

Friends of the Betsie Bay

The Friends of Betsie Bay are strong advocates of area land uses that promote a community in harmony with the natural environment of the Betsie Bay area.

Court Rules Frankfort Zoning Unconstitutional

On November 20th, Benzie Circuit Court Judge James Batzer, in a stunning development, ruled in favor of the downstate developer, Mr. Marshall Tobin, to enter as a final order a 'Consent Judgment' between Tobin and the City of Frankfort. In doing so, Judge Batzer overturned the City's decision to conditionally rezone Tobin's property on the east side of M-22 but control development along Betsie Bay by maintaining the single family zoning west of M-22. By approving the 'Consent Judgment,' a legal agreement as to the facts and law of a case by all of the parties, Judge Batzer approved a provision that strikes down as unconstitutional the long established single family district on the east end of Betsie Bay, within the Frankfort city limits.

However, Friends of Betsie Bay (FoBB), a legal party in the lawsuit, made up of neighborhood property owners and city residents who want to protect single family neighborhoods, opposed the Consent Judgment' because there is no factual or legal basis for the court to hold the City's single family district along the stretch between the highway and Betsie Bay as unconstitutional. The Friends have had legal standing in all the Tobin lawsuits and participated in lengthy proceedings before the City and the court to uphold the integrity of the City's Master Plan and Zoning Ordinance.

Under established legal principles, a consent judgment cannot be entered unless all parties to a lawsuit agree to the factual findings and legal result of the judgment. Because the Friends exercised their legal right to refuse to agree to the finding that the City's ordinance was unconstitutional, Judge Batzer reversed his decision from several years ago granting the organization the legal right to participate in the lawsuit. By doing so, Judge Batzer removed the barrier to the judgment in favor of Tobin and the newly elected City Council, who recently reversed its opposition to Tobin's proposed condominium development on the bay side.

This is not Mr. Tobin's first attempt to develop these two parcels, the first going back to 1997 with his former partner, Mr. Harold Kilp. Similar applications for rezoning and a planned unit development

Letter from the Chairman

Regardless of what you may read in the local newspaper the Friends of Betsie Bay continue our mission to protect the beauty of Betsie Bay and its watershed.

As you read the various articles in this newsletter you will see some new areas in which the Friends are now involved.

Our board of directors are dedicated partners with the city council and zoning board working for the proper development around the bay. It is our hope that some new members will step up and become active in our efforts to make the bay area a friendly and natural area that everyone in the Frankfort and Elberta communities as well as our visitors can enjoy now and in the future.

I extend my appreciation to our board, who keep our year around activities on a continuous path.

Jim Buzzell
Chairman

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(PUD) were either deemed incomplete or denied. Mr. Tobin first sued the city in 2000 and the essence of all the applications have remained the same. Countless petition drives by individual residents have been given to the city since 2000 with an overwhelming number of residents signing to support the city in upholding its Master Plan and Zoning Ordinance

In the ensuing years, Mr. Tobin was able to delay the legal proceedings until the newly elected Council came into office in November 2009. The alleged opposition to the Tobin proposal by all three newly elected City Council members was erroneously reported in the Benzie County Record Patriot the week immediately preceding the election. All three newly elected candidates clearly supported the quick resolution to Mr. Tobin's lawsuit with the city in a Meet the Candidate forum on October 22, 2009 and all voted within their first week in office to support the consent judgment, awarding Mr. Tobin even more than he initially requested.

While the newly elected Council members are sure to see this as an end to a long and costly legal battle, they are extremely short-sighted to acquiesce to Mr. Tobin's relentless effort to get what he has wanted all along, rather than cooperate with the City and its residents by accepting the City's decision to allow him to over build in this single family zoned residential neighborhood.

Mr. Tobin's most recent claim, among others, that this was unconstitutional zoning and the Judge's ruling of this claim, in support of Mr. Tobin, leaves the planning and zoning of Frankfort totally exposed for any future developer to use as a legal precedent to get any development proposal they envision to be profitable in Frankfort.

As the Benzie County commissioners go through a process of possibly rescinding the County Planning & Zoning efforts, Frankfort has its own but refuses to uphold it, even while the City's Planning Commission is undergoing a rigorous Master Plan update spending taxpayer dollars from the city and state to do so.

The Friends of Betsie Bay, a local, grassroots, non-profit 501c 3 organization was organized in 1999 when Mr. Tobin and his former partners had their first development proposal for this bay area. The Friends are strong advocates of area land uses that promote a community in harmony with the natural environment of the Betsie Bay area. Please snail mail any inquiries to Friends of Betsie Bay, PO Box 528, Frankfort, MI 49635 or email: friendsofbetsiebay@gmail.com



Image courtesy Thomas Twigg

Friend of Betsie Bay Board Members

Jim Buzzell, Chair
Kurt Luedtke, Treasurer
Suz McLaughlin, Secretary
Bonnie Warren
Tom Twigg
Jordan Bates
Thelma Rider-Novak
Susanne Glynn

friendsofbetsiebay@gmail.com

FoBB Members: Please give us your feedback on this legal ruling. Are you in favor of the Friends pursuing an appeal to this decision? The Board needs to hear from you immediately due to the appeals time factor. Your decision must include the financial aspect of raising money for the appeals process. Please email your response to: friendsofbetsiebay@gmail.com

Community Project

The Friends of Betsie Bay have offered to partner with the Frankfort City Tree Board in a community project that would promote the Friend's mission of being good stewards of the Bay. The Tree Board has proposed the Consumer's Energy substation site as an area that could be improved by such a partnership. This site has been under consideration by the Tree Board for some time as one that could be improved by minimal landscaping, and has asked the City Superintendent to contact Consumer's for permission to proceed. The Friends of Betsie Bay would extend partnership for this project to the Conservation District, as a source of native species, and perhaps to other entities within the community, and hope in this way to showcase the power of partnerships and to serve as a model encouraging future partnerships.



*Friends of the Betsie Bay annual beach to beach clean up.
2009*

Frankfort's Master Plan

The Frankfort Planning Commission has been working on the City's Master Plan with Wade Trim, the Consultant for planning and zoning. This DRAFT Master Plan includes public comment compiled from a week of meetings on various topics centered around what the public saw as issues, new ideas, economic situation, about development concerns, and the common ground of our beautiful natural surroundings. Also added are visions of alternative energy, a detailed history and a bit of an inventory of all of the parks that Frankfort residents enjoy, to name just a few topics.

The Plan includes the following examples of discussion:

- * Mixed-use, primarily residential and commercial, in the entire downtown and waterfront district.
- * Along Forest Avenue, east of 7th Street, an increased density of multi-family residential with limited commercial
- * Mixed use "Working waterfront" which includes marinas, repair & storage facilities, etc. allowing for residential units over businesses on the east end of town.
- * Downtown entry improvement via 7th Street by creating a Tree boulevard between Main Street and Forest Avenue, toward the Bay.
- * Main Street – 1) do we narrow street and replace the angle parking with parallel parking to incorporate wider sidewalks and bicycle lanes, while reducing car lanes and losing a possible 29 parking spaces; 2) do we consider 'bump out' (curb extensions) scenarios in certain sections of downtown to slow traffic and offering wider sidewalks with clear pedestrian crossings; 3) or don't change the downtown area?
- * Development of 'northern tier' via George St/Day Ave with attention to steep slope terrain and adding agricultural uses to formerly R1 uses only (low density residential)
- * Increase opportunities for more bicycle traffic and 'walkable' areas throughout the City.

Hard copies of this report are available at the Benzie Shores Library and City Hall. If you prefer an email version, please send your request to friendsofbetsiebay@gmail.com Also submit your input to this address and FoBB Board members will check regularly to be sure and forward them on to the Frankfort Planning Commission for this process.

Treasurer's Report

Expenses for 2009:	\$6,604.11
Assets:	\$9,448.99
Liabilities:	\$0
Total Net Worth:	\$9,448.99

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