CHARTER TOWNSHIP OF CLAYTON
PLANNING COMMISSION MEETING MINUTES
Tuesday, July 21, 2015, 7:00 p.m.

CALL TO ORDER

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

PLEDGE TO THE FLAG

The Pledge to the Flag was led by Secretary Milem,

ROLL CALL

MEMBERS PRESENT: Dr. Bill Shaw, Chairperson
Mr. Kevin DePottey, Vice-Chairperson
Mr. Dennis Milem, Secretary
Mr. Ed McCartney
Mr. Ryan Bower
Ms. Susan Hyde
Mr. Rob Widigan

OTHERS PRESENT:
Mr. Ted Henry, Clayton Township Building Inspector
Ken Tucker, Attorney
Shelley Thompson, Recording Secretary

APPROVAL OF THE PROPOSED AGENDA

MOTION by Shaw, seconded by DePottey to approve the agenda for the July 21, 2015 Planning Commission meeting with the removal of Items 1 – Gould Site Plan Review and 5 – Marie Carter presentation.

MOTION CARRIED.

APPROVAL OF THE MINUTES

MOTION by Shaw said there is a correction, page 1, third from last paragraph needs “and FFA” at the end of the sentence. Also, page 3, second to last paragraph, second line, last word “they” should state “we”. Page 5, last line states “turn a turn” should read “took a turn”. Hyde also stated a correction on page 1 read “asked for clarification on the” should read “intent on the”.

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MOTION by McCartney, seconded by DePottey to approve the Minutes of the June 16, 2015 Planning Commission meeting

MOTION CARRIED.

COMMUNICATIONS

Chairperson Shaw –

1. Tracey Tucker, Charter Township of Flint, a letter stating she would be pleased to be a part in reviewing the Clayton Charter Township Master Plan. (Attachment 1)
2. Cheryl Nixon – letter regarding dogs at Christopher Bucceri's home. (Please see Attachment 2)
3. Beverly Atchinson - email correspondence regarding dogs at Christopher Bucceri's home. (Please see Attachment 3)

REPORT OF OFFICERS AND COMMITTEES

No reports at this time.

PUBLIC COMMENT

None

NEW BUSINESS

(2) SPECIAL PERMIT USE - BUCCERI

Shaw opened the Public Hearing for Special Permitted Use Case # SCU15-02 at 7:12 p.m.

Ted Henry – summarized over 10 days, Milem and police officers have inspected property. They contacted Animal Control and Humane Society to do additional inspections on property. Reports from both are attachments 4 and 5 respectively.

Milem asked for Attorney Tucker opinion regarding the hearing because Mr. Bucceri was absent for the hearing.

Henry – This has been an ongoing problem in the township and we have been receiving complaints for the past year.

Shaw asked how long Mr. Bucceri had been a resident and it was determined that he has been at this location for 3 years or more.

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Shaw asked if there was anyone in the audience that would like to speak on Mr. Bucceri's behalf and the response was no.

Shaw then asked if there were any other comments regarding this issue.

Diane Allen – 1228 Nichols Rd

Completely against the issuance of a Special Use Permit for Mr. Bucceri
Used to be very quiet place to live
Incessant barking 24 hours of the day
Can't leave windows open
Mr. Bucceri yells at dogs. Including profanity for the dogs to "shut up"
Never seen any dogs out of cages or in any type of training being done
This is a horrible and awful situation
24-26 dogs were on site at one point – this count did not include barns and other outbuildings

Shaw indicated that it would be appropriate for members of the audience to simply state their name and address if they would like be on record voicing their opposition to the granting for the SUP.

Rebecca Stamm – 1085 VanVleet
David Davidson – 1240 Nichols Rd
Tom & Deborah Ruppel – 10446 Beecher Rd
Howard Thornsby – 11006 Beecher Rd
Christina Arnold – 11006 Beecher Rd
Jane & Bob Ward – 10421 Calkins Rd
Rose Crow - 1208 Nichols Rd

Jim Carlson – 10249 Beecher Rd

Would like to thank the board for finally taking action against this issue. Illegal Kennel
Section 150.58 section 228 –08/13/1980 in keeping of 4 or more dogs you must have a kennel license. Checked in 2013 with Animal Control
Clayton Township General Regulation Section 5
Hunts on an adjacent property and have witnessed the squalor the dogs live in.
Provided a photo of conditions the dogs live in
Provided information of reviews on internet sites that deal with the sale and boarding of German Shorthair Pointers – allegations include:

1. Fraudulently sold AKC registered
2. Accepted deposits without producing dog
3. Sold a dog he was supposed to be boarding
4. Sold a dog who died the next day

Mr. Carlson has lived in the township for 13 years and this is negatively affecting our township.

1. Puppy mill
2. Reduce resale of house
3. Less tax revenue for services
4. No one wants to live by this
5. No one wants to build by this

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6. Negatively affects quality of life
7. Creates poor image of our township by tolerating a puppy mill and disreputable and crooked business.

Kim Davidson – 1240 Nichols Rd

1. He's seeking permission now to do something he's been doing illegally for 3 years.
2. Complaining about this for 3 years
3. Tolerate incessant barking and horrible smells
4. Bucceri continually screams at dogs using profanity
5. Mr. and Mrs. Davidson have tried to speak directly with Mr. Bucceri to no avail.
6. Found laundry basket in their driveway with towels covered in blood and dog hair – Mr. Bucceri came and retrieved basket and stated it was left at the wrong house.

Mrs. Davidson had received a letter from a previous customer of Mr. Bucceri's concerning appropriate vetting and care of the animals, possible poor/cruelty concerns and misrepresentation of registrations/champion pedigrees of Mr. Bucceri's stock. It was read to the Planning Commission - attachment 6.

Mrs. Davidson also addressed the integrity of the business and voiced concerns that this type of business will cause undue stress on the police department and township's resources.

Mrs. Davidson also presented a copy of a complaint filed with the Michigan Attorney General's Office by Michael Bergeron of Houma, LA regarding registration papers for a puppy he had purchased from Mr. Bucceri and the possible genetic heart defect of the puppy – attachment 7.

Mrs. Davidson also states this ongoing issue has cost the township considerable time and enforcement efforts over the past three (3) years and there is no reason to believe that anything will change by granting him a this permit.

Kelly Carlson – 10249 Beecher Rd

1. Lives 1 mile away from property
2. Has a right to enjoy her property and cannot do so
3. This is a continual violation of the noise ordinance
4. Has witnessed the living conditions – 5 dogs kept in cage off the ground without adequate room to move
5. Dogs are kept outside 24 hours a day, 365 days a year no matter how cold or hot it gets
6. Dogs are not living, they are simply existing
7. We should have zero tolerance for anyone who mistreats an animal
8. This breed of dog is a sporting dog and needs room to move and run there is no worse punishment for these dogs than to be confined in such a manner
9. The Planning Commission has the power to speak for the residents of the township – we are paying the price for this owner's irresponsibility
10. Mr. Bucceri does not have a right to infringe upon our rights to

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11. Disappointed that there is not a representative from the police department or animal control
    i. Have there been citations for noise ordinance, number of dogs, or animal neglect?
    ii. What is being done to address all of the complaints that have been brought?

David Davidson – 1240 Nichols Rd

1. Cannot use his own barn without closing doors because of the noise and stench
2. Have to incur higher utility bills because they cannot have windows open
3. Has filed formal complaint based on previous incident when one of the dogs came onto their property. Mr. Bucceri has tried to intimidate and harass Mr. Davidson into refraining from filing additional complaints or even attend the Planning Commission's meeting.
4. Mr. Bucceri sent a letter to Mr. Davidson threatening a lawsuit based on false allegations if Mr. Davidson did not stop filing complaints against Mr. Bucceri.

Fred Sisco – 1228 Nichols Rd

1. Questions about why on the visits the dogs were simply laying in their cages when officials visit. Dogs normally go crazy in the cages – jumping and flipping around – now suddenly they are lethargic and just lay there and bark.
2. 90% of the residents in attendance own dogs and take care of them appropriately.

Andrew Petrowski – 1125 Nichols Rd

Just want to be on record to state his against this permit.

Shaw addressed the audience and stated that the Planning Commission has not only heard their voices, but also felt the emotion of the residents.

Kelly Carlson asked if the Planning Commission was allowed to tell them what has been done with regards to past complaints against Mr. Bucceri. Shaw informed her he would find out and have a discussion with the Zoning Administrator Henry. She then asked if the public could have access to the reports provided by Animal Control and she was told yes. Shaw also advised the audience that if they felt it necessary they were welcome to submit a Freedom of Information Act Request at the township office.

Shaw stated they would find out what the police did and then if they still wanted more information, they are welcome to come to the township for it.

Shaw asked again if there were any additional comments. No response was made.

PUBLIC HEARING ON SPECIAL USE PERMIT – BUCCERI – CLOSED 7:55 p.m.

Milem advised the residents that a discussion regarding the resident's questions and concerns would now be addressed.

Attorney Tucker advised the following:

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1. There was a pending criminal charge that was filed in March 2015 for Noise Violation and Disorderly.
2. This is only a 93 day misdemeanor - anything beyond that needs to be addressed by the county.
3. The county has been contacted over 3 years about a half-dozen times. Chief Powers was involved in 2012 and 2013 as well as Animal Control.
4. Animal Control declined to act on the complaint. The county has been slow and reluctant at best to do anything on this file.
5. Clayton Township does not have the animal cruelty laws that state and county prosecutors have available to them. We do however have the zoning issues that can be addressed – including the kennel ordinance although it was not in effect when Mr. Bucceri opened the kennel. But he did need a Special Use Permit and did not obtain it. Subject to different litigation.
6. In fairness to the police department, they cannot address the issue any more than they have already.
7. Resident asked what they mean by county. Attorney Tucker explained that when he is referring to the county he means Animal Control.
8. The county has been slow and reluctant mainly because of resources.
9. The county has had some action on it in the last week, but they have not indicated what action they may take.
10. Clarified that it had not been sent to the prosecutor's office, and is still being reviewed by Animal Control

Milem advised Animal Control has been to the property twice in the past week. They have found violations and things are not right. Animal Control also advised the property does not meet the requirements for a kennel license. Animal Control also enlisted the Human Society's Cruelty Investigator for his opinion on the property as well. Also addressed were regulations regarding the shipping of animals and if breeder has more than 4 breeding females the breeder cannot ship dogs.

Milem also advised that the township can deny his Special Use Permit, but there have been a lot of questions regarding what has the township done? The township does not have the legal right to seize the dogs.

Attorney Tucker advised he has been in contact with Janet McLaren regarding the allegations and she is reviewing the information. Animal Control can seek a warrant if it determines the dogs need to be seized.

Attorney Tucker we have gone as far as we can. When Mr. Bucceri goes to court on August 16th and pleads guilty, they will fine him about $250 and then we start all over. They are not going to put him in jail, and we still do not have the right to seize the dogs

Resident- Can our police department arrest a man for beating his dogs?

Attorney Tucker – The police could arrest him through the county, but not through a local ordinance. It's a state statue and has to go through the county.

Resident- So what about these 50 dogs?

Milem advised based on the ordinance and he has 30 acres, if he could get a kennel license he would not be over the allowable number of animals. If he were running a legitimate, legal kennel

Attorney Tucker please give us time to get on top of it. We have not had a complaint with a witness statement. I know Lacey Lopez was one who took the complaint from the woman in Washington State and has been a great animal advocate. It's difficult to get prosecutors to jump on board with an animal case when there are murders and violent crimes.

Attorney Tucker this board can only accept or deny Mr. Bucceri's request and he's got the right to apply for the permit.

Henry stated that Animal Control has discovered there are no dogs' licenses for the dogs and they are currently reviewing their options.

Attorney Tucker also advised another consideration is the amount of dogs and Animal Control would need to keep that in mind. If the dogs start barking again, please call and make a complaint. Milem stated if he gets cited every time a dog is barking, and a complaint is made, then it's going to get pretty expensive for Mr. Bucceri.
Attorney Tucker advised that he and Supervisor Gehringer had called Animal Control and they knew immediately what address they were calling about and stated that as far as Animal Control is concerned with regard to care of the dogs, Mr. Bucceri is legal.

Henry also noted that Animal Control dispatch is very aware of Mr. Bucceri and has a note stating police officers must accompany animal control officers because Mr. Bucceri is believed to have weapons on the premises.

Resident advised Mr. Bucceri has 2 felony convictions and is not allowed to possess any weapons and Attorney Tucker stated they are also aware of that and trying to get Genesee County or the State of Michigan to address it as the township cannot.

Shaw requested a motion

Widigan made a motion to not support the Special Use Permit for Mr. Bucceri, and DePottey supported it.

Henry clarified that Animal Control would not issue a kennel license without approval of a Special Use Permit from the municipality. Milem also provided information about the breeding requirements and Mr. Bucceri does not appear to be meeting them. He also provided Federal Regulation information stating it is legal for a dog to be kept in a cage with as little as 6" of area in all directions.

Milem also stated the township does not have the authority to simply go in and seize the dogs.

Shaw requested specific reasons to include with the motion.

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Reasons to include in the motion

1. Department of Agriculture
2. Communication from Humane Society Cruelty Investigator Walt Rodabaugh
3. Communication from Animal Control Officer Melissa Miller
4. Non-Compliance from any of the 11 ordinances that pertain to this property
5. Documentation from the community – Residents objections; including photos and letters presented

Milem states motion is to recommend the Township Board we do not approve the Special Conditional Use for Christopher Bucceri for training and selling kennel dogs.

Attorney Tucker asked for the motion to be restated for clarification.

Motion by Widigan and supported by DePottey to deny the Special Conditional Use for Mr. Bucceri for the training, selling and kenneling of dogs ROLL CALL: Bower, Hyde, McCartney, DePottey, Shaw, Milem, Widigan: MOTION CARRIED

(3) SPECIAL PERMIT USE - LANG

Shaw at 8:20 p.m. opened the open session for discussion and consideration of Special Use Permit for Lang Constructors

Henry advised Mr. Lang has come Special Permitted Use

1. Zoning is proper
2. The site plan has been submitted
3. Was an issue with parking
4. Want to verify septic system
5. Fence also needed to be addressed
6. Vehicle parking/stored in the front / commercial vehicles in front

Jeff Lang presented

1. Vehicles would be stored in the back with permission of Special Use Permit
2. He will put up a fence
3. They are a construction contractor and do many different types of work
    a. General
    b. Consulting
4. Trucking
5. Intends to comply with Township rules
    a. Pay his taxes
    b. Mow the lawn
    c. Be productive
6. Will have an administrative office and have approximately 4-6 vehicles during business hours
7. Will construct a fence not over 6 foot high (in accordance with ordinance) to conceal the trucks from public view

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Henry stated wants it noted that we have received the necessary paperwork from Elga Credit Union because he has not completed purchase yet.

Mr. Lang also stated he is waiting to hear back from Genesee County Health Department regarding the septic system and they will be using the existing well.

Lisa Hickman – 2117 Seymour Rd

Property backs up to the residential zoned portion of property and would like to know if this permit is approved will it all be changed to General Commercial.

Milem stated that no the zoning will stay as it is.

Henry stated the decision should be based on receiving the necessary paperwork from the lending facility and any fence would need to be inspected.

Shaw wants it stated that Mr. Lang is in full compliance of Ordinance 152.113 General Commercial and the landlord and lease 15 page document is very well defined.

Shaw also reminded the board that any motions must have reasons for support or opposition.

Shaw called the public meeting for Lang to a close at 8:38 p.m.

Motion by DePottey and supported by McCartney to recommend approval of to the Township Board with the contingent of approval of fencing and documents from Genesee County Health Department. That they do meet the general commercial requirement Ordinance Number 152.113 and landlord lease requirement, with stipulation of 50 feet away from residential zoned border. ALL IN FAVOR – AYE - Unanimous – MOTION CARRIED

(4) SURVEY

Shaw stated they will be doing a short survey through either email, mail or dropped off. It will be short and to the point. Wants resident input on future planning – bike trails, walking paths, water & sewer, etc.

There was a land survey provided from 12 years ago and it provided information for residents' make-up and desires. In addition, a survey from the 1990's was included for the Planning Commission to review before the August meeting.

ADDITIONAL ITEMS

Henry stated they would like to re-consider the fence ordinance in the future. We had an instance on 1252 McKinley Road where the home was foreclosed and the fence removed.

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ADDITIONAL COMMENTS

Shaw stated he would like to develop an application of procedures for the newest members of the Planning Commission and put a 15 minute package and presentation together for the Planning Commission.

ADJOURNMENT

Motion by Widigan, seconded by McCartney to adjourn the meeting.

Adjourned at 8:42 p.m.

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