preservation Board may establish guidelines, consistent with state standards, for the state certified appraiser to use in determining the fair market value or the agricultural value. The points-based appraisal method, as authorized under P.A. 262 of 2000, reduces administration costs, is much more time efficient, provides a consistent and objective value for all applicants and allows property owners to determine the value of the agricultural conservation easement prior to submitting an application. The formula shall establish a Base Value based on the parcel's soil characteristics, size and proximity to other protected farmland. The Base Value shall be increased if the parcel qualifies for a market value adjustment based on the parcel's location within the county and the amount of road frontage. In determining the market value adjustment, an average of actual vacant land sales of parcels over 20 acres in size zoned for agricultural purposes sold during the prior three years shall be determined for each township. The parcel may also qualify for a premium based on its proximity to sewer and water as determined by formula established by the County Agricultural Preservation Board. The County Agricultural Preservation Board shall review the points-based appraisal method at the end of each application cycle and compare agricultural conservation easement values relative to actual fair market sales in the county.
- B. The property owner may obtain, within a reasonable time frame, an appraisal of the development rights from a state certified appraiser at the property owner's expense. The appraisal may calculate the value of the development rights as the difference between the fair market value of the property with all development rights intact and the value of the property for agricultural use with an agricultural conservation easement in place. The County Agricultural Preservation Board may establish guidelines, consistent with state standards, for the state certified appraiser to use in determining the fair market value or the agricultural value.
- C. The County Agricultural Preservation Board shall approve the price to be offered and paid for the agricultural conservation easement. If the property owner obtains an independent appraisal, the County Agricultural Preservation Board may elect to renegotiate the initial offer based on qualified circumstances.
- D. The property owner may be paid a cash payment or offered an installment purchase contract, or a combination of both.

Section 11: Related Costs

The cost of services ordered by the County Agricultural Preservation Board in relation to the County's farmland preservation program shall be paid from all available farmland preservation program funding sources within the County, including state and federal matching funds, which may include the cost of appraisal, engineering, surveying, planning, financial, legal, environmental assessments, title searches, developing baseline assessments, monitoring easements. The County shall not be responsible for any expenses incurred by the property owner incidental to any aspects of application for purchase of the development rights that the County Agricultural Preservation Board has determined is the responsibility of the property owner, which may include title searches, appraisals, or surveying.

Section 12: Farmland Preservation Fund

- A. Available funding for the County farmland preservation program shall be deposited in a special farmland preservation fund. Money in such farmland preservation fund may be temporarily deposited in such institutions or invested in such obligations as may be lawful for the investment of county money. The revenues from the deposit and/or investment of the farmland preservation fund shall be applied and used solely for the purpose of purchasing of development rights and agricultural conservation easements under this Ordinance, making payments obligated under installment purchase contracts, promoting farmland preservation programs, or paying for costs of administering or enforcing the county farmland preservation program.

- B. Supplemental or matching funds from private sources or other governmental agencies, including local municipalities, the State or Federal Government, may become available to pay a portion of the cost of acquiring development rights or agricultural conservation easements or to supplement or enlarge such acquisitions. The County Board of Commissioners authorizes the County Agricultural Preservation Board to use such funds to purchase development rights of farmland and acquire agricultural conservation easements.

- C. The County, upon approval by the County Board of Commissioners, may finance the County farmland preservation program through 1 or more of the following sources:
 - i. General appropriations by the county.
 - ii. Proceeds from the sale of development rights by the county under Section 9.
 - iii. Grants.
 - iv. Donations.
 - v. General fund revenue.
 - vi. Bonds or notes as permitted by law.
 - vii. Special assessments as permitted by law.
 - viii. Other sources approved by the County Board of Commissioners and permitted by law.

Section 13: Amendments

This Ordinance may be amended at the discretion of the County Board of Commissioners by majority vote.

Section 14: Severability

Any provision of this Ordinance which is found by a court of competent jurisdiction to be invalid, void or illegal shall in no way affect, impair or invalidate any other provision contained in the Ordinance and such other provisions shall remain in full force and effect.

Section 15: Effective Date

This ordinance shall become effective on the date upon which notice of its adoption is published in a newspaper of general circulation in Kent County.

Steven R. Heacock, Chairman
Kent County Board of Commissioners

Mary Hollinrake
County Clerk

Motion by Commissioner McGuire, supported by Commissioner Postmus, that the resolution be adopted.

Motion by Commissioner Sak, supported by Commissioner Mayhue, that the ordinance be amended as follows:

1. Section 1 I – Intent of Ordinance: Limit PDR to 15,000 acres
2. Section 1 I - Intent of Ordinance: Add the following sentence: “This ordinance shall be effective for a period of not longer than five years from the date it is approved.”
3. Section 12 – Farmland Preservation Fund: Add a new Section D – “The Board of Commissioners/County shall not request either a millage levy and/or County general fund allocation for purposes of fund purchase of development rights.
4. Add a section that would prohibit any Kent County Commissioner from participating or benefiting from a PDR program while in office and up to two years after leaving office.

Motion to amend ordinance failed:

Yeas: Hiddema, Kuipers, Mayhue, Sak, Vaughn, Vonk, Wahlfield – 7.

Nays: Agee, Boelema, Buege, Horton, Koorndyk, Kuhn, Mast, McGuire, Morgan, Morren, Postmus, Chair Heacock – 12.

Motion to adopt Resolution 11-26-02-174 carried:

Yeas: Agee, Boelema, Buege, Horton, Koorndyk, Kuhn, Mast, Mayhue, McGuire, Morgan, Morren, Postmus, Vaughn, Chair Heacock – 14.

Nays: Hiddema, Kuipers, Sak, Vonk, Wahlfield – 5.

Introduction

Commissioner Morgan introduced his daughter, Anna, who is present at today's meeting for a civics lesson.

Birthday

Vice Chair Morren announced that today is Chair Heacock's birthday.

ADJOURNMENT

At 11:30 a.m., Commissioner Mayhue moved to adjourn, subject to the call of the Chair, and to Thursday, December 12, 2002, Room 310, County Administration Building, at 8:30 a.m., for an Official Meeting. Seconded by Commissioner Kuhn. Motion carried.

Steven R. Heacock, Chair

Mary Hollinrake, County Clerk