

**CHARTER TOWNSHIP OF CLAYTON  
PLANNING COMMISSION REGULAR MEETING  
OCTOBER 18, 2016, 7:00 P.M.**

**PLEDGE TO THE FLAG**

Ms. Susan Hyde led the Pledge to the Flag.

**CALL TO ORDER**

Dr. Shaw called the Planning Commission meeting to order at 7:00 p.m.

**ROLL CALL**

Present: William Shaw  
Kevin DePottey  
Susan Hyde  
Ed McCartney  
Robert Widigan

Absent: Ryan Bower (excused)  
Dennis Milem (excused)

Others Present: Ted Henry, Building and Zoning Administrator; Ken Tucker, Attorney;  
Deanna Turner, Stenographer

**APPROVAL OF AGENDA**

Mr. Henry stated he received a report back from the Board of Trustees regarding the Accessory Building Ordinance. He suggested they add the item to the agenda. Mr. McCartney suggested they put the item under Reports of Officers. Mr. Widigan asked if any action is requested. Mr. Henry said the Board of Trustees is asking the Planning Commission to review the portion of the ordinance sent back to the Planning Commission. Dr. Shaw suggested they add the item as a separate item as #1 under Old Business and move the Master Plan to #2.

Motion by DePottey, supported by Widigan to approve the agenda of the October 18, 2016, Planning Commission meeting, with additions.

MOTION CARRIED.

Mr. Tucker said there are four ordinances that the Board of Trustees went through including the Accessory Building Ordinance. They are as follows: political signs, medical marijuana, and open burning. He said he would give a quick synopsis in any order the Planning Commission wants to address them.

Mr. Tucker said at least two will need public hearings, which could be done at one meeting to speed up the process.

## **APPROVAL OF MINUTES OF THE SEPTEMBER 20, 2016 PLANNING COMMISSION MEETING**

Motion by Widigan, supported by DePottey to approve the minutes of the September 20, 2016, Planning Commission meeting.

MOTION CARRIED.

### **COMMUNICATION**

Mr. Henry said there has been quite a bit of activity in the building department. He has two more home requests on his desk. Next month, there is a case with Flushing Glass wanting to move into a plaza that requires a conditional use permit. It meets the zoning, however, needs special use for a glass shop. They will bring cars in to replace windshields. Dr. Shaw asked if they only install windows. Mr. Henry said they will also have a retail shop selling items, house accessories, like Henderson Glass, but on a smaller scale.

Mr. Henry said he asked the Board to update the building codes so they are up-to-date. The residential building code was updated in 2015, but they still operate under 2012 commercial codes. Mr. Tucker said the ordinance states 2003, so it is out of date. They do not need a public hearing. Mr. Henry said he didn't think that was a Planning Commission issue, but rather a board issue. Mr. Tucker confirmed.

### **REPORT OF OFFICERS & COMMITTEES**

Regarding the Political Signs Ordinance, Mr. Tucker said signs are put up 30 days prior to the election and removed 10 days after. He said there has been a line of cases that have touched the on the 30-day requirement limit as unconstitutional; it's not enough time and protected under free speech. The problem is that 30 days is not enough time to get a message out; 45 days isn't touched; 60 days is touched by one case. They are federal cases, time-consuming and complicated. Mr. Tucker said that 60 days seems acceptable, but they don't come out and say it; 30 days is not enough time. The counter argument is from a case in 1986 or 1988, prior to social media, television ads, the internet, etc. The ruling states that the 30-day requirement doesn't give a candidate enough time to get their message out; it has not been revisited and the case still stands. He said there is a logical argument that defeats that case, but it hasn't been taken to the supreme court. He said the Clayton Township ordinance is too restrictive based on cases out there, but he hasn't done the research yet. Mr. Tucker said some are from the 90s and 80s; he gets calls every couple of years, during a major election mostly. He said the way the current ordinance is written is not enforceable.

The Accessory Building ordinance is regarding the half-acre parcels. Mr. Tucker said the board wants the half acre maximums and heights expanded; most of the calls are on that type of issue.

The third ordinance is regarding Open Burning. The township doesn't have one that necessarily regulates the open burning of construction material, paint, etc. and seems to

default to the fire department; they don't have a set rule either. They use the state fire code. Clayton Township doesn't issue burning permits. A resident notifies the fire department with their address and the fire department says they will keep an eye on it. The fire department will give the resident instructions, but there is no set of rules. There was a fire that got out of hand on a farm on Bristol Road. They were burning construction material. The police got involved. The fire department didn't want to go out and did anyway and met with the farmer, who is a very good guy. He didn't mean to do anything wrong and had permission from Clayton Township Fire Department. The police had the problem and no one knew the resident already had permission. Mr. Tucker said they need streamline the process or put rules into place. He said it could be as simple as adopting the state fire code.

Mr. Tucker said the last one is the Medical Pot Ordinance, which is now obsolete. The state updated and enacted three statutes two weeks ago that regulates commercial pot, that has no effects on caregiver cards. He said currently someone can have five-patient caregiver cards, with 12 plants per card. None of that has changed. The new ordinance is regarding commercial operations. No one knew what was allowed or not allowed. Mr. Henry said it also addresses oils, by-products, edibles, etc. Mr. Tucker said the new statutes create five new commercial licenses. One is a provisioning retail shop, for lack of a better term. A person has a patient caregiver card, goes in and buys the product without growing it themselves. Provisioning Centers are taxed at 3% of their sales, which will be regulated through the same division as the Liquor Control Commission. Of that 3% that goes into a fund, 25% of that 3% goes back to the local unit of government. The 25% is divided through all the licenses in the state, whatever you allow in your area, all five types of businesses. Mr. Tucker said what the township would see would be minuscule. The other hitch, buried on page 16 of 18, is that if Michigan enacts a Recreational Use statute in the future, all of the revenue to the local units of government goes away.

Mr. Tucker said the other licenses are less common, such as a transporting license. He said the regulations are comical. The transporter has to have an armored car, unmarked, two people, one with the truck at all times.

Mr. Tucker stated that if the township does nothing at all, all operations will be illegal in their community. If you want them, you regulate them with an ordinance, where they go, etc. Mr. Henry asked if the township can add a fee. Mr. Tucker responded that they could charge a license fee for each facility up to \$5,000 per year, per facility. He said it could all go away that those license fees could be the only source of revenue the township receives.

Mr. Henry said another thing to consider is how much time the police department will be involved after the fact and the costs to the township. Mr. Tucker said violator could be ticketed through the civil municipal ordinance. District Court is faster and less expensive.

Dr. Shaw asked how the federal government handles it. Mr. Tucker said the feds have still not legalized it, therefore, there is no way to deposit money. Banks are federally regulated and you have to report deposits of \$10,000 or more.

Mr. Tucker said he has been receiving calls from people inquiring about facilities. The statute doesn't take effect until December 20, 2016. Licenses can be purchased on December 15, 2017. This gives the local units of government time to enact an ordinance and decide if they are going to allow it or not. There will only be so many allowed per township, just like a liquor license. Licenses will be at a premium. Those applying for a license must have had a patient caregiver card for at least two years to qualify and no felonies or misdemeanors.

Mr. Tucker said he would write an ordinance to repeal the original one and reference the new state statute. He said it takes three months to get an ordinance put through properly, two readings, a public hearing, board approval. His legal suggestion is to repeal what they have and start fresh moving forward.

Motion by Widigan, supported by DePottey to hold a public hearing to repeal the current Medical Marijuana Ordinance #152.041 at the November 15, 2016, Planning Commission meeting.

MOTION CARRIED.

#### **PUBLIC COMMENT**

None.

#### **OLD BUSINESS**

#### **ACCESSORY BUILDING ORDINANCE**

Mr. Henry said the board asked the Planning Commission to review the 1/2 acre parcel on sidewall heights and overall size to accommodate motor homes. Mr. Widigan asked what do they want and what does it say now? Dr. Shaw said they have already reviewed it several times. Mr. DePottey said for a parcel 0.999 or less, it allows for a nine-foot sidewall with a minimum 4:12-pitch, and no more than 1,000 square feet.

Dr. Shaw asked what they want it increased to? Mr. Henry said if you went with a 10 or 11-foot sidewall height and used a scissor truss, you can get the height you need for an overhead door. With nine feet it's a 12:12 pitch; the pitch minimum still has to be 4:12 and falls under 25 feet total height.

Mr. Widigan asked what would the square footage be. Mr. Henry said you are talking about 1,200 feet. You don't want a long, skinny-looking barn. Mr. DePottey said that is hard to fit on a half-acre lot, especially if you have a septic field. Mr. Henry said the resident would have to meet all other requirements.

Mr. Tucker said he had conversations with Mr. Gehringer and Mr. Tesner and they can let the Zoning Board of Appeals (ZBA) deal with it. Residents would have to prove a hardship to bring before the ZBA. Mr. Henry said one was turned down at the ZBA meeting. Mr. Tucker asked how they would regulate subdivisions. Dr. Shaw said they have spent hours working on that stuff and one thing changes and changes the whole

thing. He is tired of it. Mr. Henry said it is very frustrating. He added Clayton Township is unique with half-acre parcels in the country. Mr. DePottey said he has a half-acre parcel and his septic field is in his backyard. His accessory building is 16x20 because he couldn't do much more than that.

Mr. Tucker said if they change the ordinance, they will need to hold another public hearing. Mr. Henry said he receives more calls for residents with a half-acre than any of them. Mr. McCartney said they want what they want. Mr. Henry said he is seeing certain requests from a more aging society.

Dr. Shaw said they will entertain next month and try to dig up rationale, go back through the minutes at how they arrived at how they arrived at their decision.

### **REVIEW PROGRESS DRAFT MASTER PLAN**

Dr. Shaw said hopefully at the next meeting, he will have a draft of the entire package. On page one, change to 45 days. If they find changes they want to make and modify it.

Dr. Shaw said the next two pages have to do with what is required in order to get the master plan dead center. He said there are 18 indicators, 12 of which have been met. Seven that have yet to be; the second one on page two is not pertinent. The last one is postponed, got that in the packet. The rest of them are on page one. Dr. Shaw said numbers 6, 7, 8, 9 are not yet allowable because they are not there.

Dr. Shaw said he is going to make a complete "hands-on" draft for us and the board and a few extra copies for anyone visiting. A notice will go out and the document will be on the website. There will also be copies in the township offices for review.

Dr. Shaw said there was a question early on about including data from the 1990 and 2000 census rather than 2000 and 2010. He said you will see all three in there because 2010 kind of addresses the recession as well.

Dr. Shaw said trying to find the right numbers for Clayton Township is a bit difficult. The next page includes incomes and benefits ranging from 10,000 to 200,000. The next page states there have been 16 dwellings over a 10-year period, showing stress during the recession, then income. The next one is housing occupancy with a homeowner rate of 2.4%. The next page is occupation and industry. Dr. Shaw asked if he should add anything with 200 or more to get a little better picture.

Ms. Hyde said she is surprised to see educational services and health care in the same category because they are two very different types. Dr. Shaw said there are far more in health services than teachers. Mr. Widigan and Mr. DePottey agreed that 200 was fine. Dr. Shaw said it gives a more comprehensive picture.

Ms. Hyde said she is surprised to see agriculture low in the area. Dr. Shaw said it is large with land rights, not people rights. Ms. Hyde said she just wanted to make sure they captured that correctly. Mr. DePottey said they don't have that many people

employed in agriculture. He said someone may work in construction, even though he has a farm. Mr. Henry asked where seasonal help comes in. Mr. DePottey said there are other services no other category fits. Dr. Shaw said he would perform additional research.

Dr. Shaw said the next line is educational obtainment. He added that he has a master plan prepared by Clayton Township under Supervisor Richard Dell in 1990.

**ADDITIONAL ITEMS**

None.

**ADDITIONAL COMMENTS**

None.

**ADJOURNMENT**

Motion by Mr. DePottey, supported by Mr. Widigan to adjourn the Planning Commission meeting at 8:20 p.m.

MINUTES APPROVE BY:

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Dr. William Shaw, Chairperson

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Dennis Milem, Secretary