

MINUTES OF THE CLAY TOWNSHIP PLANNING COMMISSION REGULAR MEETING HELD ON APRIL 28, 2004 AT 7:30 P.M. IN THE CLAY TOWNSHIP BOARD ROOM, 4710 PTE. TREMBLE ROAD, CLAY TOWNSHIP, MICHIGAN 48001.

1. Chairman Dorothy DeBoyer called the regular meeting to order at 7:30 p.m.
2. Roll Call: PRESENT: Chair Dorothy DeBoyer, Mark Getman, Vice-Chair, John Makuch, Secretary, Michael Watson, Patricia Sharrow, Tony Antkowiak, Edward Keller, Chuck Michel. ABSENT: None.
Also present was Community Planner Consultant Patrick Meagher, Zoning Official Timothy Wiggle and Township Attorney John McNamee.

3. **Communications:**

Referred to letter from St. Clair County Metropolitan Planning Commission re: re-zoning on Fruit Street.

4. **Approval of Minutes:** April 14, 2004

Moved by Getman, supported by Michel, to approve the April 14, 2004 Planning Commission minutes with the following corrections:

- Page 2, Public Comment from Angela Sherigan should state “extension of St. Clair Blvd.” not St. Clair River Drive and following line correct the word rod to “road”.

MOTION APPROVED. AYES: All. NAYS: None. ABSENT: None.

Moved by Antkowiak, supported by Makuch, **MOTION CARRIED**, to amend the Agenda to add James Monroe, St. Clair County GIS Administrator and his presentation below the Re-Zoning, Business Item #6, thus moving the item numbers to increase in value. AYES: All. NAYS: None. ABSENT: None.

5. **OLD BUSINESS:** DECISION

RE-ZONING 123-8 RICHARD SZEFER VACANT LOT TAFT ROAD

Commissioner’s comments:

Pat Sharrow: Questioned the Planner’s lot sizes in his review, if zoned to R1A and water/sewer is available, lots would be 7,800 sq. ft and 65’ in width, not 18,000 sq. ft.

Patrick Meagher: Your issues could change the results of the recommendation.

Pat Sharrow: Township use to require a subdivision bordering/within 500’ of a water & sewer line must tap in, would change the parcels to 7,800 sq. ft. lots.

Chuck Michel: Questioned the connection through St. Clair Blvd.

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Richard Szefer, Applicant: Enter subdivision through St. Clair Boulevard and make a turn around and add another street off of Taft Road.

Pat Sharrow: Public objections to the re-zoning appeared not to be legitimate reasons, St. Clair Blvd. platted for years, road could be developed anytime the way it is presently zoned; water and sewer issue and lot size reviewed, further re-reviewed by the Planner.

Planner Patrick Meagher: Explained why error on the review, would appreciate an opportunity to re-review and give you an updated recommendation.

MOTION BY MICHEL, SUPPORTED BY ANTKOWIAK, TO POSTPONE THE DECISION REGARDING RE-ZONING 123-08, VACANT LOT TAFT ROAD FOR APPLICANT RICHARD SZEFER UNTIL THE NEXT MEETING TO GIVE THE TOWNSHIP PLANNER PATRICK MEAGHER TIME TO UPDATE HIS RECOMMENDATION.

Discussion:

Michael Watson: No mention on zoning to RS2, not following the Master Plan, why is it not feasible, looking for an answer.

Planner Patrick Meagher: Explained description and intent of RS2 designation in the Master Plan and why the RS2 would not apply.

Chuck Michel: Comments regarding the re-zoning, opposed to the re-zoning, unknown fact what the land is going to be used for, zoning matters need to consider is this the proper use of the land, more houses built can affect the Township re: police, fire, traffic and schools.

John Makuch: Change zoning, it stays with the property even if owners decide to sell, important to have an in-depth analysis from our Planner whereas the Commissioners can make a proper decision.

Pat Sharrow: Could be 130 homes built with 7,800 sq.ft. lots, Planner could give us a recommendation on a long narrow subdivision without a cross road (example: Lakepoint Sub).

**AYES: ALL. NAYS: NONE. ABSENT: NONE.
MOTION CARRIED.**

**6. PRESENTATION BY JAMES MONROE, ST. CLAIR COUNTY
INFORMATION TECHNOLOGY DEPARTMENT, GEOGRAPHIC
INFORMATION SYSTEMS COORDINATOR (COMPUTER MAPPING)**

The land south of Clay Township (Harsens Island, Russell Island and the Flats) great deal of error and problems with the parcel mapping, explained what affects on accurate locating. The County, Municipality and the public would benefit from computer base map for the entire County. State of Michigan has a large amount of State owned lands within St. Clair County; computer map would facilitate the County and Township to track the property. County planning to apply for a grant, 50/50 match (\$50,000), project cost is \$100,000. Soliciting support from Townships, government entities, etc. within the County to pursue the project and submit letters with the grant application to the State of Michigan.

Motion by Makuch, supported by Michel, **MOTION CARRIED**, the Clay Township Planning Commission supports Mr. Monroe's organization and will write a letter to the proper sources with the Planning Commission recommendation for their activities and what they would like to accomplish and in support of getting this grant. AYES: All. NAYS: None. ABSENT: None.

7. TOWNSHIP ATTORNEY: JOHN MCNAMEE

Addressed a recent issue concerning recent election of Officers and a tie vote occurred, other issue was concerning could a Commission member serve as Chair and also an employee of the Township.

Attorney McNamee reviewed these issues and presented an opinion in a letter dated January 14, 2004 stating a Township Administrative employee may also serve as an officer on the Planning Commission. He followed with a lengthy analysis of the municipal law, cases and statutory ruling. "Municipal Office" used in the law is not defined, discussion regarding the term "Municipal Office".

Following Attorney McNamee's opinion, Senator Gilbert contacted the Attorney General Office for their opinion on the same issue, letter issued March, 2004 with the opinion. Determination this is not a formal Attorney General Opinion and the A.G. opinion is not binding on local governments, lengthy explanation of the opinion explained and interpretation followed.

Conclusion by Attorney McNamee is the letter from the Attorney General was an informational letter and the opinion letter submitted on January 14th stands and the advise to the Planning Commission and Township Board the interpretation is the one recommended.

John Makuch: Expressed his gratitude to Attorney McNamee for coming here and explaining the legalities and the procedures.

Chair Dorothy DeBoyer: Thank you to Attorney McNamee for your time and effort for attending and clarifying the issue at hand.

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Attorney McNamee: Update received the easement descriptions on the Leonardo/Algonac Property regarding the requirements necessary for the Wendy's project. Commend this Board for a very good document that will be very useful to the parties involved for years to come.

8. **CHAIRMAN'S REPORT:**

Chair DeBoyer: By-Law Committee has anything to report.

Mark Getman: Committee will set a meeting up.

Chair DeBoyer: Committee's purpose will be to review amendments of the Ordinance. Committee consists of Commissioners Pat Sharrow, John Makuch and Dorothy DeBoyer.

Chair DeBoyer: Referred to the section in the Zoning Ordinance regarding recreational animals on platted land, Commissioners have any thoughts on this.

Pat Sharrow: Explained under the Land Division Act several years ago in Clay Township there was a Supervisor Platted Land issue, precedent was set in St. Clair County regarding Supervisor Platted Land. Question is a Supervisor's Plat is for the purpose of taxation than is it platted land in the sense of the Zoning Ordinance.

Planner Patrick Meagher: Can consider this interpretation based on the previous Court decision, will add this to the list of various changes.

9. **PLANNING CONSULTANT'S REPORT:**

Chair DeBoyer: William & Christine Brisse issue re: Farmstand, Marsh Road: Reviewed what their status is to this date.

Farm markets are not allowed anywhere in the Ordinance, not an allowable activity in any of our zoning areas.

Zoning Ordinance Administrator Timothy Wiggle: Opinion as to how this should be handled.

Planner Patrick Meagher: Reviewed the farm stand operation since it opened in 1987 and its expansion to the present. Opinion is as follows: 2002 a new Zoning Ordinance was adopted nothing that would allow them to continue or operate an expanded use, legal non-conforming use and meeting all the requirements of Ord. 89, continue as a farm market if the Commission agrees they were in conformance at that time, farm market provision was left in by mistake, special land use category under ag. Business does take the same provisions of farm market.

Pat Sharrow: If the owners truly feel this is a farm market could they present an income tax return designating agriculture.

John Makuch: Where does this leave the applicant.

Chair DeBoyer: Can have a farm stand according to the Ordinance but not a farm market.

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Pat Meagher: Decision by your Enforcement Officer, determining the status was on that operation, recorded frozen at that size and does not expand into a larger business.

Tim Wiggle: Could continue as a farm stand, will not take that use away from them, from what I have seen it has gone to a farm market, applicant could make application to the Planning Commission for that similar usage, appreciate an official action by Commission.

Pat Sharrow: Comments regarding residential districts are vulnerable to intrusion from commerce, etc., homeowners look to the Township for this protection and maintain peace and quiet.

Planning Consultant: Email address would be appreciated to get information to you as quick as possible.

10. **ZONING ADMINISTRATOR COMMENTS** No Comments.

11. **PLANNING COMMISSION COMMENTS**

Michael Watson: Like to be more informed about issues before I sit down at a meeting.

Chair DeBoyer: Assure you as information comes in, if cannot be put in the packet prior to the packets going out, will make sure you have them before a meeting.

12. **PUBLIC COMMENTS** (Not related to “public hearings”)

Bill Brisse, 8168 Marsh Road: Came here and was honest with this Commission, very upset with the Township, made mention of several areas in the Township that are illegal, All we are asking is to continue to do what we have been doing operating a small 20 x 20 stand and selling vegetables.

Chris Brisse, 8168 Marsh Road: Explained everything she and her husband have done for this community, asking for some consideration, cannot make customers happy with only a farm stand, do not have access to that much produce from our yard, able to obtain products from other farms.

Chair DeBoyer: Planning Commission can’t make a decision against the Ordinance.

Bill Brisse: Need a written opinion so we can seek legal council.

Chair DeBoyer: Your next contact will be with Zoning Enforcement Officer Mr. Wiggle, he will tell you what is allowable.

Richard Szefer: Questioned the West side of the property all zoned R-1.

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Pat Sharrow: Isabelle Acres is zoned R-1.

Chair DeBoyer: Will clarify with Assessor and Planner regarding Isabelle Acres zoning.

13. **ADJOURNMENT**

Moved by Michel, supported by Watson,. **MOTION CARRIED**, to adjourn at 9:26 p.m.
AYES: All. NAYS: None. ABSENT: None.

Valerie J. Kulba
Recording Secretary