

**CHARTER TOWNSHIP OF COMMERCE  
QUARTERLY DISCUSSION AND  
JOINT MEETING OF THE TOWNSHIP  
BOARD OF TRUSTEES AND THE  
PLANNING COMMISSION  
2009 Township Drive  
Commerce Township, MI 48390  
Tuesday, January 24, 2017, 7:00 p.m.**

**CALL TO ORDER:** Supervisor Scott called the Township Board of Trustees Quarterly Discussion meeting to order at 7:03 p.m.

**ROLL CALL:** Present: David E. Scott, Supervisor  
Melissa Creech, Clerk  
Molly Phillips, Treasurer  
Bob Berkheiser, Trustee  
John Hindo, Trustee  
Vanessa Magner, Trustee  
Rick Sovel, Trustee

Absent: None

**CALL TO ORDER:** Vice Chair Jones called the Planning Commission meeting to order at 7:05 p.m.

**ROLL CALL:** Present: Thomas Jones, Vice Chair  
Brian Winkler, Secretary  
James Czarnecki, Member  
William McKeeever, Member

Absent: Larry Haber  
Russ Schinzing

Also Present: G. Hans Rentrop, Township Attorney  
Jay James, Building Department Director

**ITEM 1: PUBLIC COMMENTS**

Supervisor Scott invited public comments from the community.

Rick Rattner, 380 N. Oakwood, Birmingham, MI, on behalf of JR Senior and Associates LLC, one of the applicants for a gas station and a retail facility in Commerce. I know I only have two minutes and this is a study session and I appreciate the opportunity to study this but I would like to make a capsule statement about location and critical mass.

**ITEM 1: PUBLIC COMMENTS (continued)**

There were comments made in the report given to you by your planner, a report that was quite well done in its accuracy, because I know all those zoning ordinances and what happened in those communities. It was good to see that, but one thing that is there is a statement about the master plan. The master plan, as you know, is a plan you work on for months and it is a very careful plan to put forward. One of the things in the master plan I think you should take into consideration is something we run into in almost all cities and that is critical mass. You have over lay districts and over lay districts become important but when you have an over lay district you have to get services at the right place and the services for the right population and the number that's going to be there. Oftentimes critical mass is not there and what you think is a great conglomerate of uses fails because it doesn't have enough of what people are going to go for. I can't go into too much more detail because I only have two minutes. I would say that my clients have a location that is ideally suited for what they want to put there and I would like to be able to present to this Board, at a future time, a presentation to show you that what we plan to put here is for the good of the community, the future of the community, and will provide that critical mass so this downtown village district, which we are at the edge of, will succeed. I hope you will listen. Tonight I know you are going to talk about ordinances, liquor, and the location of gas stations. I hope you will take that into consideration and realize what you have is a dynamic that keeps moving and keeps working and if it's done right is great for everybody. So, that is my comment, I hope you take it into consideration.

Supervisor Scott invited further comment from the community. As no one came forward public comments were closed.

**ITEM 2: DISCUSSION ON STANDARDS FOR OFF PREMISES ALCOHOL RETAILERS**

Supervisor Scott apologized for Township Planner David Campbell's absence due to illness as his input is critical to the discussion and indicated that Hans Rentrop, Township Attorney, has been working closely with David. Supervisor Scott indicated that the Board can have further discussions in the future but wanted to proceed with coming up with some type of standard for alcohol retailer distribution sites. He stated we have a plethora of sites some of which are grandfathered sites potentially not affected by what we decide here. He asked for Board and Planning Commission input.

Trustee Berkheiser said the Township has no control over off premises liquor licenses. He asked what options we have for control and stated that we should have some say so. He further stated that Dave Campbell recommended control through a special land use process.

**ITEM 2: DISCUSSION ON STANDARDS FOR OFF PREMISES ALCOHOL RETAILERS (continued)**

Planning Commission Vice Chair Jones read aloud some of Dave Campbell's report where Planner Campbell states that the "Township's Zoning Ordinance and corresponding Zoning Map are the land use law of Commerce Township. When a petitioner seeks a rezoning, they are making a formal request for the Township to change its law. The Township Planning Commission and the Township Board should hear very compelling reasons why their law should be changed, and particularly so when the proposed change is contrary to the Township's Master Plan that was adopted in December 2015". Vice Chair Jones stated that is something we have been concerned about, changing the Master Plan and the Zoning Ordinance. We spent years creating the Master Plan and our view is that we would want to hold to the Master Plan and Zoning Ordinance.

Trustee Berkheiser said that we took a lot of time four years ago to update the Master Plan. We should stick to the Master Plan. There may be exceptions that are one-off cases.

Trustee Hindo stated that the Planning Commission is looking for direction from the Township Board. He thinks the issue regarding gas stations and conditional rezoning in the Village over lay is a Planning Commission issue. The alcohol is more of a Board issue and the alcohol issue was spurred by the Cooley Lake Inn and that was a nightmare prompting discussion on alcohol as a whole in the Township, which in the last 6 months has focused on convenience stores/gas stations.

Supervisor Scott stated the law changed which has allowed the influx of off premises sales and essentially any gas station can become a dealer. We need to look at all the possibilities that our Master Plan will be taxed with and reaffirm and attempt to adhere to, as Vice Chair Jones read, the law of the land.

Trustee Berkheiser asked if we want to regulate off premises alcohol sales through zoning ordinances or special land use.

Attorney Rentrop indicated the Planning Commission is looking for some direction from the Township Board. The discussion encompasses the increase in liquor in the Township, and the Cooley Lake Inn, and also regarding standards for gas stations. The Planning Commission and the Planning Department have seen a sudden increase in applications for conditional rezoning for gas stations all within a certain area, all seeking off premises alcohol sales. Attorney Rentrop summarized the events to date and asked where the Township Board and the Planning Commission want to go with this? Is this something that we've thought about, we've looked at everything, and we have a Master Plan and we're comfortable where we are?

**ITEM 2: DISCUSSION ON STANDARDS FOR OFF PREMISES ALCOHOL RETAILERS (continued)**

Attorney Rentrop continued the discussion on off premises alcohol sales, indicating the law has changed, and under existing rules the Township has no approval authority for off premises liquor licenses. The law passed on January 4, 2017 created a quota system for off premises liquor licenses. Based on the Township's population of 35,000 people the Township will have 35 licenses under the quota system and the best information indicates that it applies to existing licenses also, leaving only 5 or 6 more licenses available. So the question becomes does the Township Board want to regulate off premises liquor licenses? Attorney Rentrop referenced the letters submitted to the Board by David Campbell, Township Planner, and the ordinances West Bloomfield uses to regulate off premises liquor licenses. Attorney Rentrop has concerns about the ordinances' legality.

Trustee Sovel asked if the Township Board adopts an ordinance similar to the West Bloomfield ordinance does the Master Plan need to be modified.

Attorney Rentrop said no.

Trustee Sovel asked if the State can override West Bloomfield's ordinances.

Attorney Rentrop said that is unclear.

Trustee Hindo indicated that the Planning Commission is concerned with concentration and over saturation of liquor retailers. How many facilities do we need within 500 feet of each other? What do we want to see in this area of the Village, near our new great library and the park? The Planning Commission really wants input from this body.

Trustee Magner asked the Planning commission if the reason for some of their recent denials was because it was in the Village?

Vice Chair Jones indicated that wasn't entirely the reason but was part of it. In addition the Master Plan would have to change along with the zoning. The Planning Commission spent a year and a half working on the Master Plan. We got plenty of input from our residents through study sessions. A lot of what is in the Master Plan is what the citizens want.

Trustee Hindo asked Member McKeever to tell us about the Village overlay district and what the intent was.

Member McKeever stated that the Planning Commission was looking for a downtown Birmingham, Royal Oak/Milford look with shops and stores, walk ability, and not one liquor store/gas station after another.

**ITEM 2: DISCUSSION ON STANDARDS FOR OFF PREMISES ALCOHOL RETAILERS (continued)**

Trustee Magner asked if the Planning Commission has had any discussions about changing their thoughts about the Village overlay and their vision of the overlay?

Member McKeever answered no but the Township Board has made changes to the zoning and it doesn't fit.

Supervisor Scott commended the Planning Commission for their hard work and indicated that no one wants to deviate from the Master Plan necessarily. The community has indicated that they are looking for walkability, green space, park space, and they wanted and did receive the library. Supervisor Scott continued by indicating there is a difference between remodeling an existing location and granting approval for new locations. There might not be any B3 special land use locations available and that might be because we are at a maximum. As far as liquor licenses are concerned I think it would be appropriate for the Township to be in the chain with a say in deciding if it serves our community. What is our commitment? This Board should support our commission especially after the Planning Commission's efforts to update the Master Plan. I think we need to make a decision. What do we want to adhere to? Do we want to make it a spatial distance qualifier? We need to protect schools and religious establishments. We need to establish some equation or task our attorneys to come up with some options based on other communities and comparables to determine what our involvement is.

Trustee Sovel summarized that the Clark Gas Station plan went through 3 generations, the first one had a drive through and Planning Commission turned it down. The applicant came back with a smaller building and for whatever reason the Planning Commission said no. So then they have the right to come before the Township Board. Trustee Sovel summarized the conditional rezoning agreement agreed to by the Township Board while stressing that this was for an existing gas station and not an application for a new location. The Township Board was not trying to undermine the Planning Commission's work.

A general discussion followed regarding all the changes made from the original conditional rezoning agreement to the one ultimately approved by the Township Board. Trustee Sovel then asked Attorney Rentrop if the Township has the authority and ability to regulate the number of gas stations within a certain distance or radius.

Attorney Rentrop answered what you have is the authority to zone. You can change the category a gas station falls into or you can change the zoning map itself. Either one is an option. You could have a distance requirement between gas stations.

**ITEM 2: DISCUSSION ON STANDARDS FOR OFF PREMISES ALCOHOL RETAILERS (continued)**

Trustee Sovel asked if attorney Rentrop is familiar with other communities that have a geographical type distance requirement.

Attorney Rentrop answered that he is not familiar with that for gas stations but for liquor licenses.

A general discussion followed regarding zoning, B3 zones, whether the village needs more gas stations, and the lack of B3 zoned property in the Village overlay.

Supervisor Scott asked if the Board wants to make special accommodations. Residents are not asking for more gas stations. When it comes to liquor distribution people have indicated the Board should have involvement in regulation and we need to determine what that regulation is.

Trustee Berkheiser indicated that since the Board is back to the liquor discussion if that would be done under a special land use with certain rules and who decides that, the Planning Commission?

Attorney Rentrop answered yes and a discussion regarding the approval process and zoning and special land use followed.

Trustee Berkheiser asked David Campbell, the Planning Commission, and the Township attorneys to formulate a plan and bring it back to the Township Board.

Supervisor Scott asked the Planning Commission to work with Dave Campbell, Planner, in formulating special land use guide lines that would allow the Planning Commission to see what the State approves and see if it fits our Master Plan and overlays and make a decision if it complies or it doesn't. We can come up with a plan that addresses spatial or numerical distribution, licensing, and locations as applicable to our Master Plan.

Attorney Rentrop asked if Supervisor Scott wanted this as regards gas stations or liquor licenses because they are two separate issues.

Supervisor Scott indicated that he was speaking about liquor licenses.

**ITEM 3: DISCUSSION ON STANDARDS FOR GAS STATIONS**

Supervisor Scott asked the Planning Commission if residents approach the Planning Commission asking for new gas stations or suggesting places for new gas stations.

Vice Chair Jones answered no.

### **ITEM 3: DISCUSSION ON STANDARDS FOR GAS STATIONS (continued)**

Trustee Berkheiser said that people have suggested that the property at the corner of Oakley Park Road and Haggerty Road would be a good place for a gas station.

Supervisor Scott indicated that property has large gas lines running through it decreasing the usable land. Also, the DDA owns it and a proposed gas station was denied at that location. Supervisor Scott asked if there were any further concerns.

Trustee Hindo said the only concerns are the proposed gas stations in the Village over lay that have come before us and are referenced in Dave Campbell's letter. I think we are just looking for some direction.

A discussion regarding general development in the Village over lay followed. Some concerns raised were making the intersection near the library safe as development in the Village over lay progresses. Also of concern is the increased traffic in the Village due to the Library, in particular pedestrian safety at the 7 Eleven/Library corner. The Trustees also discussed the integrated playground, walk ability, and the Planning Commission's desire to network with other boards and commissions such as Parks and Recreation.

As there were no other issues to be discussed with the Planning Commission the Planning Commission meeting was adjourned.

**MOTION** by Jones, supported by Winkler, to adjourn the Planning Commission meeting at 8:08 p.m.

**MOTION CARRIED UNANIMOUSLY**

### **ITEM 4: MAINTENANCE DIRECTOR POSITION**

Supervisor Scott indicated that all of the applications received for the Maintenance Director position were given to the Board in advance for review.

Trustee Berkheiser explained that each applicant was given a number and each trustee must indicate which applicants they would like to interview using the assigned numbers as reference.

The trustees would like to interview the following applicants:

Magner: 1, 3, 4, 7  
Sovel: 1, 5, 7  
Creech: 1, 4, 7  
Scott: 1, 4, 7  
Phillips: 1, 2, 3, 7

#### **ITEM 4: MAINTENANCE DIRECTOR POSITION (continued)**

Berkheiser: 1, 2, 4

Hindo: 1, 3, 7

Clerk Creech announced that the applicants with the designated numbers of 1, 3, 4, and 7 will be interviewed as they received the most votes.

Supervisor Scott indicated the applicants will be interviewed on February 21, 2017 at a Special Township Board of Trustees meeting to begin at 6:00 p.m. Each interview will be 45 minutes in duration.

Clerk Creech said she would contact the applicants on January 25, 2017 to schedule interviews.

A general discussion followed regarding the need of a Maintenance Director as soon as possible and the outstanding issues that need to be addressed.

Trustee Sovel asked the Board to choose a date for Fire Chief interviews.

After consultation among the trustees Supervisor Scott set a Special Township Board of Trustees meeting date of February 28, 2017 at 5:00 p.m. to interview prospective Fire Chief candidates with interviews of 55 minutes in duration. A second Special Township Board of Trustees meeting date of March 20, 2017 at 5:00 p.m. was scheduled for second interviews of prospective Fire Chief candidates.

#### **ITEM 5: OLD LIBRARY BUILDING**

A discussion followed regarding the issues the old library building is experiencing such as a leaky roof. Supervisor Scott detailed the steps taken to decommission the library and from his research it would cost less than \$60,000.00 to demolish. Also, the Fire Department would like to conduct training exercises using the building. The trustees discussed demolishing the building, having an eventual purchaser demolish the building, repurposing the items remaining in the library, and un-branding the building by removing all signs.

Supervisor Scott believes there's no reason to spend any more money on the building but he wants the Board to know that decommissioning is moving forward.

#### **ITEM 6: OTHER MATTERS TO COME BEFORE THE BOARD**

Trustee Sovel indicated that there are a lot of political signs out and about, not to mention advertising signs. What is the plan to deal with that going forward?



**ITEM 6: OTHER MATTERS TO COME BEFORE THE BOARD (continued)**

Supervisor Scott would like to increase Township enforcement ordinances and a general discussion followed with the trustees and Jay James, Building Department Director, regarding what stepped up enforcement would look like. Supervisor Scott would like to have an online complaint form available to residents.

Treasurer Phillips asked the Board to consider raising the starting salary of new Township employees because the starting salary is extremely low and not commensurate with the responsibilities handled by her departmental employees. Jay James added that he cannot fill open positions in his department due to the low salary offered. Trustee Berkheiser suggested a wage study be conducted.

Supervisor Scott discussed some of the issues the Fire Department is having with paid on call fire fighters and he asked the Board what they want the Fire Department to look like.

Trustee Magner asked when the AFSCME contract expires.

Treasurer Phillips answered in 2018.

Supervisor Scott indicated that any amendment to the contract must be approved by the Township Board and the union membership.

Trustee Berkheiser is concerned about the lack of cross walks at the intersection near the library.

Supervisor Scott said that he would champion than cause as the Clark family is concerned about walk ability for the new integrated playground. Trustee Magner suggested that Jason at Giffels Webster is looking into signs and crosswalks.

Attorney Rentrop informed the Board that the closing date on the trailway is February 8, 2017.

Supervisor Scott asked if there were any other matters to come before the Board. Hearing none he moved on to item 7.

**ITEM 7: CLOSED SESSION**

**MOTION** by Sovel, supported by Berkheiser to enter into closed session for the purpose of discussing pending litigation.

**ROLL CALL VOTE:**

**Ayes:** Magner, Sovel, Creech, Scott, Phillips, Berkheiser, Hindo

**Nays:** None

**Absent:** None

**MOTION CARRIED UNANIMOUSLY**

Entered into Closed Session at 9:10 p.m.

Returned from Closed Session at 9:22 p.m.

**MOTION** by Berkheiser, supported by Phillips, to adjourn from closed session and approve closed session minutes.

**MOTION CARRIED UNANIMOUSLY**

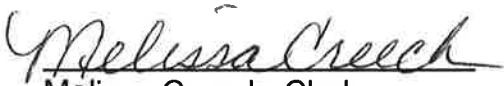
**MOTION** by Berkheiser, supported by Magner, to direct the Township Attorney to proceed as discussed in Closed Session.

**MOTION CARRIED UNANIMOUSLY**

**ADJOURNMENT**

**MOTION** by Scott, supported by Phillips, to adjourn the meeting at 9:23 p.m.

**MOTION CARRIED UNANIMOUSLY**

  
Melissa Creech, Clerk  
Charter Township of Commerce