

## Wexford Joint Planning Commission

% Cherry Grove Township  
4830 E. M-55  
Cadillac, Michigan 49601  
(231)775-1138 Ext. 6

## Minutes

**Time, date:** 6:30pm, Monday, December 19, 2016

**Meeting location:** Wexford County Road Commission meeting room, 85 West Highway M-115, Boon, Michigan. Coordinates: 44° 19' 32.5" N, 85° 34' 53.4" W (44.325685, -85.581500)

A. The meeting was called to order by Chair David Schroeder at 6:30 pm and the Pledge of Allegiance was done. Roll call followed.

Present: Chair David Schroeder, Hanover; Vice Chair Paul Osborne, Antioch; Secretary Beverly Monroe, Liberty; Deputy Secretary Sharon Zakrajsek, Selma; Marty Dahlstrom, Cherry Grove; Gary Emery, Wexford; Richard Harvey, Boon; Thelma Paul, Greenwood; and Erica Szegda, Springville; Ronald Bates, Slagle.

Also in attendance was Kurt Schindler from MSU Extension, Robert Hall, the new Zoning Administrator for WJPC, Bill Swank and John Prebay.

### B. Public comment

There was no public hearing.

Adam Gandolfi from Municipal Underwriters of Michigan explained our options for liability insurance and errors and omissions insurance (see handout). A policy offering \$2,000,000 per occurrence and \$4,000,000 per aggregate for liability insurance and \$2,000,000 per occurrence and \$3,000,000 aggregate of errors and omissions insurance had a premium of \$2602 annually. A lesser policy with \$1,000,000/\$2,000,000 coverage has a premium of \$1964.

### Donna Taylor arrived at 6:35pm.

Schindler asked for clarification on the coverage when a group of townships are involved. Gandolfi answered that this policy would be “primary” and the townships would be “secondary” in the event of a lawsuit. Szegda motioned to approve the policy with the premium of \$1964. It was seconded by Harvey. Szegda offered to change the motion to the higher coverage/premium if that is what the board wanted. Osborne said for the difference of \$638 we could have the higher coverage. Dahlstrom added that coverage doubles for that amount. Szegda changed the motion to the higher amount and Dahlstrom seconded. The money to pay for insurance is in our contingency funds according to Schindler. Emery asked Schindler if we need the higher

coverage and Schindler said he did not know. **Osborne and Monroe stated that the higher amount is preferred, and to purchase liability and errors and omissions from MTA Par-Plan. Vote was all “ayes”.** Gandolfi presented the invoice to Hall.

There was no public comment.

### C. Housekeeping Business

#### C.1. Consent Business

Chair Schroeder asked for discussion on the consent items. Monroe asked for the minutes of November 17 to be removed. They are moved to “unfinished business.” Taylor presented the expense report. Phone installation was \$355. Mr. Hall asked for his pay monthly at \$520.

**Motion by Szegda to approve the report, pay bills, and pay Hall the first of each month \$520, Zakrajsek seconded.** Schindler suggested a monthly financial report which would be attached to the minutes. **The motion was adopted.**

#### C.2. Welcome

Robert Bates is the new representative from Slagle Township and expressed that he is glad to serve. New Zoning Administrator, Robert Hall, handed out a report which indicated how he sees the priorities. He had several comments:

1. Plan for invoices—he receives them, copies go to the treasurer who signs off and then Cherry Grove can pay them
2. Presented a sample of the type of report he does for White Cloud and will do for this Commission.
3. Pointed out that the Bylaws and Agreement provide for an Annual Meeting in February and we need to plan for it now. The budget needs to be complete by February 1.
4. Stated that he appreciates being selected for this job.

#### C.3. Minutes

Monroe had a correction to the minutes of November 17 on page 4 where persons who made motions and seconds were captured but not the actual motion. She stated that she believes the motions were in regard to the length of time a temporary dwelling could be left on site; one for taking out the trailer and one motion setting the time the trailer (temporary dwelling) could be left on site. Consensus is to correct the minutes to read: Szegda had several corrections. On the motions, the first one was for the first half of the previous paragraph and the second applied to the second half of the paragraph.

“Monroe motioned that we use the 2.2 version as printed for section 1071.A.3. with 90 days in a calendar year in residential districts. Harvey seconded. Vote was 7 aye and 1 (Schroeder) opposed.” and “On Article 1071.A.3. Page 41 Taylor motioned to add 180 days in a calendar year in other districts, Osborne seconded, 7 ayes and one opposed (Schroeder). Szegda motioned Harvey seconded and 7 ayes and one opposed (Monroe).”

Another correction was time of the Pledge which was correct on some copies of the minutes. She also stated that she was on time and the minutes had her arriving later with minutes to read

~~“Erica Szegda arrived.”~~ She asked for clarification on the question from Garbrecht to the attorney. The attorney had stated that a gap in Zoning would cause nonconformities. Schindler verified that that is correct. Minutes should read “Wilson stated that all land uses in existence right before the adoption of zoning become nonconforming if there is a gap ~~of~~ with no zoning.” The last motion for extra pay for Monroe to be acting secretary, Szegda had opposed. Minutes should read “Taylor motioned to pay Monroe \$25.00 per meeting from that budget, Paul seconded, ~~all approved motion passed.~~” **Osborne moved, Harvey seconded, minutes of November 17 be approved as corrected. Motion passed.**

D. Unfinished business.

D.1. Reports from members

The first township report was from Bates who stated that Slagle did not approve the Ordinance at their meeting, but realizes the need to have it approved within the deadline of December 31 for notice of adoption publication. They are working with the supervisor, Tom Manner, to have a special meeting Thursday December 22, 2016 to approve the Ordinance and appoint a Zoning Board of Appeals member. Thelma Paul reported that Greenwood did not make an appointment to the Zoning Board of Appeals yet. These appointments have to be members of the respective township boards.

D.2. Nominations for Joint Zoning Board of Appeals

Chair Schroeder said it was time to nominate members to the Joint Zoning Board of Appeals. The first member is one from the Commission. **Emery nominated Monroe (Liberty Township, first member, for a term concurrent with her term of office on this Commission and send the nomination to Liberty Township for appointment, Osborne seconded, and nominations were closed. Motion passed.** Five other members must be nominated. Osborne said Supervisor of Antioch, Tom Williams has suggested Bill Swank. Monroe had suggested Swank as well, Benjamin (Ben) Fleis from Wexford, and as alternate, Bill Wiersma from Cherry Grove. John Prebay was in the audience from Selma. He serves currently on the Wexford County Zoning Board of Appeals with Swank, Wiersma and Monroe. **Harvey moved, seconded by Zakrajsek, to nominate:**

- **Benedict “Ben” Flies (Wexford Township), second member, for a term ending Dec. 31, 2017;**
- **John “Jack” Prebay (Selma Township), third member, for a term ending Dec. 31, 2018;**
- **Bill Swank (Antioch Township), fourth member, for a term ending Dec. 31, 2019;**  
**and**
- **Bill Wiersma (Cherry Grove Township), first alternate, for a term ending Dec. 31, 2018;**

**and to submit these nominations to their respective township boards for appointment. Motion passed.**

One more nominee is needed for the alternate member position.

E. New Business

E.1. Freedom of Information Act

**Szegda moved, seconded by Osborne, to adopt the Freedom of Information Act policy and to approve the summary of the same, attachment “A” and “B” to these minutes. The guidelines are the most recent according to our attorney. The policy can be revised as needed at any time. Mr. Hall will be the FOIA officer for the Joint Commission. Motion passed.**

E.2. Attorney Contacts

**Szegda moved, seconded by Osborne, authorize Robert Hall to contact attorney for zoning administration purposes and terminate Kurt H. Schindler’s authority to contact attorney upon completion of zoning ordinance adoption. Motion passed.**

E.3. Office equipment

Hall and Schindler presented quotes for office equipment and software to establish the Joint Commission office. **Motion by Monroe, seconded by Harvey, for Hall to purchase computer system with the amount spend not to exceed \$1,900.** Szegda presented an alternate quote from Cadillac Computer for similar equipment for \$1,316.95. Motion did not state where purchase must be made so that is left to Hall. **Motion passed.**

**Taylor moved, seconded by Dahlstrom, to authorize purchase of file cabinet, file supplies, Internet web page from Jackpine, and \$400 for miscellaneous office supplies. Motion passed**

E.4. Fee Schedule

Schindler and Hall presented a fee schedule. This schedule was developed after estimated true costs for each service. Discussion centered on how much of the actual costs should be paid by the zoning applicant and how much should be paid by the community at large through the annual township zoning fee (Commission’s general fund).

**Dahlstrom left at 8:00 pm.**

Discussion on the presented division of 75% of estimated costs to 90% of estimated costs for the fees. Special meetings fees are set by formula in the Commission’s bylaws. Any monies over actual costs are considered a tax and would require a public vote. **Harvey moved, seconded by Emery, to set fees at approximately 90% of estimated costs and fees for indigent, nonprofits community projects, and participating municipalities and this Commission be set at about 50% of the 90% with actual fee dollar amounts shown in attachment “C” to these minutes. Motion passed.**

E.5. Networks Northwest

Schindler suggested that we invite Sarah Lucas from Networks Northwest to speak with us at our January meeting. **Motion by Szegda, seconded by Zakrajsek to invite her to the January 23, 2017 meeting. Motion passed.**

E.6. Planner of Record

**Moved by Osborne, seconded by Paul to postpone discussion on selecting a planner of record to the January 23, 2017 meeting. Motion passed.**

E.7. Proposed Master Plan Amendments

**Moved by Szegda, seconded by Emery, to postpone discussion on amendments to the Joint Master Plan (a.k.a. Wexford County Comprehensive Plan).to the January 23, 2017 meeting. Motion passed.**

E.8. Annual Meeting

The Wexford Joint Planning Commission Annual Meeting can be done in partnership with the Wexford County Road Commission per Mr. Alan Cooper's invitation and the Road Commission will provide the meal or share the cost with the Commission. This meeting tentative date will be February 27, 2017. **Consensus is to work with the Road Commission for a joint annual meeting on that date.**

E.9. Cherry Grove Reimbursement

Question was raised by Cherry Grove Township officials on how to determine the compensation for the staff of Cherry Grove. Schindler suggested a percentage (2%) of all monies coming in (deposited) into one of the two Joint Commission funds. Other methods are time and materials and calculation of space used. **Consensus is Hall and Taylor will bring a proposal to the next meeting.**

F. Public Participation

None.

Harvey asked if the office equipment we are purchasing is insured and Gandolfi indicated yes, under our new policy.

G. Adjournment

**Szegda moved, seconded by Emery to adjourn at 8:44 pm. Motion passed.**

Respectfully submitted:

  
\_\_\_\_\_  
Beverly Monroe, [elected] Secretary

# WEXFORD JOINT PLANNING COMMISSION

## FREEDOM OF INFORMATION ACT PROCEDURES AND GUIDELINES (THE “PROCEDURES”)

### I. INTRODUCTION

The Freedom of Information Act, being 1976 PA 442 (MCL 15.231 to 15.246) (“FOIA”) mandates disclosure of most public records. To fulfill this mandate, the Wexford Joint Planning Commission (the “Commission”) has established this policy and procedure for handling FOIA requests to ensure that members of the public receive full and complete information requested regarding the affairs of government, while not unduly burdening the Commission, its staff, contractors, and office of record (Commission’s Office).

### II. FOIA COORDINATOR

The Commission has designated the Planner/Zoning Administrator to serve as the FOIA Coordinator as a duty additional to the duties of the office of Planner/Zoning Administrator. Any questions regarding compliance with FOIA should be directed to the FOIA Coordinator. For administrative convenience, the FOIA Coordinator may designate an individual to act on his or her behalf in accepting and processing requests for the records of the Commission.

### III. FOIA REQUESTS

- A. Requests for Copies of Public Records. All requests for public records (either to receive copies of such records or to inspect such records) made pursuant to FOIA shall be made in writing. In the event a written FOIA request is received by any employee of the Commission, member of the Commission, or member of the Joint Zoning Board of Appeals, a copy of the request shall be provided to the FOIA Coordinator on the same day it is received. All written requests for records pursuant to FOIA shall be processed by the FOIA Coordinator.
- B. Requests to Review Records. If a request is received to review records, facilities should be made available to inspect records during the Commission’s Office normal business hours and when the records can be reasonably made available. The person who wishes to inspect records shall submit a request form describing the requested documents prior to the Commission allowing the inspection of the records.
- C. Requests Made by Fax, E-mail or other Electronic Means. These requests shall be deemed received by the FOIA Coordinator one Commission’s Office’s business day after the date the electronic transmission is made and shall be handled in the same manner as a written request in subparagraph A above. If the request is submitted by e-mail and the e-mail request is held or quarantined in the Commission’s Office “spam” or “junk” e-mail folder (or other similar virus protection software), the request shall be deemed received one Commission’s Office’s business day after the Commission first became aware of the request.

The FOIA Coordinator shall maintain a written log of when the request is delivered to the “spam” or “junk” e-mail folder and when the Commission’s Office becomes aware of the request in such spam or junk folder.

D. Informal Request

1. The FOIA coordinator or Commission staff may provide limited, readily identifiable public records without a written request in case of easily fulfilled, non-repetitive requests for information. Examples of documents which may be provided without the necessity of a written FOIA request include, but are not limited to:
  - a. For an individual: Such documents which according to law are to be made available without the necessity of a FOIA request, such as any record on the Commission’s web site.
  - b. A single set of meeting minutes for a meeting held within the prior twelve (12) months which are requested by specific date.
  - c. Ordinances which are identified by specific name or number.
  - d. Similar records which can be readily provided.
2. Commission staff has the discretion to require a formal FOIA request.
3. Oral requests fulfilled under this Section 3 are not considered made under or subject to FOIA. Requesters have the option to make a written FOIA request, if so desired, in accordance with these Procedures.

E. Web site

1. The Commission policy is to provide as much of its records (except permit application, permits, and other content of permit files) as deemed advisable on the Commission’s web site, subject to limits with technology, staff ability, and relative cost of preparing various documents for the web. In accordance with Section 4(5) of FOIA, if a requesting person requests Commission records that are publicly available on the Commission’s website, the Commission will notify the requesting person of the web address and location of such records without charge in accordance with IV.B.9. of this policy.

#### **IV. PROCESSING FOIA REQUESTS**

The FOIA Coordinator shall maintain a log of all written requests received showing the nature and date of the request, determination of disposition, date of disposition and manner of final response to the FOIA request. Requests shall sufficiently describe the record to enable the FOIA



Coordinator to identify and locate the record. Forms for utilization of FOIA procedures under these Procedures are available from the FOIA Coordinator.

- A. Time for Response. The FOIA Coordinator shall, no more than five business days after the request has been made, unless a single extension of not more than ten business days has been issued, or where the time limits have been agreed to upon in writing by the requesting person, provide one of the following responses:
1. Grant the Request. A copy of the request for a public record along with all of the requested documents shall be sent to the person who requested the records on a response for public records form.
  2. Deny the Request. The FOIA Coordinator shall sign and state the reasons for denial including an explanation of the requesting person's right to seek a non-mandatory appeal from the FOIA Coordinator's decision to the Commission or a judicial review of the decision with the Wexford County Circuit Court. Failure to timely respond to the request constitutes denial. Denial may be made because, among other reasons, the record does not exist, it cannot be sufficiently identified from the description contained in the request, or the record is exempt.
  3. Grant the Request in Part and Issue a Written Notice to the Requesting Person Denying Such a Request in Part. Material which is partially exempt and partially subject to disclosure shall be separated or deleted and the non-exempt material offered for copying or inspection. A general description of the separated or deleted information shall be provided to the requesting person, unless doing so would reveal the contents of the exempt information.

If the FOIA coordinator issues a ten business day extension, the Commission's written response to the FOIA request shall include an estimate as to when the Commission will provide the records to the requesting person.

- B. Miscellaneous General Requirements for FOIA Requests. FOIA requests shall be handled in one or more of the following ways:
1. Provide a reasonable opportunity and facilities for inspecting and taking notes from the records for the requesting person.
    - a. Original records shall not be marked, defaced, destroyed, or otherwise altered. Any person examining public records shall bring to the examination only an erasable pencil with which to make notes or lists, etc. No pens or indelible writing instruments are allowed. No notes or writing of any kind shall be made on the documents themselves.

- b. A Commission official or staff member (if any) must be present at all times during the inspection of Commission records if any original records are involved, to protect the records from loss, unauthorized alteration, mutilation, or destruction. In order to defray the Commission's cost of this monitoring service, a fee shall be paid to the Commission for personnel time, as provided in Section V of these Procedures.
- c. Original records shall not be removed from the area provided for inspection and note taking. Original documents may be removed from and replaced in Commission files only by authorized Commission officials or personnel.
- d. A requesting person may not remove records or files from the area provided for inspection unless those documents are copied specifically for the requesting person by authorized Commission officials or personnel.
- e. The FOIA Coordinator will determine, on a case-by-case basis, whether a requesting person may inspect an original public record, or only a copy of the record. A fee may be charged for copies made to enable public inspection of records, in accordance with Section V of these Procedures. Situations where original records are likely to require copying prior to inspection include the following:
  - (1) The records include exempt information that must be redacted.
  - (2) The records are old or delicate, or contain information that could not easily be replicated.
  - (3) The records are in digital format or are part of a database not available for public inspection.
  - (4) Providing copies would be less disruptive to the performance of Commission functions than providing the necessary staffing for oversight required for inspection of original records.
- f. A person requesting to inspect Commission records must make an appointment with the FOIA Coordinator. Appointments will be scheduled during the Commission's Office regular business hours. The date and time of appointments for inspection will be determined by the FOIA Coordinator.

- g. The FOIA Coordinator will make reasonable efforts to allow a requesting person to inspect records for up to four hours per appointment; provided, however, that inspections will be cut short, postponed or rescheduled when necessary to avoid unreasonable interference with the Commission staff's performance of their primary functions.
- 2. Provide copies of records if so requested. If a fee is charged, a copy of the record shall not be released until a fee has been received or the person making the request demonstrates an inability to pay or is a recipient of public assistance as provided in Article V of these Procedures.
- 3. On a request for records which are issued on a subscription basis, e.g., Commission meeting minutes, on six-month renewal subscription basis, a listing of the requesting person's name, address, records subscribed to, charge and expiration date of subscription shall be maintained by the FOIA Coordinator or his/her designee.
- 4. Determine actual cost of mailing, duplication and search time when compiling the record in accordance with Article V of these Procedures.
- 5. If a fee is charged, the person completing the request shall compute the charges and refer the completed detailed itemization of fees for providing records to the FOIA Coordinator.
- 6. If it is anticipated that a charge will exceed Fifty and 00/100 (\$50.00) Dollars, a good faith deposit may be collected from the requesting person prior to the Commission fulfilling the request for the records.
  - a. The deposit cannot exceed one-half of the total anticipated fee.
  - b. The Commission may require payment of a deposit equal to 100% of the estimate charge for fulfilling the requesting person's FOIA request if the requesting person previously failed to pay the total amount due from a prior FOIA request to the Commission where:
    - (1) the final fee for the prior written request was not more than 105% of the estimated fee;
    - (2) the public records made available contained the information being sought in the prior written request and are still in the Commission's possession;
    - (3) the public records were made available to the requesting person, subject to payment, within the time frame required under FOIA; ninety days have passed since the

Commission notified the requesting person in writing that the public records were available for pickup or mailing;

- (4) the requesting person is unable to show proof of prior payment to the Commission for the prior records requested; and
- (5) the Commission calculates a detailed itemization, as required under FOIA, that is the basis for the current written request's increased estimated fee deposit.

c. The Commission will no longer require an increased estimated fee deposit from a requesting person if any of the following apply:

- (1) the requesting person is able to show proof of prior payment in full to the Commission; or
- (2) The Commission is subsequently paid in full for the applicable prior written request; or
- (3) Three hundred sixty-five days have passed since the requesting person made the written request for which full payment was not remitted to the Commission.

7. The FOIA Coordinator shall accept the payment for services rendered and issue a receipt for the same, or, in the few instances where deferred payment is indicated, prepare an invoice and forward it to the requesting person.
8. The FOIA does not require the Commission to make a compilation, summary or report of the information.
9. In accordance with Section 4(5) of FOIA, if a requesting person requests Commission records that are publicly available on the Commission's website, the Commission will notify the requesting person of the web address and location of such records. If the requesting person requests copies of these records, notwithstanding that the records are available on the website, the Commission shall provide copies of such records and will charge for such records in accordance with Article V of these Procedures.

## **V. FEES AND COSTS**

- A. In General. The Commission may charge the requesting person for a public record search, actual mailing costs, copying charges, and the cost to separate exempt from non-exempt records in accordance with this Article V where the failure to charge a fee would result in unreasonably high costs to the Commission because of the nature of the request in the particular instance, and the Commission specifically identifies the nature of these unreasonably high costs. It is hereby

determined that devoting more than one-half hour to responding to a FOIA request will result in unreasonably high costs to the Commission, unless the cost of such search is borne by the requesting person. The Commission shall provide a written estimate of such charges (in the form attached to these Procedures as “Attachment A”) to the requesting person.

1. Cost of Duplication of Records. The Commission may charge for the labor costs directly associated with duplication or publication, including making paper copies, making digital copies, or transferring digital public records to be given to the requesting person on non-paper physical media or through the internet or other electronic means as stipulated by the requesting person.
2. Search, Location and Examination of Records. The Commission may charge for the labor costs directly associated with searching for, locating, and examining of public records in conjunction with receiving and fulfilling a granted written request.
3. Separating Exempt from Non-Exempt Records. The Commission may charge for the labor costs, including necessary review, if any, directly associated with the separating and deleting of exempt information from nonexempt information. The review and separation of exempt from non-exempt information may be performed by a Commission official or employee or, if necessary, outside legal counsel.
  - a. For services performed by a Commission official or employee, the Commission will charge in accordance with Article V.A.4 (below) of these Procedures.
  - b. For services performed by outside legal counsel, as determined by the FOIA Coordinator on a case-by-case basis, the Commission may charge the legal counsel’s time; provided, however, that such time to be charged shall not exceed an amount equal to 6 times the then-current state minimum hourly wage rate determined under Section 4 of the Workforce Opportunity Wage Act, Act 138 of the Public Acts of Michigan of 2014 (“Act 138”), as that rate may change from time to time. As of the date of adoption of these Procedures, the wage rate is \$8.15. If the rate increases under Act 138, the rate changed under these Procedures shall automatically change without action by the Commission or amendment of these Procedures. In charging such time for outside legal counsel, the Commission will provide notice to the requesting person of the name of the contracted person or firm in the Commission’s detailed itemization of costs required by the Act. The charges for such services will be billed in increments of 15 minutes or more and all partial time increments will be rounded downward.

No charge will be made for the redaction of documents if the Commission previously redacted the public record in question and the redacted version is still in the Commission's possession.

The Commission shall itemize both the hourly wage and the number of hours charged for these costs.

4. Calculation of Labor Costs. The Commission will charge the hourly wage of its lowest-paid employee capable of performing the tasks identified in V.A.(1), (2), or (3)a.), above, regardless of whether that person is available or who actually performs the labor. The Commission will estimate such labor charges. The labor charges will be billed in increments of 15 minutes or more and all partial time increments will be rounded downward. The Commission will itemize both the hourly wage and the number of hours charged for these costs. The Commission will include in the applicable labor charge an amount not to exceed one-half (50%) of the applicable hourly wage to cover (or partially cover) the cost of the fringe benefits (if any) for the lowest-paid employee; provided, however, that such amount shall not exceed the actual costs of the fringe benefits. Overtime charges for the applicable employee will not be charged unless the requesting person agrees in writing to pay such charges. The 50% multiplier used to account for the lowest-paid employee's fringe benefits is included in the detailed itemization of costs provided by the Commission to the requesting person.
  
- B. Costs for Mailing of Records. The Commission's actual cost of mailing, if any, for sending the records in a reasonably economical and justifiable manner, to the requesting person. The Commission will not send documents to the requesting person via overnight delivery service or expedited shipping (or obtain shipping insurance on such mailing) unless the requesting person specifically requests such services in writing and agrees to pay for such costs.
  
- C. Copying Charges. The incremental costs of duplication or publication shall be charged at ten cents per 8 1/2" x 11" or 8 1/2" x 14" sheet of paper. The Commission may copy records using double-sided printing, if such capability is available to the Commission and cost effective for the Commission. If the public records must be sent to a commercial copy center for copying, the requesting person shall reimburse the Commission for the Commission's actual charges.
  
- D. Copies of Specialty Documents/Formats. The Commission has limited in-house capabilities for copying photographs, audio or videotapes, microforms, maps or plans. If a person requests that copies be made of these or large documents which must be copied off-site or reproduced in electronic means (and on an electronic storage device, such as a USB drive, CD-ROM, or other device for storage of electronic data), the FOIA Coordinator will determine and assess those costs. If a Commission official or employee is required to deliver and/or pick up the public records and/or copies of public records, the labor hours (calculated in accordance

with Article V.A.(4), above), spent and applicable mileage (at the then-current IRS mileage reimbursement rate) will be applied to the requesting person's charges for the public records.

- E. Fee Waiver. The Commission may waive all or a portion of the fees for the search and copying of records if the Commission determines that a waiver or reduction of the fee is in the public interest because searching for or furnishing copies of the public record can be considered as primarily benefiting the general public. A public record search shall be made and a copy of a public record shall be furnished without charge for the first \$20.00 of the fee in case of indigency, or a non-profit agency formally designated to carry out the activities of the Developmental Disabilities Assistance and Bill of Rights Act of 2000, as provided in Section 4(2) of the Act.

## **VI. RECORD RETENTION**

The FOIA Coordinator shall maintain all FOIA requests on file at the Commission's Office for no less than one year.

## **VII. EXEMPTIONS TO FOIA REQUEST**

The FOIA coordinator may exempt from disclosure any records identified as exempt from disclosure in Section 13 of the FOIA. The FOIA coordinator shall exempt from disclosure:

- A. That portion of any public record disclosing a person's social security number.
- B. Information protected under the Family Educational Rights and Privacy Act of 1974.
- C. Minutes of any closed session meeting, disclosure of which is prohibited by the Open Meetings Act.
- D. Any other material, disclosure of which is prohibited by law.

## **VIII. APPEALS**

- A. Appeal of Denial of Request. If a person's request for a public record is denied, in whole or in part, the person may file a written appeal of the decision in accordance with the following process:
  - 1. The appeal must be submitted in writing to the Commission, to the attention of Commission Chair addressed to the Commission's Office and optionally a copy to the Chair's home.
  - 2. The written appeal must specifically state the word "appeal" and identify the reason or reasons for the reversal of the denial.

3. Where a written appeal is received by the Commission Chair consistent with these Procedures and the Act, the Commission shall either: (a) place the appeal on the agenda for the next regularly scheduled meeting, to be decided within ten business days thereafter; or (b) schedule a special meeting to consider the appeal, which special meeting should be held no later than ten business days following the next regularly scheduled meeting.
  4. The Commission may deliberate and shall take one of the following actions in response to the filing of an appeal:
    - a. Reverse the denial.
    - b. Issue a written notice to requesting person affirming the denial.
    - c. Reverse the denial in part and issue a written notice to the requesting person affirming the denial in part.
    - d. Under unusual circumstances, issue a notice extending not more than ten business days the period during which the Commission shall respond to the written appeal. Only one written notice extending the response time is allowed.
- B. Fee Appeal. A requesting person may appeal the amount of a fee if that fee exceeds the amount permitted under these Procedures and FOIA.
1. An appeal on the amount of the fee may be made to the Commission in accordance with the provisions of Article VIII.A., above. In the fee appeal, the requesting person must specifically include the word “appeal” and identify how the required fee exceeds the amount permitted under these Procedures or the Act.
  2. Notwithstanding B.1., above, and in accordance with FOIA, a requesting person may commence a civil action in the Wexford County Circuit Court for a fee reduction; provided, however that such appeal must be filed within 45 days after receiving the notice of the required fee or a determination of an appeal to the Commission. If the requesting person files a fee appeal with the Circuit Court, the Commission will not complete the processing of the written request for the public record at issue until the court resolves the fee dispute.
  3. Within 10 business days after receiving a written appeal under this subsection B, the Commission shall do one of the following:
    - a. Waive the fee.
    - b. Reduce the fee and issue a written determination to the requesting person indicating the specific basis under section 4 of FOIA and



these Procedures that supports the remaining fee. The determination shall include a certification from the Commission Chair, on behalf of the Commission, that the statements in the determination are accurate and that the reduced fee amount complies with the Procedures and Section 4 of the Act.

c. Uphold the fee and issue a written determination to the requesting person indicating the specific basis under Section 4 of the Act that supports the required fee. The determination shall include a certification from the Commission Chair, on behalf of the Commission, that the statements in the determination are accurate and that the fee amount complies with the Procedures and Section 4 of the Act.

d. Issue a notice extending for not more than 10 business days the period during which the Commission must respond to the written appeal. The notice of extension shall include a detailed reason or reasons why the extension is necessary. The Commission shall not issue more than one notice of extension for a particular written appeal.

4. In accordance with FOIA, the Commission is not considered to have received a written fee appeal until the first regularly scheduled meeting of the Commission following submission of the written appeal.

5. In accordance with Section 4(13) of FOIA, a deposit required to be paid by the Commission is considered a “fee.”

C. Civil Action. An appeal from a determination by the FOIA Coordinator or from a decision of the Commission Board may be taken to the Wexford County Circuit Court.

## **IX. AMENDMENTS TO PROCEDURES**

The Commission may amend or supplement this policy, from time to time, in the Commission’s sole discretion.

## **X. AVAILABILITY OF PROCEDURES; SUMMARY**

A copy of these Procedures and a summary of these Procedures shall be available at the Commission’s office and posted on the Commission’s website in accordance with the FOIA.

## **XI. EFFECTIVE DATE**

The effective date of this policy is December 19, 2016.

## Wexford Joint Planning Commission

% Cherry Grove Township  
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### SUMMARY OF FREEDOM OF INFORMATION ACT PROCEDURES AND GUIDELINES

The Freedom of Information Act, being 1976 PA 442 (MCL 15.231 to 15.246) (“FOIA” or the “Act”) mandates disclosure of most public records. To fulfill this mandate, the Wexford Joint Planning Commission (Commission) adopted “Freedom of Information Act Procedures and Guidelines” (the “Procedures”) for handling FOIA requests. This document summarizes the Commission’s Procedures in accordance with FOIA.

The Commission policy is to provide as much of its records (except permit application, permits, and other content of permit files) as deemed advisable on the Commission’s web site. This is subject to technology limitations and cost of document preparation for the web. In accordance with Section 4(5) of FOIA, if a requesting person requests Commission records that are publicly available on the Commission’s website, the Commission will notify the requesting person of the web address and location of such records and shall be considered a complete and full response to a request to see those records.

#### I. Submitting a FOIA Request

You must submit a request for Commission records in writing to the Commission’s FOIA Coordinator. The Commission’s Planner/Zoning Administrator has been designated by the Commission as the Commission’s FOIA Coordinator. You may request either (a) to receive a copy of Commission records, or (b) to review Commission records.

You may submit the FOIA request for records in person, by mail or via electronic means (i.e., fax, e-mail or other electronic means). Requests submitted in person or by mail are deemed received as of the date of receipt. Requests submitted to the Commission via electronic means are deemed received by the FOIA Coordinator one Commission’s Office’s business day after the date the electronic transmission is made.

## **II. Commission's Response to a FOIA Request**

Once the Commission receives your FOIA request, the Commission must respond to your request within five business days, unless the Commission extends the period to respond to the request by not more than ten business days, in addition to the usual five business days.

In response to a FOIA request, the Commission may: (1) grant the request (and provide either a copy of the requested record or the opportunity to review the record, in accordance with your request); (2) deny the request if no such record exists or the record is exempt pursuant to one of the 16 exemptions under the Act that are applicable to the Commission; or (3) grant the request in part and deny the request in part.

If the Commission issues a ten business day extension to respond to the FOIA request, the Commission's written response to a FOIA request will include (1) an estimate as to when the Commission will provide the requested records to you, and (2) a detailed summary on the estimate of cost to provide the records to you.

Please note that FOIA does not require the Commission to make a compilation, summary or report of the information.

## **III. Reviewing Commission Records**

You may request to review Commission records. If you make such a request, the Commission will make facilities available to inspect the requested records during the Commission's Office's normal business hours and when the records can be reasonably made available. You must submit a request form describing the requested documents prior to the Commission allowing the inspection of the records.

You cannot write or take any notes on original Commission records that you are reviewing and you will only be allowed to have an erasable pencil with you to take notes. No pens or indelible writing instruments are allowed. No notes or writing of any kind shall be made on the documents. A Commission official will be present during the inspection of Commission records if original records are involved and you may be charged a fee to defray the Commission's cost of the monitoring service to protect the records from loss, unauthorized alteration, mutilation, or destruction. Original records cannot be removed from the area provided for inspection and note taking.

## **IV. Requesting Copies of Commission Records**

You may request to receive copies of Commission records. The Commission will review the available records and provide you with copies of the records unless the records do not exist, are not in possession of the Commission, or exempt from disclosure under FOIA.

## **V. Calculation and Payment of Fees; Deposit**

Under FOIA, the Commission may charge a fee for providing you with a copy of a public record, including labor costs, where the failure to charge a fee would result in unreasonably high costs to the Commission because of the nature of your request. If the time required to respond to a FOIA request exceeds one-half hour, the request will be deemed to result in unreasonably high costs to the Commission. Prior to responding to a request, the Commission will provide you with a written estimate of the applicable fees. The Commission may require the payment of a deposit or, in certain circumstances, waive payment of the fee altogether.

A. Calculation of Fee

The Commission may charge you a fee for searching, reviewing, redacting, copying and mailing requested records. The fee will be limited to actual mailing costs, and to the actual incremental cost of duplication or publication including labor, the cost of search, examination, review, and the deletion and separation of exempt from nonexempt information pursuant to Section 14 of FOIA. The Commission will mail the available requested records to you upon payment of the applicable fees. The fees charged by the Commission for responding to your request may include:

- a fee for the Commission's labor costs directly associated with (1) making copies (including paper or digital copies), (2) searching for, locating, and examining the requested records, and (3) for the necessary review of and separation and deletion of exempt information from nonexempt information. You will not be charged for the redaction of documents if the Commission previously redacted the public record in question and the redacted version is still in the Commission's possession.
- the Commission's actual cost of mailing for sending the records to you. The Commission will not send documents via overnight delivery service or expedited shipping (or obtain shipping insurance on such mailing) unless you specifically request such services in writing and agree to pay for such costs.
- the cost to copy the records. The incremental cost of copying the records is ten cents per black and white copy on a 8 1/2" x 11" or 8 1/2" x 14" page (printed on both sides of a sheet of paper). The Commission may copy records using double-sided printing (if available). If the Commission needs to send the records to a commercial copy center for copying, you will be charged for those costs.
- the Commission's actual costs to copy photographs, audio or videotapes, microforms, maps or plans including any costs incurred to have a third-party make such copies. If a Commission official or employee is required to deliver and/or pick up the public records and/or copies of public records, you will be charged for the labor hours (calculated in accordance with the Procedures), spent and applicable mileage (at the then-current IRS mileage reimbursement rate).

For labor costs to comply with a request, the Commission will charge the hourly wage of its lowest-paid employee capable of performing the necessary task regardless of whether that

person is available or who actually performs the labor. The labor charges will be billed in increments of 15 minutes or more and all partial time increments will be rounded downward. The labor charge will include an amount equal to one-half (50%) of the applicable hourly wage to cover (or partially cover) the cost of the fringe benefits (if any) for the lowest-paid employee; provided, however, that such amount will not exceed the actual costs of the fringe benefits.

The review and separation of exempt from non-exempt information may be performed by a Commission official or employee or, if necessary, outside legal counsel. For services performed by outside legal counsel, the Commission may charge the legal counsel's time; the charge will not exceed an amount equal to six times the then-current state minimum hourly wage rate. The Commission will provide you with a notice as to the name of the contracted person or firm in the Commission's detailed itemization of costs. The charges for such services will be billed in increments of 15 minutes or more and all partial time increments will be rounded downward.

#### B. Fee Waiver

The Commission may waive all or a portion of the fees for the search and copying of records if the Commission determines that a waiver or reduction of the fee is in the public interest because searching for or furnishing copies of the public record can be considered as primarily benefiting the general public. A public record search shall be made and a copy of a public record shall be furnished without charge for the first \$20.00 of the fee for each request by either: (a) person submits an affidavit stating that they are indigent and receiving specific public assistance, or (b) if not receiving public assistance, stating facts showing inability to pay the cost because of indigency. If a requesting person is ineligible for a discount, the Commission shall provide written notice of ineligibility and the reasons for ineligibility in the Commission's response to the FOIA request.

Under the Procedures, you may be ineligible for a fee reduction or waiver if: (a) you previously received discounted copies of public records from the Commission twice during the calendar year; (b) you are making the records request in conjunction with outside parties who are offering or providing payment or other remuneration to you to make the request; or (c) you are a specific type of nonprofit corporation (as provided in FOIA and the Procedures).

#### C. Deposit

If it is anticipated that a charge will exceed Fifty and 00/100 (\$50.00) Dollars, you may be required to pay a good faith deposit prior to the Commission fulfilling the request for the records, but the deposit will not exceed one-half of the total anticipated fee. In certain circumstances, the Commission may require payment of a deposit equal to 100% of the estimate charge for fulfilling your request for records, if you previously failed to pay the total amount due from a prior FOIA request to the Commission.

### **VI. Rights to Appeal**

You can appeal decisions made with respect to the records that you requested, if the request was denied or denied in part, or the amount of the calculated fee for responding to your request. An appeal from a determination by the FOIA Coordinator or from a decision of the Commission may be taken to the Wexford County Circuit Court.

A. Appeal of Denial of Records (in whole or in part)

You have the right to submit to the Commission, a written appeal that specifically states the word “appeal” and identifies the reason or reasons that you assert in support of reversal of the failure of disclosure of the public records that were not disclosed. An appeal shall be sent to the Commission’s Office and at your option a copy to the Commission Chair’s home. In the alternative, you have the right to seek judicial review of the denial or nondisclosure.

Under Section 10 of FOIA, you have the right to receive attorney fees and damages, if, after judicial review, the Wexford County Circuit Court determines that the Commission has not complied with Section 5 of FOIA and that the court orders disclosure of all or a portion of a public record that had not been disclosed to you by the Commission.

B. Appeal of Calculation of Fee

A requesting person may appeal the amount of a fee to the Commission or the Wexford County Circuit Court if that fee exceeds the amount permitted under these Procedures and FOIA.

An appeal on the amount of the fee to the Commission must specifically include the word “appeal” and identify how the required fee exceeds the amount permitted under the Procedures or the Act. An appeal shall be sent to the Commission’s Office and at your option a copy to the Commission Chair’s home.

If you the requesting person files a fee appeal with the Circuit Court, the Commission will not complete the processing of the written request for the public record at issue until the court resolves the fee dispute.

Within 10 business days after receiving a written appeal of the fee, the Commission is required to: (1) Waive the fee; or (2) reduce the fee and provide written notice as to the basis for the remaining fee; or (3) uphold the fee and provide written notice as to the basis for the fee; or (4) issue a notice extending for not more than 10 business days the period during which the Commission Board must respond to the appeal (the notice will include a detailed reason or reasons why the extension is necessary).

Any appeal will be deemed received as of the date of the first regularly scheduled meeting of the Commission following submission of the written appeal.

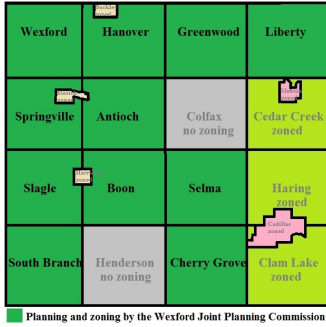
A deposit required to be paid by the Commission is considered a “fee.”

**VII.** Additional Information; Revisions to Summary and Procedures

Additional information may be found in the Commission's Procedures, which may be obtained from the Commission's Office or website at no charge.

This Summary and the Procedures may also be found on the Commission's website.

This Summary and the Procedures may be modified from time to time by the Commission Board and without notice.



# Wexford Joint Planning Commission

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## Fee Schedule

Adopted December 19, 2016, effective December 31, 2016

| Service/Permit   | <b>Fee</b><br>(full fee)   | Fee for indigent <sup>1</sup>   | Fee for non-profit organization for community project <sup>2</sup>                  | Fee for Joint Planning Commission and participating municipality |
|--|--|---|---|--|
| Land use permit (all)  | <b>\$70.00</b>   | \$35.00   | \$35.00   | \$35.00  |
| Site plan review by joint planning commission for land use permit <sup>3</sup>   | <b>\$660.00</b>  | \$330.00  | \$330.00  | \$330.00   |
| Special use permit and planned unit development <sup>4</sup>                     | <b>\$1,070</b>   | \$500.00  | \$500.00  | \$500.00   |
| Appeals (variance) <sup>5</sup>  | <b>\$590.00</b>  | \$300.00  | \$300.00  | \$0.00   |
| Petition to amend the zoning ordinance <sup>6</sup>                              | <b>\$4,670.00</b>  | \$4,670.00  | \$4,670.00  | \$0.00   |
| After the fact permit multiplier <sup>7</sup>                                    | <b>three times above fees</b>  | three times above full fee  | three times above full fee  | three times above full fee                                       |
| Call a special meeting of the joint planning commission <sup>8</sup>             | <b>\$474.36</b>  | \$474.36  | \$474.36  | \$0.00   |
| Call a special meeting of 5-member panel of the joint appeals board <sup>9</sup> | <b>\$242.75</b>  | \$242.75  | \$242.75  | \$0.00   |
| Copies <sup>10</sup>   | <b>\$1.00 /1st pg.<br/>\$0.15 /@ add.<br/>or Cherry Grove Twp charges, whichever is more</b> | \$1.00 /1st pg.<br>\$0.15 /@ add.<br>or Cherry Grove Twp charges, whichever is more | \$1.00 /1st pg.<br>\$0.15 /@ add.<br>or Cherry Grove Twp charges, whichever is more | \$0.00   |



## Wexford Joint Planning Commission

### Fee Schedule

#### Page 2 of 2

1. Indigent are those that have a poverty exception for purposes of property tax.
2. Community project means a land use that is open for use by everyone in the community such as facilities in a public park, community hall, or similar. It does not include facilities for use only by members, churches, or similar. The Joint Planning Commission shall be the final arbitrator on if this reduced fee is applicable or not.
3. This is the base fee. If the permit or project is such that it involves more than two inspections, then a deposit into escrow may be required pursuant to §8204.D. of the Joint Zoning Ordinance.
4. This is the base fee. If the permit or project is such that it involves more than six inspections, on the agenda for more than two Joint Planning Commission meetings; Joint Planning Commission's consultation with an engineer, planner, other professional or attorney; then a deposit into escrow may be required pursuant to §8204.D. of the Joint Zoning Ordinance.
5. This is the base fee. If the permit or project is such that it involves more than two inspections, on the agenda for more than one Joint Zoning Board of Appeals meetings; Appeals Board's consultation with an engineer, planner, other professional or attorney; then a deposit into escrow may be required pursuant to §8204.D. of the Joint Zoning Ordinance.
6. This is the base fee. If the permit or project is such that it involves more than two inspections, on the agenda for more than three Joint Planning Commission meetings; Joint Planning Commission's consultation for more than six hours with an engineer, planner, other professional or six hours with an attorney; then a deposit into escrow may be required pursuant to §8204.D. of the Joint Zoning Ordinance.
7. Increased cost to reflect recovery of costs for enforcement actions, additional inspections, notices, consultation with an attorney for purposes of handling a land use project that was started and underway prior to obtaining a zoning permit.
8. Based on § 6.C.3. of the Joint Planning Commission bylaws.
9. Based on § 7.B.3. of the Zoning Board of Appeals Rules of Procedure.
10. First page includes copy charge and time to retrieve document, walk to copier, make copy (two pages on both sides of one sheet of paper), collect payment and make receipt for payment, return original to file. Each additional page is copy machine charges and labor for copy. It does not include time for searching for document, and review and redaction of document.