

CLAYTON TOWNSHIP PLANNING COMMISSION

REGULAR MEETING MINUTES

December 15, 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

Kevin DePottey

Susan Hyde

Ed McCartney

Dennis Milem

William Shaw

Robert Widigan

Others Present: Ted Henry, Zoning Administrator

Ken Tucker, Attorney

Deanna Turner, Stenographer

Pledge to the Flag

Mr. DePottey led the Pledge to the Flag.

APPROVE PROPOSED AGENDA

Motion by DePottey, supported by Widigan to approve the proposed agenda of the December 15, 2015 Planning Commission meeting.

MOTION CARRIED.

APPROVAL OF MINUTES: November, 2015

Motion by Widigan, supported by DePottey, to approve the minutes of the November Planning Commission meeting, as submitted.

MOTION CARRIED.

COMMUNICATION

None.

REPORT OF OFFICERS AND COMMITTEES

None.

PUBLIC COMMENT

None.

OLD BUSINESS: PUBLIC HEARING

(1) REVIEW OF PARK PLACE MEADOWS SPECIAL CONDITIONAL USE

Dr. Shaw called the Public Hearing open at 7:02 p.m. to address the conditional use permit in regards to its issues placed by the community. Mr. Mike Rizik will speak first, then the public, then the Planning Board will deliberate.

Mr. Rizik said he was honored to be there to address the board one more time and requested that they maintain the current status of the permit for Park Place Meadows Compost Facility. He said his client, John Fick of Fick Excavating and Park Place Meadows Compost Facility was also available for questions. He stated that they met with Mr. Milem, Mr. Tucker, the Department of Environmental Quality (DEQ), and the State of Michigan Attorney General to try to figure out how to remedy the situation at Park Place Meadows. Mr. Rizik said he believes Park Place Meadows is an experiment for some of the state agencies. He said that they have received directions and information that they have subsequently learned was not the best. It is a matter of trial and error. He said everyone thought the right way was to stir and grind, but that is the wrong way to do things. Mr. Rizik said Park Place Meadows would like to stay open as they feel they are a service to the community.

Mr. Rizik said there are four areas in the proposed plan from Park Place Meadows. Number one is immediate operation recommendations to reduce odors, which are the biggest problem. If the board makes a recommendation and the township board approves; between January and June, 2016, there will be no more new materials added to the site. He said they have stopped taking new materials, as ordered by the court, until they work it out. However, he added they would begin new feed stop deliveries sometime in the Spring in order to begin future process. Mr. Rizik said they will wait for analytical results of the high carbon to nitrogen ratio, which makes for a slow compost process, but less of an odor. Their intentions are to not stir things up and make sure there is a slower compost process, which is called a static process. This will greatly reduce the odors down-wind from the site.

Mr. Rizik said based on the analysis from Michigan State University, they will re-calibrate the ratio and possibly recombine windrows. There are currently 16 windrows. He said whatever the results are, they may require us to recombine; whatever it takes to get the ration in balance so that it reduces the amount of odor that comes from the compost. That may require adding leaves, sawdust, wood chips, etc. Mr. Fick hired a compost expert from Northern California who said not to disturb the piles.

Mr. Rizik said they will also use a reliable odor neutralizer and utilize a compost cap, which after being sprayed will form a skin. That will also help greatly reduce odors.

Number two is the interim operations plan, suggested by the DEQ when they met at the attorney general's office. Mr. Rizik said if none of it works, they want to have an exit strategy. It all begins with training. They want to have all operators attend a training operator course. There are two in the United States that fit the category. Ohio State University has a compost course, as does the United States Composting Council.

Mr. Rizik said they are also going to stock pile carbon sources to make sure that at all times stock piles are available to keep the level of carbon nitrogen at the right levels to prevent odors. Thorough mixing and lab testing will be done in a credible compost lab to constantly test to make sure levels are at the right amount. They will also monitor the weather and stir things only when the weather conditions are correct; low wind, drier rather than wetter. If there is a complaint, they will check it out, verify every complaint, trace why there is an odor, and if there is one, address it immediately.

Number three is Odor Dispute Resolution. Mr. Rizik introduced Amy Freeman and Sara Archer from IRIS who will handle odor complaints and dispute resolution. Ms. Freeman is the owner of IRIS and a Divergent Specialist. Ms. Archer is a Genesee County resident and composting expert. They plan to document every incoming residential call and immediately identify the sources of complaints. They will work with Park Place Meadows to take care of the complaint immediately.

Ms. Freeman said she has read the report received from Integrated Waste Management in California. They will be looking more closely at the report and taking every item under consideration. She said they will make sure everyone gets proper training and certification. She added yard waste and grass clippings are banned from landfills, therefore, there needs to be a process for that material. Michigan is sorely behind on composting ability and infrastructure. Ms. Freeman added she has worked at the state level with the Michigan Recycling Coalition.

Ms. Archer said combined they have more than two decades worth of experience with compost facilities. She said she is involved with the MSU Extension Horticulture Department and the Michigan Organics Counsel.

Mr. Henry asked how many of hours of training would be required and what does it consist of. Ms. Freeman said she had four days of training. He asked if other states require training. Ms. Archer said it varies from state to state and that states that require training tend to have less issues.

Mr. Rizik said their purpose is to have a third party come in and take care of complaints to reduce the burden on the township and to verify odor complaints, create a record. He said part of the problem is record keeping and many times complaints are unverified. He said there would be an odor hotline to monitor and follow protocol.

Mr. Rizik said number four in their proposal, is that if all else fails to have an exit strategy. He wants the board to know they are serious and if they cannot do what they said they would do; they will close. He said Mr. Fick will not continue to put more money into it, but he is committed to spending money to implement procedures. if for some reason

the Planning Commission makes a recommendation to the board to revoke their permit, they will implement their exit strategy.

Mr. Rizik said the exit strategy is a nine month process. He said between June and September/October, they will close the operation down. They will clean the site up and take everything out and return it to its natural state. Mr. Fick will find another spot to put in a compost operation. However, if the board does approve, they would like to use a six month period between January to June or July to implement their new operational procedures. They will do everything necessary to minimize problems experienced before. If they haven't remedied the situation by June, July, August, they will close.

Mr. Fick said he is glad for the opportunity to come before the board and he is sorry for any inconvenience he has caused his neighbors. It was not his intent to cause problems. He said his family has been in the farming community for a number of years. He said he received bad information and did some things wrong, but now they have a handle on it. He said, as you can see, they have a nice facility and there are berms all around it to hide it and deflect the smell. Mr. Fick said he has worked hard and spent a lot of money at it. He said his product is an all natural product that people have used on farms and gardens. They have also donated product to organizations such as the Carman Ainsworth baseball fields and the Boy Scouts. He said it is a great product for kids and the future of organics. Mr. Fick said he has visited Tuthill in South Lyon to see how their operation is run. He said they had prior complaints, but it is now under control. This year there has been a lot of rain, which doubles the grass, makes more nitrogen, and therefore, more smell. Grass smells more than leaves and brush. He added that he belongs to the Michigan Recycling Coalition and has gone to seminars and training to get as much education as he could. He asked for a six month trial. Mr. Fick said composting is a great thing for their community and the stuff is not going to the landfills.

Mr. Rizik said, in closing, they would like the Planning Commission to think about their proposal and read their state of the art report.

Mr. Henry said new grass between June through October will be the real test. Mr. Rizik said that is why they will have carbon storage so if there are large amounts of grass, they will have the right amount of carbon to bring it to the right levels. Mr. Henry asked how they will deal with leaching of liquids coming off the piles. Mr. Fick answered they are building a retention pond.

Dr. Shaw asked about only having two trained people to monitor complaints. Ms. Freeman and Ms. Archer said they will not need more than two people to perform the monitoring.

Mr. Damon Huffman, 6484 N. Seymour Rd., Flushing Township, said he is not a resident and his intention for attending is because he needs a source of compost. He said the city of Flint is a food desert because of the low nutritional content of food available and people are starving as a result. He said there is no good food that can be purchased in the city of Flint. He said his friend and he intend to grow healthy and organic food and

use the compost to grow food. He said they have been to the site and didn't smell anything.

Crys Reed, local landscaper, graduate of Carman Ainsworth and Kettering University, said he is educated in the product. They service 200 properties and have applied compost to more than a quarter of the properties with great success rates. He and his wife, Emily, live at 2173 Aroka, Flint, 48532. He said that shutting down the compost facility will affect multiple businesses.

Phil Stewart, 7083 Saratoga Dr., said he didn't buy a home to not be able to go out on his deck and have a cook out only to smell garbage. He said he has been patient and waiting to see what happens, but he doesn't want it where he lives. He said he wanted to add on to his deck, but he isn't going to. He told Mr. Fick that if he wants to buy his house, he would be willing to sell it and move.

Mr. Rizik said he understands and John understands. A discussion ensued. Mr. Stewart said it is not going to work.

Resident on Elms Road, doesn't want to see anyone go out of business but has some questions. She asked why are their berms and why built all the houses where they cannot breath. They cannot see over the berm. She asked how big the acreage is for other places that don't have a problem. How many acres would it take to satisfy people to not have a smell. She said it's a small piece of property to have all of this happening all of a sudden. She said tear down the wall and let a breeze through.

Resident on Winthrop Drive said there is a lot of truck traffic and loud trucks. Mr. Rizik said Corunna Road is a state highway built for trucks. Dr. Shaw asked if they could bring it in another way. Mr. Rizik said they cannot use the entrance off Elms Road so therefore, they come off Corunna Road. The resident stated that is what they hear; pulling up, stopping, thumping, pounding. They are lined up two or three at a time off Corunna Road. She said they would like to enjoy their properties.

Tim Hysell, 7155 Saratoga, said in reference to smells in the winter time; one Sunday morning he went out to get the newspaper and it was 15 below zero. He said he gazed to the back because he smelled something and saw a blue cloud coming toward him from the compost facility. He said no one was working back there on Sunday morning.

Mr. Rizik said whatever happened then, they believe that with the steps they want to take, that sort of thing will not exist. He said they are not promising zero smell. If they implement steps, the smell will be substantially reduced. He added some times of the year there is no smell. He said they have heard the complaints and they are going to clean up. They are human beings too and feel they provide a service to the community.

Caroline Hysell, 7155 Saratoga, said a lot of people in attendance are from their neighborhood and they are not there to put Mr. Fick out of business. But they would like him to relocate because their homes were there before his business. She said they have lost value to their homes. Mrs. Hysell said a realtor came out & gave an appraisal.

She said it has been going on his 2008 and they have received extension after extension. She said it's not John's fault, however, he should have known what he was doing before he got into operation. She also asked if they can prove that the dirt brought in is not contaminated because it doesn't have compost in it. Mr. Fick responded that the pile is top soil that has been stripped off and there is clay in the berm, followed by more top soil. He said the pile is 10-12 feet tall, in accordance to the township.

Mr. Burton (?), caretaker for Ms. Henderson at 7123, spoke about the berms. He said an oak tree worth \$20,000 was torn up, along with some of her property. He also said there are solid steel bars and trash bags in the dirt pile in question.

Dale Childers, 1266 S. Elms Street, said he lives due west, prevailing winds, downstream and he understands what everyone is staying. He said 80% of the time he doesn't smell anything and when he does, it is when they are turning the compost and running equipment. He said everyone needs compost and he has been around farms all his life. There is a smell with beef cattle and you will hear mooing too. He said for the most part, the end justifies the means.

Evelyn Bower, lifetime resident, said there has been a lot of information from the big shots. Mr. Fick had to buy equipment he didn't need. He has the land there. It's not concerning farm land and the right to farm. She said she thinks he needs another chance because he is a good man and good for the community. She said that everyone who bought a house in the country made that choice. Ms. Bower said she lived near someone with pigs and when the wind was just right, they didn't sit out on their deck. She said that Mr. Fick needs another chance and they should try the six months and keep their people in business. Clayton Township needs to have all kinds of businesses.

Mark Baldwin said he moved three years ago from San Diego where there are huge compost piles. He said his son lives two blocks from one of them and there is no odor. There is a berm planted with trees in it. It is naturalized and makes it very nice. He said he knows there are things being done to alleviate the problem and he has 100% confidence in Ms. Freeman and Ms. Archer. Mr. Baldwin said he has been to lots of conferences and talked to experts in composting. He said he knows that the odor problem can be handled. He said they need compost so bad and what are they going to do if they do not have a facility. He said that yard waste will go into a big pile and sit there and after 20-30 years start breaking down, which causes all kinds of problems. Mr. Baldwin said that compost is the way to go to save Flint. He is sorry people have been inconvenienced and asked the board to please consider an extension. It will help thousands of people and make a huge difference in people's lifestyles and consider the jobs it will create.

Resident, Steve, 2482, asked for them to give them more time; it's for the environment.

Wanda Cummings, property corners up to John's property. It is rural township when moved there. Ninety-three people say they want it rural and it's a rural type of business. John is trying hard to be a good neighbor.

Resident, Winthrop Drive, if I moved, I wouldn't move into an area like that. It is hurting people's property values.

Jeremy Hoffman, Lennon Rd., just became aware of issue a few weeks ago. My father spoke in the beginning. Has been searching for a large amount of compost because he is trying to live organically for his daughters who are four and two. He said when it comes to organic gardening, the produce has nutritious value, the ability to do that without compost is impossible. He said he spends extra money on organic foods for the children to avoid the extra hormones in food. Mr. Hoffman said he doesn't have a solution. He is just looking for compost and trying to raise a family.

Mike Berkley, Flint Township, Court & Elms, backs up to Ficks' operation. Corunna Road has been a commercial road forever with heavy truck traffic and steel haulers. He used to wake up at 5 a.m. every day due to shop traffic. It is a heavily traveled road. They cannot use Elms Road because of frost laws. He said he and his wife compost at their house and compost is the way of the future. He said if you aren't composting, shame on you. Mr. Berkley said he grew up in Clayton Township near a farm that used cow manure, that is part of it. Developers build subs next to farms. Composting is the future and John has always been accommodating to us. He said he doesn't smell anything. This is progress. It is a farm community with dairy farms and pig farms. It's a sacrifice to build a better community.

A discussion ensued.

Susan Hyde, 7171 Saratoga Dr., reads letter. Letter on file with official minutes.

Crys Reed, said he is probably the youngest person there. He has watched documentaries about Disney and guarantees there were the same issues when Disney started. It is something new. Give the man a chance, speaking from the younger generation. It's how restaurants are raising their beef, their food. Your home values will go up.

Chad Smith, 2258 Duffield Rd., farmer, applied John Fick's final product on 40 acres. It is natural, organic material and a great product. He would like to keep getting it from the community.

Steve Kinney, Lennon Rd., has known John his whole life. John is a business man who has provided jobs for family members who are employed by him right now. He said between the landscape facility and compost yard, jobs are provided year round. He said he uses the compost in his garden. He is a neighbor to Jeremy and it has worked really well. He believes in all of the comments regarding the future and how things need to change in regards to the standards and health of food. He said he talks to John on a monthly basis and knows the money he has spent on research from putting into the property to accommodate the township, DEQ, and residents. Mr. Kinney said, speaking as an outsider who lives three miles down the road, not right next door; he has been doing everything being asked. They have been living five years with this. In his opinion, six more months smell is not so prevalent, why not give him six more months to

get it better under control. After five years shut down in the middle of winter when the smell isn't going to be bad anyway. Give him some time to work on it. There is no reason not to as this point.

The Public Hearing closed at 8:20 p.m.

Mr. Milem said he, along with Mr. McCartney, Mr. DePottey, and Dr. Shaw, have been with this since the beginning in 2009 when it came into existence. He said the main concern is that their group expeditiously stated in 1995 that no more grass could go into the landfills and some continued to do so. Grass was then sent to composting sites. He said Park Place applied for the DEQ permit, came to Clayton Township, based on the information they had; they granted the permit for composting. He said he does believe it has grown beyond their expectations. May 15, 2013, Mr. Fick didn't even realize the volume that was going to come into the site. Mr. Milem said he has been on Saratoga at 6 a.m. and at 10:30 p.m. at night. He has crawled the berm; walked across it in the middle of the night. He said that residents have called complaining of smells, sometimes it smells, sometimes it doesn't. He said July 4th they received complaints from someone who wanted to have a cook out but couldn't do it in the back yard. He said those days are behind them, things done at the compost site. He said there is still an odor, but not at the level that it was when they first started to address it when it was so bad. Mr. Milem said you could almost see it in the air and they were worried about the amount of product coming in.

Mr. Milem asked Mr. Tucker where they stood in court with it. Mr. Tucker said Mr. Rizik, Mr. Fick and the judge took minutes on the record and in chambers. The case was adjourned to January 19 after the Board of Trustees meets in January, pending the outcome of the recommendation made that day. He said they could accept, amend or reject the special use permit. He said that Mr. Fick pled responsible to two violations for not being properly licensed and site plan with Genesee County for retention pond drainage. The June 18th order was for violations of the nuisance ordinance of Clayton Township. Mr. Tucker said if they extend the ability to operate, fines addressed, and continued complaints, the board can withdraw the permitted use and close him on January 19th. He said legally speaking there is nothing more to be done and it is up to the Planning Commission of the board.

Mr. Milem expressed concern about the lack of exit strategy with the product sitting on the property. Mr. Tucker responded that it would probably be addressed on Jan. 19th. Mr. Milem said there are discussions as to where it will go on forever; it is a legal question, getting out of line. If the board was to at this point, say it is over, we don't want it anymore, could Park Place Meadows get an injunction. Mr. Tucker said they can request one and if they are closed on the 19th, if the Board of Trustees withdraws the conditional use permit. Will they close shop and go away quietly? A Circuit Court injunction could be filed against District court, file suit against Clayton Township, due process etc. Circuit Court can allow him to continue operating until a hearing is held, or temporarily modify to partially cure the problem. Mr. Milem stated they would be involved in litigation. Mr. Tucker said in two separate courts.

Mr. Milem asked Mr. Rizik if they entertained exit strategies, would they guarantee there would not be litigation. Mr. Rizik answered if they implement the plan they have put together, and if at the end of the plan, and six months they do not perform, they are done. Mr. Tucker said they have already had that argument in court. He said there is no guarantee unless something is in writing and in a court order. That is the only guarantee they are looking for, if it's in a court order, no further action, held as binding.

Mr. Rizik said Mr. Fick still has to live in the community. They are done if they do not carry out their promises. They told that to the judge in chambers and on the record. It's hard to go back and they have to use some common sense.

Mr. Milem asked what about his residents to be able to be part of the criteria. Mr. Rizik said they are looking for residents to work with them, to help in developing and monitoring everything.

Mr. Widigan said that if they grant the six month plan and they are done; he hears what Mr. Tucker is saying; would they be willing to put that in writing that they will be done if the plan doesn't work and sign it instead of just giving word of mouth. Mr. Rizik said he hasn't talked to Mr. Fick about that.

Mr. Tucker said that is not a legal argument and they don't believe they can box each other in legally. Nothing is legally binding that day, nor at the board level.

Mr. Widigan said, back to the report and steps in the report; how does Mr. Fick plan on tracking the steps and how much do you anticipate that to cost. Mr. Rizik said he doesn't know how much it will cost, but whatever it is, he will pay. He said they have experts who will help them track the steps. It comes down to one thing, odor. It is their job if there is an odor to locate it and find out why, fix it, tell us how.

Mr. Milem said in regards to the DEQ report, not all of them are going to see each side of the issue, researching issue at the Attorney General's office. He said the two DEQ people, neither one at certain times could agree on how to do something. He said he sees in the report that when the bags come to the landfill, they must be emptied and they are not. He said he sees that as a problem. He has been hands deep down into compost and leaves are not the problem. They are the carbon. He knows the bags are not empty and that compression is part of the problem. He said he didn't remember seeing that at Tuthill. He said he has been to a site where it is done right and he is not sure that Park Place is in a place that will ever get it right. Mr. Milem said his main concern is if it doesn't, how do they get all of that stuff off the property. If it goes to some sort of litigation, it sits and still stinks.

Mr. Rizik said on page 11 of the report, option two discusses the process in pretty good detail. He said everything is stripped off the property and the refuse will be taken to a new place. The site will be restored to its natural state.

Duane Roskoskey, DEQ, said that yard clippings in plastic bags must be emptied. There are no requirements for paper bags. Mr. Milem said the report is not real clear.

To Mr. Roskoskey, Mr. Widigan said from reading the reports, the DEQ switched opinion halfway through. How do they address Park Place not being in compliance? How was Mr. Fick given the wrong information from the DEQ? Mr. Roskoskey responded that he doesn't have anything in his records that they gave out the incorrect information.

Mr. Rizik said that Mr. Fick didn't spend money on a grinder on a hunch. He was told that they should be grinding material because that is what they were instructed to do. Mr. Tucker knows this. The DEQ promised they would tell them what is wrong in a certain amount of time, they waited and knew what was coming today. In January, Mr. Fick hired Mr. Rizik to sue the DEQ to tell them what is the problem, eventually they told him what the problem was, and they have been addressing each problem they have mentioned. They were operating under one set of instructions and in some ways you cannot blame the DEQ; it has been trial and error. Mr. Rizik said things changed and he had to sue them to find out how they wanted things done.

Mr. Widigan said Park Place is not in compliance and asked does the DEQ have a plan to get them into compliance, and what if the plan changes again. Mr. Rizik responded that the DEQ is relying on the township to tell them whether or not they have the conditional use permit. If the township allows them to proceed, they are registered and everything is good.

Mr. Tucker said there is no partial registration. If they are approved to extend, the DEQ will register them for three years, not six months. Mr. Rizik said registered or not, they will close.

Kyle Riem, attorney, said that the DEQ recommendation didn't come from Mr. Roskoskey. There were 35 specific points that were entered into a court order; no grinding for 48 hours; windrows without leaves; out of balance. The information given to the township from the DEQ all had good intentions. He didn't want to become educated in composting; they thought they knew it and made a lot of mistakes. Mr. Riem said they should be able to get odor events under control and believes it will work. He said they are asking for six months or they will leave. Mr. Fick will commit to it in writing and he will speak to him privately.

Mr. Milem said in the report the site is referred to as an agricultural site and it is actually zoned single family. That gives the right to farm nurseries, farming uses, as a special conditional use; that is how they got there. If it was agricultural, they wouldn't be there.

Mr. Milem asked starting in January, will they be bringing new product to the site. Mr. Rizik answered if they allow Park Place to operate, then around April, they will have new product on site. If they do not allow them to operate, then they are done. If the judge orders they cannot take anything in, then it is a clean-up process.

Mr. Milem asked how they can possibly get 30,000 cubic yards on site now, come April, how are they going to manage brand new feed stock that comes in. He said it is not going to decompose in a matter of three months if it doesn't work out. Mr. Rizik said at the same time they are removing stuff, they are adding carbon to keep the odor down. Everything will be removed in that nine month period.

Mr. Widigan said the photo was taken two Saturdays ago. His question is in regards to the water that built up. He said it is his understanding that can cause a lot of smell and how do they plan on addressing that. Mr. Fick said that is farm field and not the compost area. Mr. Milem said it is surface water from the County. Mr. Widigan asked if that is addressed in the report. Mr. Fick said he thinks it is addressed. He said it is something new to them to not allow retention in Genesee County. Mr. Roskoskey said the DEQ is now addressing it with the water people. It is all new stuff and Mr. Fick is the test place for that. Mr. Rizik said it is typical of the whole site.

Dr. Shaw said it is decision time and they can act in alternative ways. They can take no action at all; give it to the board for their determination; withdraw the permit and send that to the board; make some amendments to the conditional use that they originally approved in 2009; or other alternatives or choices they are open to.

Motion by Widigan, supported by Milem to allow Hyde to abstain from the vote because she is a resident of Saratoga.

MOTION CARRIED.

Motion by Mr. DePottey to give a six month extension, beginning January, 2016 through July 2016, to Park Place Meadows Compost Facility, pending all of the proper monitoring and compliance with the report provided; including an exit plan in place. Widigan supports motion in the form of resolution 12-15-01.

A discussion ensued about monitoring complaints. Mr. Tucker said they will not lose their ability to enforce the ordinance, access the property, etc.

ROLL CALL VOTE:

Yea: DePottey
Widigan
Milem
McCartney
Bower
Shaw

Nay: None

Abstention: Hyde

MOTION CARRIED, one abstention.

ADDITIONAL ITEMS

None.

ADJOURNMENT

Motion by Milem, supported by Widigan to adjourn the meeting at 9:25 p.m.

MOTION CARRIED.