

**MARION TOWNSHIP  
BOARD OF TRUSTEES  
REGULAR MEETING  
MAY 9, 2024**

**MEMBERS PRESENT:** Scott Lloyd, Tammy Beal, Les Andersen, Dan Lowe, Bob Hanvey, and Greg Durbin

**MEMBERS ABSENT:** Sandy Donovan

**OTHERS PRESENT:** John Gormley, Attorney; Phil Westmoreland, Spicer

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**CALL TO ORDER**

Bob Hanvey called the meeting to order at 7:30 pm. The meeting is also available to attend online.

**PLEDGE OF ALLEGIANCE**

**BOARD MEMBERS PRESENT**

The board members introduced themselves.

**CALL TO THE PUBLIC**

Steve Williams, 5118 Hinchey Road, wanted to thank the on-call firefighters for their service.

Heather Williams, 5118 Hinchey Road, introduced herself and said she is running for County Commissioner in District 5.

**APPROVAL OF AGENDA**

Item #11 ZBA Report, item #12, Playground Equipment, and #13 Enforcement from November 26, 2023 meeting. Greg Durbin motioned to approve the agenda as amended. Les Andersen seconded. **Motion carried.**

**CONSENT AGENDA**

Les Andersen questioned the \$520 paid for cleaning services. He feels it should go out for bid. This item will be added to the next agenda. Les Andersen motioned to approve the consent agenda with the item on cleaning services being added to the next agenda. Dan Lowe seconded. **Motion carried.**

**GALE SHOW CAUSE HEARING**

Bob Hanvey passed out and read a letter from Diane Gale, who was unable to attend this meeting. Greg Durbin motioned to allow a 60-day extension (July 9, 2024) for these items to be addressed. Scott Lloyd seconded. **Motion carried.**

**MILLER SHOW CAUSE HEARING**

Dawn Miller was present for this show cause hearing. She has been working on having the property cleaned up and asked for a 90-day extension. Tammy Beal motioned to have the property reviewed for progress in 60 days. Greg Durbin seconded. **Motion carried.**

**SMITH SPECIAL USE PERMIT**

**Call to the Public**

Bruce Powelson, 3466 Pingree, said the zoning ordinance may as well be thrown out if the board allows this SUP. The activity is not peaceful or harmonious. The Planning Commission has worked on this item. He read and submitted a letter to be included with the minutes of this meeting.

Jim Anderson, Planning Commission Vice Chairman, gave a brief history of the work done on this SUP. The Planning Commission voted 4-1 to recommend denying this activity. He also read and submitted a letter to be included.

Diane Paulson, 2745 Sexton, questioned why Bob Hanvey is the lone dissenter on the Planning Commission. The property is strewn with heavy equipment, the trucks barrel down Sexton Road; the property is on a sharp curve; it stands out like a sore thumb. She said it looks like a contractor's storage yard, not a home-based business. The PC minutes over simplified what she said; they are doing more than just talking loudly. The applicant has been very arrogant about his business hours and he stated he would run his business whenever he needs to, even if it's 3 am.

Derek Lyons, 2588 Sexton, asked the board members if they've seen the pictures from his property. Several board members said no; he passed out copies.

Cheryl Range, 4899 W. Coon Lake Road, said she wanted to share that state law requires that if there is a demonstrated need for a land use or property use, the township must allow it somewhere. There is a delicate balance when ordinances are written and has to be defensible, and ordinances can restrict someone's rights in order to protect the rights of others.

Don Darnell, attorney for the applicant, said the township board created an ordinance for home-based businesses in 2020. The ordinance lays out three primary qualifications, which Mr. Smith feels he's met. He revised his applicant based on input from the Planning Commission. There's been a lot of adversity because the neighbors don't like it; the ordinance doesn't require the neighbors to like it. Mr. Darnell feels that the applicant has met all of the conditions, with possibly the exception of number of employees, which can be negotiated. The Planning Commission stated in the resolution that screening is impossible; nothing is impossible and he said it is possible to provide adequate screening. He doesn't agree with statements made by the Planning Commission, because there's no evidence. The applicant has a land balancing permit and there are construction materials on site. This has nothing to do with the business. The PC stated lighting likely would create a nuisance, not that it actually does create a nuisance. The salt dome complies with all applicable laws; there are no laws that are not being followed. Item #20 says contractor storage are not a permitted special use. The ordinance for home-based business doesn't give specifics on what's not allowed. He feels Mr. Smith has complied with everything with the exception of number of employees, which the board can deviate from.

Tammy Beal said the salt storage seems to be a sticking point and asked if it would be possible to get salt elsewhere. Mr. Darnell said the salt dome concerns are grossly overstated; the structure has a "curb" around it as required by law.

Greg Durbin asked how much salt are we talking about? Mr. Smith said a fresh load could be 48-52 tons, but an average would be about 20 tons. Bob Hanvey asked how many customers use salt and how many trips per customer. Mr. Smith said he has three commercial customers, and estimated 1-3 trips during a weather event. In 48 hours, could be four trips.

Pat Friedline, 2606 Sexton, said she is bordered on two sides by this property. She provided the board members with photographs and said they are welcome to visit her property anytime. She asked that the board accept the Planning Commission's recommendation to deny the SUP.

Lisa Kirk, 2935 High Meadows, said she supports the neighbors as she has also had complaints about a neighbor with a similar type of business. She urged the board to consider the Planning Commission's recommendation.

Derek Lyons, 2588 Sexton, said the property owner brings back brush, wood chips, stone, dirt, etc. from job sites. He has put brush, etc. on a neighbor's property and he hasn't attempted to move it.

Cheryl Range, 4899 W. Coon Lake Road, in response to Mr. Darnell, said the applicant had illegally started this business in two places in the township without any permits. She's concerned about what else may be illegally done.

Bob Hanvey stated that the Planning Commission received the draft resolution at its April 30, 2024 meeting and was given ten minutes to review it. The resolution uses the words "likely or maybe" 48 times; uses "harmonious" and "character" 17 times, and that can be subjective; noise and light are uncertain; number of employees vague; screening ordinance doesn't specify that berms can be used as screening; the ordinance gives flexibility. The neighbors have been complaining during

construction. The normal SUP process is like a contract with conditions and the applicant wasn't given that opportunity. Bob Hanvey recommended that the applicant work with the township on the specifics for the SUP.

Dan Lowe motioned to accept the six photos that were presented and to adopt a resolution to deny the Special Use Permit for Chris Smith. Les Andersen seconded. Discussion: John Gormley said what the property owner may have done at another site is not relevant. Roll call vote: Durbin—yes; Hanvey—no; Lloyd—yes; Beal—yes; Andersen—yes; Lowe—yes. **Resolution to deny Special Use Permit carried 5-1. (Hanvey—no.)**

### **2024 MARION TOWNSHIP ROAD UPDATES**

The Livingston County Road Commission is adding gravel on Francis Road; the Davis Road project will begin next week. Tammy Beal said the LCRC is putting down the first dust control application.

### **HOWELL PARKS AND RECREATION MAINTENANCE**

HAPRA provided information on property maintenance for the parks; this may be something to consider if the township acquires playground equipment in the future.

### **ARPA SLFRF REPORT**

Bob Hanvey updated the board members on the status of these funds. The township received \$1,173,315.56 in two payments. Funds spent in the current period for township hall improvements is \$620,001.08. The remainder is \$553,314.48 which should be committed or spent before December 31, 2024. The intention is to spend approximately \$465,000 on the walking path and driveway, which leaves about \$85,000 to spend or commit before the end of 2024.

### **PDR MILLAGE**

Les Andersen motioned to have the supervisor talk with the bond company for funding the equivalent of 1 mil, approximately \$7.9 million, for ten years; any excess funds would be committed to parks or cemeteries. Bob Hanvey seconded. Roll call vote: Beal—no; Andersen—yes; Durbin—no; Lowe—no; Hanvey—yes; Lloyd—no. **Motion failed 4-2.**

### **HOMETOWN PHASE III LEASE**

Attorney John Gormley said he doesn't recommend the township lease the land for farming, as such a use in the absence of a grandfathered farming activity would be a violation of the zoning ordinance.

Les Andersen motioned to close public access to Hometown Village Phase III property with signage, and have the supervisor notify the Livingston County Sheriff Department. Scott Lloyd seconded. **Motion carried.**

### **ZBA REPORT**

Dan Lowe reported that the Zoning Board of Appeals had one appeal on May 6 for a 40' x 60' accessory structure in Black Eagle Valley. The request didn't meet the criteria and was denied.

### **PLAYGROUND EQUIPMENT**

Les Andersen motioned to have the clerk get more information and prices on playground equipment. Scott Lloyd seconded. **Motion carried.**

### **ENFORCEMENT**

Les Andersen said the board members discussed enforcement through civil infractions at its November 26, 2023 meeting. Greg Durbin said an enforcement officer has to have extensive training; they need to be able to build a case. He feels show cause hearings work well. It was suggested that the supervisor get job descriptions and salary requirements from other townships. John Gormley said the township can have municipal civil infractions and still conduct show cause hearings.

Dan Lowe said another township had college students review site plans for compliance (trees, sidewalks, etc.) during the summer months.

**CORRESPONDENCE & UPDATES**

Les Andersen said he attended a session about how townships are getting cheated by right-to-farm. A greenhouse is not considered farming. Junk farms on the fringes of farming are not protected under right-to-farm. If something is clearly stated in the GAMPS, it's not protected.

**CALL TO THE PUBLIC**

Jim Anderson, 84 Cranbrook, said it's unfortunate the board doesn't support the PDR millage. He also thanked the board for supporting the Planning Commission's recommendation to deny the Special Use Permit on Sexton Road. He asked what's next for this property? John Gormley said the property owner has 30 days to appeal after the minutes from this meeting are approved.

Cheryl Range, 4899 W. Coon Lake Road, thanked the board members for listening to the Planning Commission and concerned neighbors about the Sexton Road Special Use Permit. She said a threat was made when the applicant left the building. Mr. Gormley said if that's true, it should be reported to law enforcement.

Andy Herald, 1881 Cedar Lake Road, said that the sound system is still awful. He also said he has 52 acres that could benefit from the PDR millage and the money spent on the building could have been used to purchase his development rights.

Lisa Kirk, 2935 High Meadows, said she has been filing complaints against her neighbor for three years. There was a show cause hearing, but things haven't changed. Tammy Beal said this will be on the next meeting's agenda.

John Gormley said show cause hearings should always come back to the board for follow-up.

**ADJOURNMENT**

Les Andersen motioned to adjourn at 9:37 pm. Scott Lloyd seconded. **Motion carried.**

Submitted by: S. Longstreet

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Tammy L. Beal, Township Clerk      Date

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Robert W. Hanvey, Township Supervisor      Date