

MINUTES OF THE CLAY TOWNSHIP PLANNING COMMISSION REGULAR MEETING HELD ON FEBRUARY 25, 2004 AT 7:30 P.M. IN THE CLAY TOWNSHIP BOARD ROOM, 4710 PTE. TREMBLE ROAD, CLAY TOWNSHIP, MI 48001.

1. Chairman Dorothy DeBoyer called the regular meeting to order at 7:30 p.m.
2. Roll Call by Secretary John Makuch: PRESENT: Mark Getman, Edward Keller, Tony Antkowiak, Chuck Michel, Sandra O'Conner, Michael Watson, Pat Sharrow, John Makuch, Dorothy DeBoyer. ABSENT: None.

3. **Communications:**

Chairman reported the following correspondence:

Letter from Atty. McNamee Wendy's Site Plan, letter from Atty. Scott re: site plan with the addition of the sign, Atty. McNamee opinion: Planning Commission has a letter from attorney rep. Wendy's stating site plan is approved exempting the sign on it, future signs must meet the zoning ordinance and requirements in Clay Township, assured acceptable for Township to sign the site plan submitted w/ a notation of the exception of the signage.

4. **Approval of Minutes:** February 11, 2004

Moved by Antkowiak, supported by Getman, to approve the February 11, 2004 Planning Commission minutes.

Discussion:

- 1st page, under Old Business: Election of Officers, motion elect Dorothy DeBoyer as Chair should be changed to **elect** and not **nominate**.
- Tony Antkowiak questioned procedure followed to elect a Vice-Chair and Secretary, motion states "to nominate" when did we elect them, what is the status of these two positions?

Request the Township Attorney give a legal opinion and provide use with a solution.

- Page 1, 3rd motion down, agenda item Election of Officers: motion to nominate Secretary should have the words "supported by" Sharrow inserted.
- Page 2, Pat Sharrow's referring to Zoning Ordinance, "no vested right in zoning" should read page 198 and not page 191.

ALL IN FAVOR OF ACCEPTING THE FEBRUARY 25, 2004 MINUTES WITH AMENDMENTS STATED ABOVE. AYES: All. NAYS: None. ABSENT: None.

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OLD BUSINESS:

**RE-ZONING: 123-6 NORMA HALKIAS VACANT LOT FRUIT ROAD
(INDUSTRIAL TO RESIDENTIAL)**

Chairperson DeBoyer: Planner's review, Item #4, talked with Attorney McNamee and Elected Officials, Township not too concerned with the re-zoning, 1970's it was residential, changed to industrial, never a part of the dump area; concerns re: property to the west (Ron Kaul's property) will not change his setback requirements, his property butts the 77' easement which is industrial.

Pat Sharrow: Kaul's property was a concern, additional hardship avoided as he has not applied for a site plan; comments re: environmental study done is on the landfill area to the west, did not include the far northeast properties, old land fill would bypass this piece, environmental study required by a buyer if requested.

Chuck Michel: Township at fault if someone were to build.

Chairperson DeBoyer: Atty. McNamee affirmed Township has governmental immunity.

Motion by Michel, supported by Getman, to recommend approval of the application to the Township Board to Re-Zoning #123-06, Norma Halkias' Vacant Lot Fruit Road from Industrial to Residential R-1.

Discussion: John Makuch: Mr. Kaul's property not affected by re-zoning change.

Chairperson DeBoyer: Assured him nothing additional to what is already required, property records checked to assure the 77' easement is zoned industrial.

R/C VOTE: AYES: Keller, Makuch, Michel, Getman, Antkowiak, Sharrow, Watson, O'Conner, DeBoyer. NAYS: None. ABSENT: None.

MOTION CARRIED.

Chairperson DeBoyer: Explained application will proceed to the County Planning Commission for their review, following 30 days the Township Board will vote on it.

NEW BUSINESS:

**6. DISCUSSION ON ZONING ORDINANCE #123 SECTION XXVIII –
ADMINISTRATION & ENFORCEMENT**

Consultant Patrick Meagher: Explained suggested changes are highlighted, what is omitted is Mr. Wiggle's suggestion re: occupancy permit signature.

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Michael Watson: Questioned Section 28.04 eliminating the 6 months, inserting 1-year, Section Five, 28.03 indicates unlimited permit renewal basis. Clarification: buy a new permit or obtain a new renewal out of fee?

Pat Sharrow: Section 28.04 questioned the 1st and 2nd paragraph re: zoning permit.

Tim Wiggle: Explained zoning permit, not started in 6-months, permit canceled, if had started job when the 6-month inspection was done, would have additional 6-months under the zoning permit.

Chairperson DeBoyer: Concern changing it from 6-months to one-year.

Patrick Meagher: Changed it to make it compatible but made it incompatible.

Pat Sharrow: Contradiction in the wording, Consultant review and bring it back.

Tim Wiggle: Questioned 2nd page, #2, Section 28.03 re: “Permits for new use of land....”. way written would require even a vacant residential to go before the Planning Commission.

Patrick Meagher: Certificate of Occupancy for a building would not warrant someone changing a use on a site, can modify that language to exclude some residential.

Pat Sharrow: Page 2, #1: “Permits not to be issued.....”, questioned “nonconforming” .

John Makuch: Section 28.04 questioned permit strictness.

Patrick Meagher: Re: Section 28.04 will contact Kras and Wiggle to review their deadlines they are enforcing, review and bring it back to the Board.

7. DISCUSSION OF THE BY-LAWS

Chairperson DeBoyer: Issue of a tie vote is not addressed in the Planning Commission By-Laws, per Attorney McNamee he recommends the Commissioners review the By-laws and possibly address the issue in the By-Laws. Sample of By-Laws covered by P.A. 168 of 1959 does give some ideas of what we could do. Opinion from MTA to resolve a tie vote. Asking the Commissioners to review our existing By-Laws and than go through this sample and we can address it at the next work shop with your thoughts and recommendations, could form a committee to work on this.

Pat Sharrow: Municipal Planning Act which we were formed, State requires one meeting every month, Twp. Zoning Act requires four a year.

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Mark Getman: Explained years ago City of Algonac was a village within the Township had to be done that way to include the village.

8. CHAIRMAN'S REPORT

- MPC Chronicle from the St. Clair County Metropolitan Planning Commission, like Planning Commission to receive a copy.
- SEMCOG Seminary on March 17, 2004.
- Copy of letters written my Secretary John Makuch to Mr. Zweng and Mr. Kaufmann inviting him to do a program for our Commission in the future and the letter written to the Township Board requesting a public hearing for the re-zoning. Several comments made regarding improper procedures re: Ord. 123 and letter sent to the Township Board on the Re-zoning, spoke with MTA and explained step by step, reassured everything was done properly, certified letter required if a private citizen requested a public hearing.

9. PLANNING CONSULTANT'S REPORT

Patrick Meagher: Heard from Mr. Kaufmann and will be coming here for a presentation.

10. ZONING ADMINISTRATOR COMMENTS:

Chairperson DeBoyer stated Mr. Wiggle has presented a synopsis of the issues that have been taken care of recently, what is pending. He will give a report once a month.

Chuck Michel: Request a review of the site plans and special approval land use from a year ago.

11. PLANNING COMMISSION COMMENTS

Chuck Michel: Comment re: political campaign signs can't be more than 9 sq. ft., many signs are 2' x 8', should some word changing be made in the Ordinance.

Pat Sharrow: Attorney General ruled several years back it is unconstitutional to force political signs removed, size could also be unconstitutional, reason never enforced.

Patrick Meagher: If going to amend this section suggest it be reviewed by attorney, don't think size can be regulated, Supreme Court Decision recently made.

Pat Sharrow: Just because it is written doesn't mean it has to be enforced, Attorney General has ruled don't enforce it.

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Chairperson DeBoyer: Will call Attorney McNamee and get his opinion on the sign enforcement.

John Makuch: Directed questions regarding the Lapinski issue to Mr. Wiggle.

Chuck Michel: Questioned Ultimate Contracting, many trucks out front, like it looked at.

Pat Sharrow: Annual Report from Planning Commission to the Township Board.
John Makuch, Secretary: Will take care of the report and bring back to a workshop.

Pat Sharrow: Comments regarding Kaul's property on Fruit Road, possible Planner can review to lessen the severity and still protect the residential area.

Pat Sharrow: Comments regarding the Officer's election.

Patrick Meagher: Fruit Road property needs more flexibility in that section, amend the section and study it at the next workshop, Administrative section can have that ready for the next session.

John Makuch: Election comment, would like the tape checked for the wording.

Tony Antkowiak: Appropriate procedure should have been followed allowing for nominations, closing nominations and moving on to an election, which was not done.
Chairperson DeBoyer: Will follow-up on Board's concerns.

12. **PUBLIC COMMENTS** None.

13. **ADJOURNMENT**

Moved by Getman, supported by Watson, **MOTION CARRIED**, to adjourn the meeting at 8:16 p.m. AYES: All. NAYS: None. ABSENT: None.

Valerie J. Kulba
Recording Secretary

