

**MINUTES OF THE CLAY TOWNSHIP PLANNING COMMISSION
REGULAR MEETING HELD JANUARY 9, 2008 IN THE CLAY
TOWNSHIP MEETING HALL, 4710 PTE. TREMBLE ROAD,
CLAY TOWNSHIP, MICHIGAN 48001**

1. Chairperson Dorothy DeBoyer called the meeting to order at 7:30 p.m.

2. **ROLL CALL:**

PRESENT: Chairperson Dorothy DeBoyer, Vice-Chair Anthony Antkowiak, Treasurer Kathy Schweikart, Whitey Simon, Earl Lines, George Lyle, Edward Keller, II, and Edward Sharrow

ABSENT AND EXCUSED: Thomas Krueger

ALSO PRESENT: Patrick Meagher, Community Planning & Management; Michael Kras, Building/Zoning Department

3. **AMENDMENTS TO THE AGENDA:**

None.

4. **APPROVAL OF MINUTES:**

Motion by Antkowiak, supported by Sharrow to approve the minutes of December 12, 2007 as presented.

AYES: All NAYS: None

ABSENT: Krueger (excused)

MOTION CARRIED.

5. **OPEN DISCUSSION BY PLANNING COMMISSION MEMBERS:**

Chairperson DeBoyer: This is basically just to bring us all up to date on things, and if you have anything that you would like to talk about that has transpired in the past this would be an opportunity to do so. She wanted to bring Commission members up to date on the fact that there was a previous motion by the Planning Commission to request a traffic expert to review the traffic study for Grand Pointe Development. We asked our Planner to submit some names of traffic experts to us and one was chosen. This traffic expert came very highly recommended by other surrounding entities within the County. The traffic expert has sent a proposal and as a courtesy she has forwarded a copy of this proposal to the Applicant since they will be paying for this study to be done. The traffic expert estimated that from the time they begin it will take them about two weeks to complete the review of the traffic study. Also, the Applicant for Grand Pointe Development stated that they have looked at a possible reconfiguration of North Channel Drive and some suggestions that were made and they will have some comments for us

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at a future meeting. This will probably not occur until possibly the last meeting in January or first meeting in February.

Simon: In regard to the Township Citizen Survey, he questioned whether the Commission members would be getting a condensation or a more condensed version or do the Commission members have to do that on their own?

Chairperson DeBoyer: Stated the Commission members would have to try to condense the answers on their own. The former DDA member that put the program together to compile the information has moved out of the area. This is something that we all need to individually review and discuss at a future workshop.

Lines: Questioned whether it was possible to get another copy of the Survey?

Chairperson DeBoyer: She will provide a copy to Mr. Lines.

Lines: Questioned an update as to the Thulin property?

Chairperson DeBoyer: Stated that they have violated their Site Plan and it has become invalid. It is now in the hands of our Building Administrator and Township Attorney to enforce and stop the activities on that property until they bring it into compliance. She does know from discussions with the Building Administrator and the Township Attorney that they are moving forward towards same.

Lines: Regarding the Master Plan he questioned whether there will be committees formed or workshops scheduled?

Chairperson DeBoyer: Stated that not as of yet since the Township Board has not approved doing anything with the Master Plan. She will be going back to the Township Board to again request approval.

Lyle: Questioned Mr. Kras regarding the status concerning the Brisbay Restaurant property?

Kras: In his last discussion, the owner stated that he was running out of money. He advised him that the Township was not going to let him operate too much longer on what he was doing and would probably be taking some action against him in the near future.

Lyle: Questioned Mr. Kras as to how many zoning cases were pending in litigation right now?

Kras: Stated that off the top of his head, there were possibly three or four.

Simon: Stated that he is still attempting to find out whether the data in the Township Citizen Survey is assembled in a way that we could do a key word search on the responses.

Chairperson DeBoyer: The problem is that we don't have the program. The program used was on the former DDA member's laptop. We tried to install it on one of the Township computers and were unable to do so. Therefore, all we have is the hard copy data.

Schweikart: Questioned whether all that was available were the actual returned surveys?

Chairperson DeBoyer: No, there was a compilation of all of the information from all of the surveys.

Schweikart: Questioned whether this could not be put on a disk?

Chairperson DeBoyer: Stated that if someone wanted to take the time to do so, they probably could, but that we do not have the original compilation that was done. The whole program was on the former DDA member's laptop and was inputted into the program on her laptop and she got the totals out for us and printed out the hard copy. The information is sorted about as much as it can be. She feels that you may have 50 different answers to one question and you can never put them together.

Simon: Feels that is why you need a key word indication of the answers so that you can then combine them and have a reduction in the data. The raw data, as we have it, you'd almost have to mark every answer you can put into a category and hope that you're halfway right in doing so.

Chairperson DeBoyer: Stated that she felt that there was some data contained in the compilation that really is not relevant to the Planning Commission. We need to sort through the answers and see what is relevant to the Planning Commission that we can use and get rid of the rest of it. It is a big job, and if it is farmed out anywhere it will be expensive. The Township Board was very hesitant to even pay for half of the survey.

Schweikart: Questioned whether the program the former DDA member used was a program that we could buy?

Chairperson DeBoyer: No, it was a program that she developed on her own. That is her expertise at a college that she works at.

Lyle: Stated that he could ask the former DDA member if she could do anything to help us if the Commissioners wanted him to.

Chairperson DeBoyer: Again, we would have to hire her and the Planning Commission does not have a budget. This would have to go to the Township Board for approval unless the DDA wanted to pay for all of it and the DDA has not even looked at it.

Simon: It is very cumbersome to go through. By the time you get to the 50th answer, you don't remember the first three. So, you can't correlate the information and that is why you need to condense it based on a key word search or something of that nature.

Chairperson DeBoyer: Questioned whether any of the Commissioners knew of anyone who had an expertise in the area that would like to volunteer their time?

Simon: Questioned how we could find out what kind of a program the former DDA member did give us that we tried to put on the computer and maybe we could figure out what she used and see what can be done?

Chairperson DeBoyer: We could find that out. Also, she stated she may still have the memory stick that was given to her, but it wouldn't work in any of the computers at the Township.

Meagher: You would have to have the program that she put it in in order to read the data.

Chairperson DeBoyer: She truly did this just as a favor to us and the DDA.

Lyle: She just compiled the answers and gave us the survey results, which is what we asked her to do.

Simon: But that is insufficient for what we need to do with it.

Lyle: At least we knew the answers. Before, we just had a stack of surveys and we didn't know what they said.

Lines: Feels that the single family residences do have an effect on the economy of the area.

Chairperson DeBoyer: Stated that actually how it works is to improve the economy you must have the population. For instance, in our area our businesses struggle because we don't have a population to support the businesses.

Simon: And, if you look at the other half of the glass, we have too many businesses for the population that we have. Everybody can and does open a business. And, so, everyone thinks they can do a better job than his neighbor and that's not necessarily true.

Chairperson DeBoyer: Agreed that that, too, may be a part of the problem. Being a bedroom community, people who live here and work elsewhere can get just about anything they could want on their way here, and that's a part of our problem. We can't offer anything here that they can't get somewhere else. We are basically a convenience.

Simon: Part of the biggest issue that he sees is that they keep building these strip malls wherever somebody has two feet of frontage. You have a store that sells cigarettes and the next door neighbor sees that you're selling cigarettes, so he opens another cigarette store and now we have two of them and neither one of them is making it.

Lines: Questioned Chairperson DeBoyer as to whether she has seen anything on the training classes in Port Huron for planners?

Chairperson DeBoyer: She has not as of yet. If you remember last year they had set it up and then canceled it because there was not enough interest. Hopefully, they will try again this year, but with the State being in the economic condition it's in which affects the municipalities, she doesn't know if they will offer anything. If she hears anything, she will immediately pass it on to the Planning Commissioners.

Vice-Chairman Antkowiak: Questioned whether everybody had obtained their Master Citizen Planner?

Lines: Stated he did not.

Vice-Chairman Antkowiak: Stated that they extended the time to get your 6 CEU's to March 31st.

Sharrow: Stated that he didn't see any classes in the area that he could attend.

Vice-Chairman Antkowiak: Stated the closest class was in Lathrup Village on the very last day. Also, there is one in Frankenmuth, some in Mt. Pleasant, and one in Centerville on the 28th of February.

Chairperson DeBoyer: Stated that the only thing she is seeing right now to get any hours are the ones that Mr. Antkowiak stated.

Antkowiak: There was one in Lansing which was open to only 45 people and you could get all of your 6 CEU's with that one. He believes it was a three-day workshop.

Chairperson DeBoyer: She believes that was only open to people who already had their Master Planner designation.

Schweikart: Stated that you could have used the one in Lansing because she got an e-mail regarding it. She receives monthly e-mails from the State regarding continuing your educational credits.

Chairperson DeBoyer: Stated that anything that comes up she will immediately pass on to the Commissioners.

6. PLANNING CONSULTANT'S REPORT:

Meagher: As we get into this new year, we all have recognized some problems with the Zoning Ordinance. We've recognized some things that need some changes and hopefully we can work with the zoning committee to take care of some of these changes very quickly and get those in front of you such as the PUD Ordinance, the Open Space Ordinance, and some of the changes regarding your Enabling legislation. We have a lot of work to do real quick.

Sharrow: Questioned whether it would be wise to have the Township Attorney read through these Ordinances and give us his legal opinion as far as lawsuits, etc.?

Meagher: Mr. McNamee and I have already been working together on several of these issues. Typically, before I bring it to the committee, John would already be involved.

Chairperson DeBoyer: Mr. McNamee often comes to the committee meetings. He is involved and knows what's going on.

Lyle: With regard to a parking ordinance where you zone property for parking only, people were afraid if they zoned it C-3 they could zone it something else in there, too. But, if we have a parking zone only, then all they can do is park there.

Meagher: We can take a look at that. There are other methods they can follow on that as well if they wanted to commit themselves to some type of a contract zoning or conditional zoning. There are a couple of different avenues we can look at.

Simon: Stated that it is his understanding that if you go for conditional, it has to be requested by the Applicant.

Meagher: That is correct.

Chairperson DeBoyer: But, at this point in time, we do not even consider contract zoning or condition zoning. That came up a couple of years ago and it was the recommendation of our attorney at that time since it was so new to not jump into it right away and give it a little time to see what problems developed with other communities. It had to be a decision by the Township Board and, at that time, they did say that at that particular time the Township would not do conditional re-zoning. But, this is something that we can re-visit and look at what has taken place across the State.

Simon: Regarding some of the sections of the Ordinance that we had to look at which all had to do with open space, he sees different wording describing similar or identical aspects of a condition. He questioned whether there are dictionaries available to look at some of the verbiage that is used as a definition in those sections? Do we have a dictionary that is available that applies to our areas of concern?

Meagher: Right now if it's not covered within the Definition section of Article II, the Rules of Interpretation, and the Rules of Construction, he believes that it indicates that if there is not a definition in the Ordinance, a common dictionary will be consulted for the definition. If we have terminology and it has several different contextual meanings, we may want to supply a new definition while we go through these Ordinance changes. He highly recommended that if the Commissioners see those types of things, they put in a new definition and clarify same.

7. Z.B.A. REPRESENTATIVE'S REPORT:

Vice-Chairman Antkowiak: No report. The ZBA had no meeting.

8. CHAIRPERSON’S REPORT:

Chairperson DeBoyer: She has supplied all Commissioners with an invitation to the St. Clair County Chapter of the Michigan Townships Association Annual Dinner on January 24, 2008. The Township Board determined on Monday night that all Board members would be invited and may attend at no cost. If you would like to attend you need to let either herself or Connie Turner know by January 18, 2008. If you would like to take a guest, the cost for the guest would be \$25.00.

She advised the Commissioners that she received an update from Ron Nelson’s wife that he is not doing well. He does not always recognize his wife. It’s a very sad thing. He was a great asset to the Township for so many years and it’s very sad to see these things happen.

9. PLANNING COMMISSION MEMBER’S COMMENTS:

None.

10. PUBLIC COMMENTS:

Norman Rhodes, 3206 South Channel Drive, Harsens Island

Wished all the Planning Commissioners a healthy, Happy New Year. He invited the Planning Commissioners to a meeting on Saturday, January 19, 2008 at 3:00 p.m. at the Harsens Island Lion’s Hall. The meeting is being set up by the Citizens for the Responsible Development of Harsens Island. They have monthly meetings to discuss planning on the Island. It’s a main concern and has been indicated to this Board that there is a great need for the people on Harsens Island to work with the Planning Commission. The Planning Commission has been invited to work with us on certain projects that are in the works as well as the upcoming changes in the Ordinances and the Master Plan. With that in mind and their continuing meetings, they wish to learn about the Planning Commission and its roles. A lot of people don’t understand the role of the Planning Commissioner. They don’t understand how a lot of this stuff comes together and there is a great need for the people to understand what their leaders are doing and that takes dialogue, and it takes working with each other. We are trying to do that from our end. The citizens group has been educating each other themselves and discussing the Ordinances and the application of these things. We’re having a meeting on January 19th at 3:00 p.m. to continue this process and we would love to have participation from this Planning Commission in attendance or if someone could see their way to making a presentation and talking to the people. They would graciously appreciate and welcome that in their continuing effort to understand the process for the betterment of our community. He requested that Commissioner’s interested in attending contact himself or Mr. Miller.

Chairperson DeBoyer: Thanked Mr. Rhodes for the invitation but stated that the Planning Commission as a whole could not attend a meeting such as that. It would be an illegal meeting of the Planning Commission.

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Mr. Rhodes: Again, that is something that we need to understand. His understanding is that if all of the Commissioners were there as long as they are not discussing something that is pertinent to an issue at hand that would not be an illegal meeting. You could come and discuss procedures and the Ordinance.

Chairperson DeBoyer: We cannot do so as a whole. That would be considered to be an illegal meeting when the whole Planning Commission is there or even a quorum of the Planning Commission. This is the only place where we can all meet together.

Mr. Rhodes: So, you cannot hold a meeting off grounds?

Chairperson DeBoyer: No, we cannot. It really isn't a matter that the meeting has to be here. As long as it is an authorized Planning Commission meeting, that's fine. But, for everyone here to go together to somewhere else that is not an authorized Planning Commission meeting, that would be an illegal meeting and is not allowed under the law. There cannot be a quorum meeting together and talking about Planning Commission issues unless it is an authorized meeting.

Chris Winters, 6242 Swartout Road

His understanding of Section I, Article III of the Constitution states that the government is to take direction from the people. He questioned how you can do that if you cannot basically engage the public which you lead?

Chairperson DeBoyer: Stated that the Commissioners engage the public at the Planning Commission meetings.

Mr. Winters: But, at times, you're not able to respond to questions.

Chairperson DeBoyer: Stated that he was correct. At times there are questions that we cannot discuss.

Mr. Winters: So, do you see the problem there?

Chairperson DeBoyer: If you want to come here and ask how a Planning Commission is formed and how it works, those things can be answered.

Mr. Winters: But, what about for taking input from the public? For the public that you lead, in your positions, how are you able to do so?

Chairperson DeBoyer: Just as you are doing right now.

Mr. Winters: Stated that there are a lot of issues that people are concerned about. He feels there is a lack of communication in a dialogue format to become mutually aware of each other's concerns.

Chairperson DeBoyer: You have the opportunity at meetings to speak under Public Comments and make your thoughts and concerns known to the Planning Commission. If there is a particular project, there are Public Hearings at which you have an opportunity to make your thoughts known. And, you have an opportunity to come and listen to discussions by the Planning Commission so that you know what their thoughts and responsibilities are. This is just like the Township Board. The Township Board does not go and meet in unauthorized meetings with the public either. They're not allowed to do so either. The same is true for the Planning Commission, too. If you want to talk to a Planning Commissioner and express your concerns and thoughts, you can do that. But, a Planning Commissioner, if they have something under consideration, they can tell you how it works but they cannot express an opinion to you.

Meagher: Part of these open meetings are designed in such fashion so that you're not particularly engaged with one interest group or another interest group but, rather, the whole Township has access to the same discussions and the same information. That is the idea behind a Public Hearing. When you start meeting with one interest group or meeting with another interest group, we end up with a perception of why are we being kept out of this information pool? Why are we being kept out of this decision-making process? And, that's really why it got to this point in terms of the State law and the Open Meetings Act so that we weren't getting this type of collusionary-type of discussion.

11. ADJOURNMENT:

Motion by Lines, supported by Simon to adjourn the meeting at 8:10 p.m.

AYES: All NAYS: None

ABSENT: Krueger (excused)

MOTION CARRIED.

Respectfully Submitted,

Christine Holcomb
Recording Secretary