

# MINUTES

## BIG RAPIDS CHARTER TOWNSHIP PLANNING COMMISSION

Tuesday, March 8, 2016 --- 7:30 p.m.

Big Rapids Township Hall, 14212 Northland Drive, Big Rapids, MI 49307

### I. CALL TO ORDER: 7:30 P.M.

Chairman Philip Keating called the regular meeting of the Big Rapids Charter Township Planning Commission to order at the township hall on Tuesday, March 8, 2016 at 7:30 p.m.

### II. ROLL CALL:

Present: Gordon Oliver, Carman Bean, Philip Keating, Jim Shane, Mark Sweppenheiser, Michael Hults and David Hamelund. The record shows a quorum is present. Also Present: Zoning Administrator William Stanek and Brent Mason, Recording Secretary.

### III. CONFLICTS OF INTEREST:

Mr. Keating asked if any of the Commission members had known conflicts of interest with any item on the agenda for this meeting. No one indicated that there were any conflicts of interest.

### IV. APPROVAL OF MINUTES:

The minutes of the February 9, 2016 regular meeting were reviewed. Mr. Keating presented a list of corrections to the record. Mr. Shane made the motion to approve the minutes with the listed corrections, seconded by Mr. Bean. The motion carried unanimously with 7 yeas.

### V. PUBLIC COMMENT:

Zach Wall of Dean's Excavating made a comment on the meeting minutes. He stated that these minutes should allow everyone to remember what was said in future. Mr. Wall requested to address the Commission. He stated when he was here last month, he felt like he didn't get a final answer on the status of Mining Ordinance #38, which is the ordinance that his Special Use Permit was issued under. He has concerns about his mining permit renewal, and is asking for clarification because he feels the township is requiring him to reapply under the new zoning ordinance amendment for the next renewal, in order to repeal Ordinance #38. He feels the new ordinance is a very good tool for the Planning Commission to use and it allows for enough flexibility for various parcels. He has three main concerns. First is the two year term for a new Special Use Permit for mining and the difficulty for the mining operator when applying for a new permit every two years, including all the costs involved for plan preparation. The second issue is that with a new SUP comes the requirement for a public hearing, and that process is very political and frustrating for the operator to go through so often. The third item is that the new ordinance talks about a renewal application, but he couldn't find any requirements for the renewal application. It appears to be different, but the wording in the requirements doesn't seem to differentiate between the original and the renewal, especially in regards to cost and documentation requirements. Mr. Wall wanted to address the Commission in order to start the conversation for coming up with a plan that

will bring his operation into compliance with the zoning ordinance amendment while still allowing his original SUP term to continue. Mr. Keating asked if Mr. Wall would mind summarizing his points. Mr. Wall said his three main concerns are: 1. A special use permit under the new rule is only good for two years, 2. Having a public hearing every two years, and 3. What is a renewal application and what does it truly entail? What is the cost and what are the documentation requirements? Mr. Wall informed the Commission that he did execute the mining license and is currently legal to operate under the current ordinance. He knows there are some concerns with the Planning Commission and the Township Board, and he wants to help get this hashed out. He believes that if those items are worked out, the zoning ordinance is a good avenue for mining regulation. Mr. Hamelund asked if it was Mr. Wall's intention to reapply under the current zoning ordinance amendment. Mr. Wall said he would not reapply under the new zoning ordinance because the requirements as they are currently written are too difficult to comply with, but he hopes they can come up with a compromise that he will be willing to operate under. Mr. Hamelund stated that under Ordinance #38, the board of Trustees is still involved in the licensing of the mining operators, as is the Planning Commission; therefore there are two entities that need to be kept happy. The requirements of The Planning Commission and Ordinance #38 are different, and will be challenging to reconcile. Mr. Hamelund also stated that the changes in the new mining license have not been agreed to by the Board of Trustees. He wants to make sure all the i's are dotted and the t's are crossed. Mr. Bean expressed his concern that Dean's was originally approved under Ordinance #38, and now the Township is trying to get them to comply with a new ordinance that was enacted after Dean's was already approved to operate. Mr. Shane agreed with Mr. Bean's assessment of the situation, and that the Township should consult their attorney. Mr. Stanek also agreed that Dean's should only have to comply with Ordinance #38, and that Dean's is not subject to the requirements of the new Zoning Ordinance Amendment. Mr. Hults said that Dean's is the only entity operating under #38, and they need to comply with the provisions of that license, whatever they are. There was some review of the previous 2 year license signed by the Supervisor. Under the Ordinance #38, the Mining Administrator has the authority to renew the license every two years. Mr. Hults stated that this issue isn't going to get resolved tonight, and someone will need to put together a paper trail and follow whatever the paper trail says. Mr. Hamelund believes that a mining license was originally approved by the Township Board for an initial period of one year but the document that was produced shows that it was for two years. Mr. Hamelund is concerned that any application in the near future would be a wreck waiting to happen because both ordinances are still in place. Mr. Hults advised that the Board of Trustees would not have to issue a mining license and could direct mining operators to the Planning Commission for any future mining applications. Mr. Shane asked how the issue of the conflicts between the ordinances would be dealt with if the Township Board were to no longer issue the licenses. Mr. Hults stated that the new zoning ordinance amendment was originally written to make the process easier for the next applicant, and it was not written with Dean's in mind because they are operating under #38. Mr. Stanek wants these issues to be resolved so that no one has to go through this uncertainty in two more years. There was more discussion about the particular language that was approved in the original license, as compared to what was finally agreed to, especially in regards to the 300 feet of paved roadway entering into the pit. Mr. Keating said that he did not want to spend the whole night on this issue, and stated that he did not believe it was a Planning Commission issue. Mr. Keating stated that this is a Board of Trustees issue, and the Board needs to deal with this, but if the

Board wants the Planning Commission to deal with this issue, they need to direct the Planning Commission to do so. Mr. Stanek took this time to advise the Planning Commission that a new ordinance book is being finalized and it will include the zoning ordinance. The language has not changed, but the book is codified, creating a new ordinance numbering system that will now apply to the zoning ordinance. This will help in finding ordinances. It is the same language that has just been reorganized and renumbered. Mr. Keating advised Mr. Wall that the Commission appreciated his report, and that he has been very good to work with.

## **VI. UNFINISHED BUSINESS:**

Mr. Stanek advised the Commission that he has been working with Mr. Engels and Ms. LeGree since last April to try and get LeeAnn's Flowers, @ 1205 N. State Street, in compliance with our zoning ordinance. Initially they began cleaning up the property as long as Mr. Stanek was actively overseeing the process, however, when Mr. Stanek took a passive role, progress slowed and then came to a stop in the fall. Mr. Shane asked if they were pursuing a site plan approval. Mr. Stanek replied that they want an approved site plan in order to operate their business at this location, but they have not complied with the requirements that were laid out for them. They found a way to operate last year by having several satellite locations where they could sell their goods throughout the township and city. Mr. Hults said that if they don't conduct business from their location, but just do what they did before, they are still in a commercial district, and very visible to the public. They are allowed to use the property, unless it is a nuisance, in which case the township could prosecute or start a civil action against them. Mr. Stanek asked if the Township has the right to tell LeeAnn's Flowers that they didn't meet their obligation. Can we ask them to remove their greenhouse structures because they haven't met the requirements we have set out for them? Mr. Sweppenheiser was asked how the City would deal with an issue like this. He stated that the City might fine them. He continued by advising that the location would fall into the City's definition of blight. He knows that Mr. Engels doesn't believe that there is anything wrong with his property. The commission discussed the existence of a blight ordinance, and Mr. Stanek advised that we do not have a blight ordinance, but we do define a junkyard, and that junkyards are only allowable in industrial districts. Mr. Bean believes that the junkyard definition does describe the conditions at this property, based on the phrase "worn-out or discarded material or equipment is brought, kept, sold and/or stored;" Further discussion continued about the county junk ordinance and whether it could be applied to this situation. The enforcement of any ordinance would be up to the Township. Mr. Hults advised that he believes that the Township can enforce the County ordinance. Mr. Stanek asked Mr. Hamelund if the township board would support action by authorizing funds to pursue enforcement. Mr. Hamelund believes that the Board of Trustees would support funding this enforcement. Mr. Keating asked Mr. Stanek if he should send a letter to Mr. Engels and Ms. LeGree advising them that they cannot open a retail business at their location because they have not met the requirements set out for them. Mr. Stanek stated he would be sending out a letter, and also advised the Commission that he would not be starting any enforcement action until after April 15 in order to give them the full year to come into compliance. Mr. Stanek also advised that the current neighbor to the north has been working with Mr. Engels in an effort to try and get him to clean up the property. Mr. Sweppenheiser mentioned that he would send a copy of the City's blight ordinance to us, and Mr. Bean stated that he had a copy of the County's blight ordinance, and he would also send a copy to us. Mr. Keating closed the discussion on this issue.

**VII. ADJOURNMENT:**

Mr. Keating entertained a motion to adjourn at 8:36 p.m. The motion was made by Mr. Hults and seconded by Mr. Shane. Motion carried with 7 yeas.

Motion to approve the Planning Commission minutes of March 8, 2016

by: Mr. Bean, Seconded by: Mr. Oliver. Roll call vote carried with 5 yeas:

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Philip Keating, Chairman  
BIG RAPIDS CHARTER TOWNSHIP  
PLANNING COMMISSION

April 12, 2016  
Date Approved