

Ray Township Board of Trustees
Work Session Minutes
Wednesday October 12, 2016 at 10:30 a.m.

Location: Ray Township Hall
64255 Wolcott, Ray, Michigan 48096

Present: Charles Bohm, Supervisor
Paula Artman, Clerk
Douglas Stier, Treasurer
Betty Grader, Trustee
John Zoccola, Trustee

Also present – Christine Anderson, Township Attorney, Jack Dailey and Jerry Schmeiser, Township Planners, Lisa Hall, Building/Planning/Zoning, Tom Hancock, Planning Chairman, Dan Jensenius and Susan Brown.

1. CALL TO ORDER – PLEDGE OF ALLEGIANCE AND ROLL

The meeting was called to order at 10:30 a.m. and the Pledge of Allegiance was recited. Since this was an informal work session, Mr. Bohm suggested each person introduce themselves.

Ms. Grader inquired if it was ok to have a work session at any time. Ms. Anderson replied “yes” as long as it is posted in proper time.

2. BUSINESSES IN RESIDENTIAL AREAS

Supervisor Bohm explained the work session was being held regarding businesses in residential districts. He explained the attorney and he have reviewed the new proposal and it is before the Board today, to clear up any misunderstandings that may have come up in the process. He said the new process will allow the business to go through our attorney and their attorney, if they chose to hire, something amicable with the Township. He explained we will discuss a friendly mutual consent judgment between each of the businesses on the list and Ray Township. The agreement could allow each business to continue to operate at their present level of activity and at the address they now use. This would be a court administrated action; and having an agreement in hand, the Township would be able to cut short a lengthy and expensive court procedure. He explained this action could be used in the future actions when accused of allowing businesses to operate in residential areas. The Township could allow a business to continue at its present location without the restrictions of our current zoning ordinance under this type of agreement. Discussion was opened at this time:

Ms. Grader asked what the misunderstandings were. Mr. Bohm said the new document will clarify and explain the mutual agreement prepared. This procedure will be worked on with each individual business on an individual basis. He explained the guidelines as followed: business will not be able to continue beyond the present ownership, and they can't be transferred by sale or trust. These businesses will be determined on the day the consent judgements are filed and nothing can be done to transfer these businesses on.

Ms. Anderson added regarding the Attorney fees, there would be no basis to pay for the other parties' attorney's fees. Mr. Bohm said it depends on the Board's decision.

Mr. Jensenius asked what brought this to light. Mr. Bohm said he went to the Planning Commission a year ago, and mentioned to them when they were reviewing the zoning ordinances, are you aware of the ordinance. Their reply was they were happy the way it was. The Planning Commission told the Supervisor It was up to him to enforce the ordinances. Mr. Hancock said the Planning Commission does not enforce the ordinance. For example, he used Heritage Oaks on Kunstman Rd., having a large operation operating in a residential area. Six to Twelve trucks leave the property daily. They don't meet the ordinance. He said there may be others, or not. He does not like letting them stay there with a consent judgement. Traffic is being created on a gravel road. Children cannot stand on the road for the school bus with the trucks and traffic. Ms. Artman inquired if anyone has complained. Mr. Hancock said he knows this for a

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fact, and two people have told him. Ms. Artman asked how long this person has been there? Mr. Hancock said he did not know. Mr. Bohm said 15 years. Mr. Hancock said his concern is he understands what is trying to be done here, but he is hesitant to do a consent judgement with situations as this.

Ms. Anderson said with a consent judgment you could address some of the concerns. The Township could dictate truck routes, the number of trucks, etc. Discussion continued regarding the number of years some of these people have been in business.

Mr. Stier asked Christine Anderson if Townships should not be complaint driven.

Ms. Anderson replied our recommendation is you act upon complaints. When you get a complaint, if you can't substantiate it, you close it. But you can't close your eyes to violations you see on a regular basis, because you run the risk of those running their businesses for 15/20 years. She said the Macomb County Judge will have a hard time ruling against them since the Township let it go.

Discussion followed concerning other communities, with the same circumstances.

Ms. Anderson said we tried to make compliance for these businesses with the Home Occupation III proposal. Discussion continued concerning this proposal.

Mr. Hancock said we have an obligation to protect the property owners next to these businesses. We have special land use requests; they have to meet those requests. Mrs. Brown said many years ago they were told the Board was not approving those requests. Discussion continued regarding Special Land Uses. Mr. Hancock said the Planning Commission just approved one.

Mr. Bohm said the consent judgements will be recorded documents with the county. He said he feels we have done our due diligence once achieved, with the resolution of a mutual consent judgement with the property owners.

Mr. Hancock asked if this is the best way to handle Heritage Oaks. (to the attorney).

Ms. Anderson replied: - do nothing or shut them down (but she feels from her experience, the Macomb County Circuit Judge will not shut them down) since they have been there 15 years, the type III occupation, or the Consent Judgement was her suggestion.

Mr. Bohm said his problem with the Type III is that it allows all to take advantage of it. He feels there will be many going to the Planning Commission for approval. He said we have a procedure for special approval in our Ordinance. The people on this list have never officially started a special land use application. Most of these businesses don't have 5 acres.

Ms. Grader asked Mr. Bohm his thoughts on the Type III wording. Mr. Bohm said he didn't think it was the best interest of the Township. He believes working out a consent judgement with each business is the best way to handle the list of businesses. He said with Board approval he will proceed.

Ms. Grader stated the new Board will be in office in 27 days.

Ms. Anderson said Mr. Bohm has been working hard on this for a long time. The new Board will have to act on this. She feels it will put the new Board in a very good position thanks to Mr. Bohm's hard work. The Board will have to decide whether they file suit. She stated there will be consequences.

Mr. Bohm said he must continue to act.

Ms. Anderson said a lot of information has been given to the Board.

Mr. Hancock said Type III would open up and let anyone new can come in and do want to do that. But Mr. Bohm's proposal freezes where we are right now. It doesn't let anyone else new come in.

Mrs. Brown asked about the Class B businesses, and the ordinance. Mr. Hancock explained to her it is in the ordinance.

Mrs. Brown said there are many more businesses that are not listed.

Mr. Bohm explained we are trying to work out a mutual path between the Planning Commission and Board, to give the owners of the business some input to set a meeting, to get a mutual agreement, and achieve a consent judgement.

Ms. Grader said in 30 years this will not exist. Discussion continued regarding the proposed consent Judgment.

Mr. Hancock inquired if there will be a mechanism to monitor the businesses so they don't expand.

Mr. Dailey said the consent judgement will be in place. The limit will be in the judgement. Ms. Anderson said it will be based on complaints. Mr. Dailey said the consent judgement in place should be enough for people to comply.

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Discussion continued regarding setting limits, defining the problem, and forwarding the information.

Ms. Grader asked for clarification regarding this action and for individual agreements with each business. Ms. Anderson answered it will be individual agreements and lawsuits. Each with the 12 businesses or any that may come up per the attorney.

Ms. Grader asked about Mr. Bohm's document "employees could only be members of the household proved by a valid driver's license... Mr. Bohm said it is a working document, and it can be edited.

Discussion followed.

Mr. Hancock asked who will do the negotiating with the businesses. Mrs. Brown feels there are more that should be on the list.

The Board will determine the procedure.

Mrs. Brown said she didn't feel comfortable about neighbors going against neighbors.

Mr. Zoccola said there may be a problem if the people next door tries to sell, and there are trucks going in and out next door. Mrs. Brown said they don't have a problem with their neighbors.

Ms. Anderson said every property owner in the Township should follow the Zoning Ordinance. If they are aware of the ordinance, they should follow the ordinance.

Discussion followed concerning businesses operating in residential zoning.

Ms. Grader asked who will be doing the negotiating.

Mr. Bohm said he would like to decide at the next meeting, and set some guidelines. He would like to have 2 board members, the attorney and the planner to negotiate the consent judgement.

Ms. Anderson said to start with a planning commission member or two, as her recommendation.

Mr. Bohm said people pay attention to elected people more so than those that are appointed. He said this is the perception of some taxpayers.

Ms. Grader asked if at the next meeting the current board will decide who will negotiate this action, and adopt this action. Mr. Bohm confirmed.

Ms. Artman asked what will be brought to the next meeting. Mr. Bohm said we must determine if the Board wants to go ahead with the idea of the consent judgement with each of the businesses on the list. If so, the team will then be determined. Discussion continued regarding who to put on the negotiating team and what you want to achieve with those separate businesses. Mr. Bohm said the people on the negotiating team need go through the list and set the parameters.

Ms. Grader stated the Board could also table this matter on Tuesday.

Mrs. Brown inquired if each agreement would be negotiated specifically for each business, i.e., what applies to me would not apply to the next business. Mr. Bohm concurred, within certain parameters.

Ms. Artman said the Township Board will set up the basis to start from, and it will be carried on to the next Board.

Mr. Bohm said the Planners' suggested picking one or two businesses and use as an example. He met with Heritage Oaks and Kevco.

5. Adjournment

The meeting ended at noon.

Respectfully submitted,
Marcia Jamroz
Recording Secretary