

**CLAYTON TOWNSHIP PLANNING COMMISSION**  
**REGULAR MEETING MINUTES**  
OCTOBER 20, 2015 7:00 P.M.  
CLAYTON TOWNSHIP HALL

**CALL TO ORDER**

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

**ROLL CALL**

**Present:** Ryan Bower  
Susan Hyde  
Ed McCartney  
Dennis Milem  
William Shaw  
Robert Widigan

**Absent:** Kevin DePottey

**Others Present:** Ted Henry, Building Inspector  
Ken Tucker, Attorney  
Deanna Turner, Stenographer

**Pledge to the Flag**

**APPROVE PROPOSED AGENDA**

Motion by McCartney, supported by Bower, to approve the proposed agenda for the October 20, 2015 Planning Commission meeting.

MOTION CARRIED.

**APPROVAL OF MINUTES: September 22, 2015**

Dr. Shaw requested that under section (2) Master Plan Review, the entire paragraph be deleted.

Motion by McCartney, supported by Bower, to approve the minutes of the September 22, 2015 Planning Commission meeting, with corrections.

MOTION CARRIED.

**COMMUNICATION**

None.

## **REPORT OF OFFICERS AND COMMITTEES**

Dr. Shaw stated that he received a phone call from the Clayton Township Supervisor regarding a public hearing for the Park Place Meadows Composting Facility. There needs to be discussion to decide whether or not they need to schedule a special meeting or hold the public hearing at a regularly scheduled meeting.

Mr. Tucker stated that the Planning Commission can vote to withdraw or deny the special use permit that was granted to Park Place Meadows Composting. He said it would be the same procedure to undo what they did, following the same policy and procedures. He stated it is an active case in the district court, scheduled to be heard on what he believes to be 1 p.m. on November 10, 2015. Mr. Tucker added that would not prevent the Planning Commission from taking action on the violation of a nuisance ordinance regarding the smell or odors coming from the compost facility. He said that the Planning Commission can vote to restrict the compost facility's special use permit, withdraw it completely, or take no action at all; it is the same process as when they applied for it.

Mr. Milem stated that statute indicates they have 15 days to notify the public if the board chooses to review the permit, which puts them at November 10, 2015. He said they do not have to meet on a Tuesday. Mr. Tucker said the Clayton Township Board of Trustees is scheduled to meet on November 12, 2015, which is outside of the 15 day window. He added that 21 days from that day would be November 10. Mr. Milem said that he isn't sure they can put a notice together by Friday to mail to everyone within 300 feet of the property line of the compost facility. Mr. Widigan said Monday there is a council meeting in Lennon, but he would be available Tuesday.

Mr. Tucker said there is a significant "right to farm" argument that may not hold water after a while.

Mr. Milem said he could try to get a notice in the paper by Thursday, which would put them at November 6, 2015 for a deadline. Mr. Tucker said that he would not be in town on November 6. Mr. Milem said the residents have to have the notice in their hands 15 days before the Public Hearing takes place and there is pressure to get a notice out to satisfy the statute.

Mr. Milem added that they are headed to a compost facility in South Lyon the following day. Dr. Shaw said they may have to have the public hearing at the December Planning Commission meeting. Mr. Widigan asked if they have to have the public hearing done by November 10. Mr. Tucker said they could call a special meeting of either the Planning Commission or the Board of Trustees if necessary also, or they could go to their December meeting or a special meeting. Mr. Milem stated that November 5th is Election Day.

Mr. Tucker said the hearing is scheduled for November 10 and it could take two to four hours or carry over to Wednesday, November 11, which may flush out some issues. Mr. Henry said that November 11 is Veteran's Day.

Ms. Hyde asked if there was a reason to not wait until the December meeting. Mr. Tucker said that it is not he that doesn't want to wait. Dr. Shaw stated the Township Supervisor did not mention any dates to him. Ms. Hyde added that it may be cleaner to get all of the information and have time to adjust it before they have a public hearing and potentially make a decision, depending on the judge's decision, or anything else that comes up.

Mr. Tucker stated there was a hearing last week and he feels he has a fairly good feeling on where the judge is going with it.

Mr. Widigan suggested that Dr. Shaw speak to the Township Supervisor to discuss calling a special meeting. Mr. Milem stated that he wants to make sure they are not rushing to get everyone and make a mistake. Mr. Tucker said there are new guidelines to ensure that will not happen.

Motion by Milem, supported by Widigan, to authorize Dr. Shaw to call a special meeting after speaking with the Clayton Township Supervisor.

MOTION CARRIED, one abstention, Susan Hyde.

Mr. Henry stated that according to Robert's Rules of Order, they should vote to allow Ms. Hyde to abstain.

Motion by Widigan, supported by McCartney, to allow Hyde to abstain from the vote.

MOTION CARRIED.

A resident asked why Ms. Hyde wanted to abstain from the vote. Ms Hyde replied that she is a homeowner affected by the compost facility.

## **PUBLIC COMMENT**

None.

## **NEW BUSINESS**

### **(1) SURVEY REVIEW**

Mr. Milem said the first thing he noticed after reading the introduction for the survey is that they need to add directions for the person who is filling it out to follow. Ms. Hyde said the other thing is that she would like to see "No Opinion" added because if someone doesn't have direct involvement or understanding of a particular service, then they can answer, "No Opinion." She also suggested adding a due date with the directions.

Dr. Shaw asked Mr. Milem when he thought he could get the survey into the mail. Mr. Milem said whenever the board approves the form to put it on the website; he will also get something into the View newspaper. Dr. Shaw suggested adding a cover letter to

the residents indicating that the master plan review is open for critique and modification. He added that he would like the community to briefly share additional thoughts or suggestions they have, including the quality of life in Clayton Township. He said he wants residents to have the feeling that the Planning Commission cares about what they have to say.

A discussion ensued about bulk mailing and asking the board for postage.

A resident suggested that something could be stated in the taxes that get mailed out in the beginning of December. Mr. Milem said he would have to look into that because it has never been done before.

Ms. Hyde inquired about the cost of mailing postcards. Mr. Milem said he wasn't sure, but it would be a good way to notify the residents that the survey exists. He added that one way or another he would get something out sometime the week after the board meeting on the 12th of November. Mr. Milem suggested giving residents until December 15 to fill out the survey. He added that he would have the form ready to go and copies printed so that it is ready 24-48 hours after the Board meeting.

Mr. Widigan said if the notice is sent out on Monday, November 16, then residents can have it returned by December 4th. Mr. Milem said the Planning Commission meets on the 15th and the Board next meets on November 11. Dr. Shaw suggested giving residents two weeks from November 16th. Mr. Milem answered that puts the deadline at November 30th. Mr. Widigan suggested allowing residents three weeks to complete the survey. Dr. Shaw stated they would also need time to accumulate all of them and create a report. Ms. Hyde added they could be compiled into a report as they come in to save time. Dr. Shaw said they will prepare for a mailing by the 13th, send it out on the 16th, ask to have it returned by the 30th, and have a report ready on December 15.

Dr. Shaw said they looked at three different copies of surveys and the best one was Ms. Hyde's example. He also said they can leave out a cover letter and just add the instructions to the back of the survey.

Ms. Hyde suggested they add information as to where residents can locate the survey online. Mr. Milem said there will be a Clayton Township Master Plan Survey link on the township website.

Mr. Henry said the residents should know there are many ways to return a completed survey. Mr. Milem said they can have that on the website as well. Mr. Henry suggested that someone could volunteer to go out and pick up surveys from residents who cannot drive. Mr. Milem said they can add that information as well.

Mr. Henry asked if the building and zoning department could be added to the survey; are you satisfied with all operations of the township. Dr. Shaw responded that many may not even know what is zoning. Mr. Milem added that they shouldn't lose sight of the true purpose of the master plan. He said that he isn't even sure the fire department, police department, water and sewer belong in there. He suggested asking the question of what services are important to residents. He said for example, would a

resident like to see more commercial areas; more farming; more single family housing; more multi-family; etc. Also, he added how would one encourage future development, through controlled zoning; future development of an industrial park. There should be insight into land uses for the master plan, which is what the survey is supposed to address. Mr. Milem suggested the question be changed to, "What services do you consider critical for Clayton Township?"

Ms. Hyde asked if the master plan has any impact on services provided by those areas and how the impact is currently sufficient to what residents think it should be. She asked if the Planning Commission has an impact on the services the Police Department provides. Mr. Milem responded no. Dr. Shaw said the master plan is for everyone, not just the Planning Commission. Ms. Hyde suggested adding a question to indicate inadequacies or insufficiencies and maybe they need to be addressed. Dr. Shaw stated that, for example, if responses regarding the Fire Department were returned with poor opinions, then maybe they need to look at why; perhaps they need additional training.

A resident stated that the master plan addresses the future and if someone is not happy with the current water and sewer situation, then perhaps more lines need to be installed or replaced. She said it is a directive for future priorities; the master plan is a guideline for the future. Ms. Hyde said it applies to both, now and what may be.

Mr. Widigan said if residents are trying to gauge the now with police services; there is no way to gauge the future; they may not even need police in the future. Mr. Henry responded that they are required to have a police department. Mr. Milem said they are only gauging five years and then they will be starting from scratch again, as they create a new master plan every five years.

## **(2) MASTER PLAN REVIEW**

Dr. Shaw discussed goals for the last five years. He said that new members may not be able to speak about those directly. He said if they have heard or observed what is going on, he would like to add an indicator of whether or not they have attained, partially attained, or not attained the goals that were set out five years ago. He asked everyone to read them over and at the end of each goal, list whether or not they have been attained or not been attained. Dr. Shaw said there is evidence in the community and they will talk about it at the next meeting. They are almost at the conclusion of the master plan review and the survey. He is going to sit down and look at four to five current master plans, the language, and see if he cannot use some of that for Clayton Township.

## **(3) UPDATE OF PARK PLACE MEADOWS COMPOSTING BY ATTORNEY TUCKER**

Dr. Shaw said there is a sheet regarding Park Place that indicates the first time and second time that the Planning Commission made provisions for them to come up and meet, which they have not met. Mr. Tucker said he has a file with everything that he has created for the court case, including minutes from meetings. He said there is a legal hurdle with asking for a copy of their permit. If the Planning Commission revokes it,

there is a bit of jockeying for position for what they would be revoking. He said there are legal issues to be solved, including the "Right to Farm Act" argument, which he doesn't feel is viable. Mr. Tucker said the "Right to Farm Act" divides composting facilities for use on farms, such as taking sections to feed cattle, put on crops, etc. He said that anything over 5,000 cubic yards is regulated completely different. He said the State of Michigan helped them to write the guidelines, which they are now telling them to do differently and the timeline is running out. He said there is a hearing on November 10th, which will not shut down the composting facility. Mr. Tucker added that he advised the board they can choose to revoke their special use permit, which is not common practice, which could result in a lawsuit. Mr. Milem checked with their insurance carrier and they are covered to hire a specialized law firm that handles special zoning work. Mr. Tucker said the facility is not currently registered with the State of Michigan, which is being dealt with in Lansing. He said that the case could end up in circuit court after the district court case is resolved.

Mr. Tucker said in reading the zoning and enabling act, there are different ways to handle things, including holding a public hearing at the Planning Commission level and make a recommendation to the Township Board. He said they can pull the permit, extend it, add different provisions. He said if their final say is to pull or put conditions on the use permit, he could appeal that to the Zoning Board of Appeals, after they ruled, circuit court action to challenge procedures. He said the composting facility has been in business for six years and there are a whole lot of legal avenues. They have to decide what to do.

A resident asked if it was the goal of the Planning Commission to shut down the composting facility. Dr. Shaw said, speaking only for himself, yes. He said from everything he has heard, they have bent over backwards. The resident referred to the changes the facility has made in the last six weeks. Mr. Tucker said they have redone the entire site because the County got involved and the DEQ pulled their registration. He added that he filed a show cause order. He has read the compost guide from back and they are visiting a compost facility that has no complaints, despite many homes near-by.

Mr. Tucker said he has visited the Park Place compost facility three times a day, depending on wind direction and if the wind blows from the southwest more than eight miles per hour, it smells like dirty socks. Ms. Hyde added that noise is a constant issue as well. Mr. Tucker said that in fairness to the owner, Mr. Fick, he has addressed 90% on the list that was given to him, however, he didn't do anything about it until the township took him to court. He said there have been enough complaints that have come in, and with the order in place, he had to show cause the facility. Mr. Tucker added that of the six years the facility has been in operation, three of them have been without a permit. He added that the DEQ originally recommended that the facility grind everything as it comes in and now they recommend that it is left to sit. Ms. Hyde said even when there was no churning there was a smell.

Mr. Tucker said that zoning is not about putting people out of business or making money; it is about compliance and to co-exist, and only as a last resort to pull a permit, which hasn't been done in the last 30 years.

A resident said that it would be a mistake to put the guy out of business. Mr. Tucker said there are 43 homes that have been emailing and texting complaints, including as far as the Short Stop on Calkins Road. Mr. Widigan said the township board has been trying to work with Mr. Fick for quite awhile. Mr. Tucker said that Mr. Fick doesn't know how to fix it. Mr. Widigan said the residents should not have to suffer. Mr. Tucker said he doesn't disagree, he just needs marching orders.

Mr. Henry said he doesn't think the violations are intentional, that the facility thought they could control the smell. He said that promise after promise has been made, mostly that year, and the operation grew beyond expectations. He said the facility receives revenue based on piles. Mr. Tucker said that of the four to five houses that are affected really bad include a Planning Commission member and the president of the neighborhood association, who are people who happen to be able to get things done quickly.

The resident added that if the owner is trying to make changes and the state is changing their mind, perhaps they could give him more time to work with the neighbors. Mr. Henry said that it was a poor business decision to locate within single-family housing. Mr. Milem said that the facility had to request a special permit to operate there. He said that if it is being done right, there should be no smell, but they are in violation of the ordinance because of the odor.

#### **ADDITIONAL ITEMS**

None.

#### **ADDITIONAL COMMENTS**

Mr. Henry added that the permits have been pulled for the storage units and the permit fees are in excess of \$10,000. The work should be starting soon.

#### **ADJOURNMENT:**

Motion by Widigan, supported by Milem, to adjourn the Planning Commission meeting at 8:34 p.m.

MOTION CARRIED.