

**CHARTER TOWNSHIP OF MERIDIAN
PLANNING COMMISSION
REGULAR MEETING MINUTES
January 10, 2011**

APPROVED

**5151 Marsh Road, Okemos, MI 48864-1198
853-4000, Town Hall Room, 7:00 P.M.**

PRESENT: Commissioners Deits, Commissioners Beyea, Cordill, Goodale, Goldsberry, Honicky, Jackson, Norkin, Scales
ABSENT: None
STAFF: Director of Community Planning & Development Mark Kieselbach, Principal Planner Gail Oranchak

1. Call meeting to order

Vice-Chair Deits called the regular meeting to order at 7:01 P.M. He welcomed three new Planning Commissioners: Ody Norkin, Holly Cordill, and Milton Scales.

2. Approval of agenda

Commissioner Jackson moved to approve the agenda. Seconded by Commissioner Cordill.

VOICE VOTE: Motion carried unanimously.

3. Public Remarks

Vice-Chair Deits opened the floor for public remarks.

Will Tyler White, 2138-½ Hamilton Road, Okemos, spoke in support of Special Use Permit #10-09081 (Grand Petro Mart). He noted the state medical marihuana act is currently being considered for revision and urged caution as the Planning Commission moves forward on this issue.

Michael Leon, 4890 Chipping Camden Lane, Okemos, spoke in opposition to Special Use Permit #10-09081 (Grand Petro Mart).

Vice-Chair Deits closed public remarks.

**4. Medical Marihuana Act Overview,
Andria Ditschman, General Counsel, The Hubbard Law Firm**

Eric Misterovich, Hubbard Law Firm, gave an overview, through a Powerpoint presentation, on Michigan's Medical Marihuana Act (MMMA).

Andria Ditschman, Hubbard Law Firm, spoke to regulation of medical marihuana through initiating a zoning amendment to allow for a new use.

Planning Commission and attorney discussion:

- Pros and cons on a regulation which allows the growing of marihuana only on land zoned agricultural
- Specific conditions listed in the MMMA under which an individual can and cannot use medical marihuana (e.g., driving)
- Michigan's impaired driving statute makes it illegal to drive under the influence of a Schedule 1 controlled substance
- Local police concerns with ascertaining who is under the influence of medical marihuana
- No regulations in state law regarding the safety of users relative to the quality of medical marihuana
- Possible incorporation of safety provisions into a zoning ordinance

- Strength labeling included in licensing regulations
- Planning Commission authority given under the Michigan Zoning Enabling Act (MZEA) to initiate a zoning ordinance amendment; final approval is given at the Board level
- MMMA prohibits the smoking of medical marihuana in any form of public transportation or any public place
- MMMA prohibits possession of medical marihuana on school grounds
- Interpretation that commercial zoning is the appropriate category in which to place medical marihuana dispensaries
- Whether the Federal Controlled Substances Act supersedes the Michigan Medical Marihuana Act under the supremacy clause of the US Constitution
- Federal litigation to answer this question in other states has had varying results
- Preference for taking the idea of a medical marihuana ban off the table
- MMMA protects individuals, not businesses, as commercial entities are not mentioned within the act
- Reasonable “plant growing” threshold which triggers residential use to commercial use
- State law does not prevent multiple caregivers from subletting space to individually grow medical marihuana under one roof
- State law does not preempt local zoning ordinances if done on a “reasonable” basis
- Public health, safety and welfare concerns differ from one community to another and are subjective
- Issues which have surfaced include, but are not limited to, fumes in an area of use, shielding of windows, security concerns in commercial areas
- Each specific type of use raises its own area of concern
- Enactment of an ordinance which adds regulations or changes uses by district without the benefit of a moratorium requires existing entities to be grandfathered into the act
- New legislature could add clarity to existing law through enactment of a new law which regulates the commercial aspects of medical marihuana
- Local governments have an opportunity to set regulations which can be an example for the state to adopt
- Options are to do nothing, do something or place a moratorium on medical marihuana
- Research reveals 14 communities within Michigan regulate medical marihuana through zoning and licensing
- Research indicates 38 communities within Michigan have adopted a medical marihuana moratorium
- Research indicates 18 communities within Michigan have placed a ban on medical marihuana
- Average age of the medical marihuana user in California is 27 years old
- Current dispensaries in California are “under siege” from criminal elements
- Use of California as the “laboratory” from which to glean the pitfalls regarding medical marihuana
- MMMA does not preempt the Planning Commission’s zoning authority
- MZEA is not inconsistent with the MMMA
- Registered vs. unregistered patient
- Planner Commissioner view there is a disincentive for a patient to go through the registration processes
- Attorney recommendation that a medical marihuana user should register and obtain a card
- Medical marihuana as an agronomic driver
- Marihuana cannot be smoked in a public place
- Locations which are “by membership only” would not be considered a public place
- Possibility of Township regulation on the basis that only “members only” locations are allowed in the Township
- Most entities are not exclusively for smoking medical marihuana

- Possibility of placing a link on the Township's website to the Powerpoint presentation

5. Approval of Minutes

Commissioner Jackson moved to approve the Regular Meeting Minutes of December 13, 2010. Seconded by Commissioner Goodale.

Commissioner Beyea offered the following amendment:

- **Amend page 3, last sentence of the second paragraph by deleting "western" and inserting "eastern"**

The maker accepted the amendment.

VOICE VOTE: Motion carried unanimously.

6. Election of the Chair, Vice-Chair and Secretary for 2011

Vice-Chair Deits opened the floor for nominations of 2011 Chair.

Commissioner Jackson nominated Commissioner Deits as 2011 Chair. Seconded by Commissioner Scales.

Commissioner Honicky moved to close the nominations for 2011 Chair. Seconded by Commissioner Scales.

VOICE VOTE: Motion carried unanimously.

VOICE VOTE ON THE MAIN MOTION: Motion carried unanimously.

Chair Deits opened the floor for nominations of 2011 Vice-Chair.

Commissioner Beyea nominated Commissioner Jackson as 2011 Vice-Chair. Seconded by Commissioner Scales.

Commissioner Honicky moved to close the nominations for 2011 Vice-Chair. Seconded by Commissioner Scales.

VOICE VOTE: Motion carried unanimously.

VOICE VOTE ON THE MAIN MOTION: Motion carried unanimously.

Chair Deits opened the floor for nominations of 2011 Secretary.

Chair Deits nominated Commissioner Beyea as 2011 Secretary. Seconded by Commissioner Jackson.

Commissioner Honicky moved to close the nominations for 2011 Secretary. Seconded by Commissioner Scales.

VOICE VOTE: Motion carried unanimously.

VOICE VOTE ON THE MAIN MOTION: Motion carried unanimously.

Chair Deits recessed the meeting at 9:12 P.M.

Chair Deits reconvened the meeting at 9:19 P.M.

7. Communications

A. Trustee Lynn Ochberg; RE: Michigan Medical Marihuana Act

8. Public hearings

A. Commission Review #11013 (Township Board), conduct a Section 61 review of 2011 budgeted capital improvements projects.

Chair opened the public hearing at 9:19 P.M.

- Introduction by the Chair (announcement of procedures, time limits and protocols for public participation and applicants)
- Summary of subject matter
Principal Planner Oranchak summarized the commission review projects as outlined in staff memorandum dated January 6, 2011.
- Applicant
Parks and Recreation Director LuAnn Maisner, spoke to plans for developing Towner Road Park into athletic fields. She noted solicitations for grant support of this site have not met with success and the Park Commission is looking to have specifications drawn up by an engineer. Director Maisner indicated there may be in-kind volunteer services to assemble the park in phases and stated the possibility of residents desiring to sponsor certain areas of the park may exist and Parks and Recreation needs to know what the volumes are.

Ms. Maisner stated the Ted Black Woods Project is a unique parking lot not seen as a high use area. The Park Commission intends to keep the parking lot's natural surface to accommodate six (6) to eight (8) vehicles in an effort to get cars off of Van Atta Road.

Ms. Maisner reported that the Park Commission is in the process of putting together a site design for Legg Park South. With the purchase of Towner Road Park, the commission felt it best to repurpose Legg Park South with less development. She added the proposed off-leash dog park will have a fenced-in area with mowed trails for dog walkers to address the problem with dog owners allowing their dogs off-leash in Meridian Township parks.

- Planning Commission discussion:
Commissioner Honicky noted the two (2) pathways are essentially sidewalks in front of private residences, both on Mount Hope and Okemos Road. He inquired as to the homeowners' responsibility in placing a sidewalk v. calling it a pathway and it becomes the Township's responsibility.

Principal Planner Oranchak responded there is a distinction between pathways and sidewalks as noted in the Pedestrian Bicycle Pathway Master Plan. She stated pathways are primarily on main roads to connect the entire Township while sidewalks are generally within a subdivision and maintained by private homeowners. Ms. Oranchak noted where development has already occurred, the Township, through use of pathway millage funds, will build pathways for connectivity purposes. She indicated where there is new construction, the pathway will be built as part of the development.

Commissioner Honicky inquired if the identified areas along Okemos Road and Mt. Hope Road are pathways because they are on those main thoroughfares.

Principal Planner Oranchak answered in the affirmative, in addition to the fact they are on the Bicycle Pathway Master Plan and built to a different standard than a normal subdivision sidewalk (at least seven (7) feet wide).

Commissioner Honicky inquired if the Township will utilize the segment already built by the developer as part of the condominium project on Okemos Road.

Principal Planner Oranchak responded in the affirmative, as the pathway was built to the specifications for a pathway at the time the condominiums were built.

Commissioner Jackson inquired if there was Land Preservation property adjoining Towner Road Park.

Principal Planner Oranchak responded there is Land Preservation property adjoining the park on its eastern boundary.

Commissioner Goldsberry noted it is encouraging to see the Township move forward with development of open spaces and recreational areas which help residents live more active lifestyles.

Commissioner Norkin noted Legg Park is a Township treasure few people know about. He inquired if the impact of the train and the train whistle has been examined for the location of the dog park.

Parks and Recreation Director Maisner noted she will look into question, although there are a number of railroad tracks which run through the Township and the dog park committee has not heard of that concern in its contacts with other communities.

Commissioner Norkin inquired if the dog park committee considered large dog v. small dog areas.

Director Maisner responded in the affirmative.

Commissioner Norkin inquired if the proposed dog park would reduce, remain the same or increase the dog population on the narrow paths within Legg Park.

Director Maisner responded there are a number of dogs and dog owners currently utilizing Legg Park and believes when the dog park is built, use of other parks to walk dogs is forecasted to be reduced.

Commissioner Goodale questioned the need for two (2) soccer fields and (2) baseball fields at the Towner Road Park.

Director Maisner responded the fields will be used for lacrosse, soccer, football and an inventory of the number of organized sports teams revealed demand exceeds supply.

Commissioner Goodale believed a dog park located at Legg Park defeats the Township goal of walkability.

Director Maisner noted much time has been invested studying the best location for a dog park, including the noise factor. She indicated studies revealed the necessity of not locating a dog park in a residential area. Ms. Maisner stated most existing dog parks are “out” of the central business district. She noted her own study revealed residents in the eastern portion of our community needed to travel the furthest distance to utilize an existing dog park.

Commissioner Beyea inquired how parking for the dog park at Legg Park would be handled, both environmentally and the screening.

Director Maisner responded what has been presented to the Planning Commission is a very rough draft showing where things would be located on the site. She noted screening from Van Atta Road will be a design feature and the parking lot will still be of an impervious nature, anticipated to accommodate 40 vehicles. Director Maisner indicated most dog parks do not have visitors who utilize the park all at one time; usually it is a “steady stream” of users. She indicated the Park Commission is utilizing best practices and believe there will be minimal impact to the site, keeping the site rustic in nature, looking at farm fence, planting native grasses, and improving the wildlife habitat through eradication of invasive species.

Commissioner Beyea noted Ted Black Woods’ southern access is along Grand River Avenue, and not surrounded by residential uses, per se. He expressed concern there be appropriate screening from the road so there is no view of the parking lot.

Director Maisner indicated that even though there is parking for 8-10 cars on Grand River, an overflow of parking is not anticipated. She stated it will be a low key development that is unobtrusive and in the most natural state possible. Director Maisner noted there is significant screening current on site, as the house sat back from the roadway; however, some clearing has taken place to provide access. She indicated there will be communication with the neighbors and adjacent property owners to determine the best location for parking as the Parks Department strives to always be good neighbors.

Commissioner Norkin suggested overflow parking graveled in Consumers Energy’s road right of way/utility easement to minimize visible parking in Legg Park.

Chair Deits expressed appreciation for the projects which begin to integrate non-motorized transport in the Township.

Chair Deits inquired as to the wisdom of voting on each project individually or the CIP as a whole.

Commissioner Jackson clarified that the Planning Commission has previously looked at the proposed CIP projects within a five (5) year time frame all at one time where now the CIP projects are those that have a possibility of being paid for within the year.

Principal Planner Oranchak noted the CIP is now being prepared by staff and appropriated in the Township Board’s yearly budget. She recommended placing all the projects together in one resolution for approval. Ms. Oranchak reminded Planning Commissioners that they are making the decision on whether these projects are consistent with the Master Plan and the Board has already added these capital improvement projects to the current budget.

Chair Deits closed the public hearing at 10:02 P.M.

Without objection, Chair Deits suspended Bylaw 7.14 to approve discussion of agenda items after 10:00 P.M.

- B. *Special Use Permit #11-71231 (Aver Sign Co.), request to install changing message sign on an existing free-standing pole at the Marathon gas station, 1619 Haslett Road.

Chair Deits opened the public hearing at 10:03 P.M.

- Summary of subject matter
Principal Planner Oranchak summarized the proposed special use permit as outlined in staff memorandum dated January 6, 2011.
- Applicant
Terrence Ulch, Aver Sign Company, 359 Livernois, Ferndale, spoke to the ability for the gas station employees to change the price of gasoline on the proposed sign without leaving the station.

Planning Commission discussion:

Commissioner Goodale inquired as to why the sign is four (4) feet wide instead of three (3), which would allow it to conform to the allowed 12 square feet of surface display area per side within which to indicate the price and grade of gasoline.

Mr. Ulch responded it is the standard Marathon sign.

Chair Deits expressed concern this is a self determined “violation” of the Township’s sign ordinance and would require the applicant to go before the Zoning Board of Appeals for a variance. He also believed staff’s interpretation of the area’s square footage which defines the grade and price is “generous.”

Principal Planner Oranchak responded the sign is a box and staff measures around the box. She noted the measurements were provided by the applicant. She added the sign is not dissected by each element contained within the sign’s frame. Ms. Oranchak believed the request exceeds the maximum square footage by four (4) feet.

Commissioner Jackson expressed concern with the lack of height relative to the sight triangle.

Principal Planner Oranchak responded that it appears to be outside of the sight triangle from the right of way.

Commissioner Beyea asked staff if the other Marathon stations required a variance for their signs.

Principal Planner Oranchak responded she does not recall if they required a variance; however, they did need a special use permit.

Commissioner Beyea asked the applicant if there was another sign size in the Marathon inventory that would meet the Township’s zoning ordinance requirements.

Mr. Ulch responded the proposed sign is the smallest sign Marathon has in its inventory.

Commissioner Beyea expressed concern with approving a sign that violates the Township’s ordinance.

Chair Deits clarified the only issue before the Planning Commission is illumination of the sign.

Chair Deits closed the public hearing at 10:15 P.M.

9. Unfinished Business

- A. Special Use Permit #10-09081 (Grand Petro Mart), request to add a drive through window to the proposed gasoline/convenience store at 743 Grand River Avenue.
Principal Planner Oranchak summarized the special use permit request as outlined in staff memorandum dated January 6, 2011.

Commissioner Honicky moved [and read into the record] NOW THEREFORE, BE IT RESOLVED THE PLANNING COMMISSION OF THE CHARTER TOWNSHIP OF MERIDIAN hereby approves Special Use Permit #10-09081 (Grand Petro Mart) with the following conditions:

- 1. Approval is based on the submitted application materials and the site plans prepared by Kater Engineering, dated August 18, 2010, subject to revisions as required.**
- 2. Approval is based on the submitted building elevations prepared by Kater Engineering, dated July 14, 2010 (Sheet 1) and October 26, 2010 (Sheet 2), subject to revisions as required.**
- 3. One (1) drive-through window is approved, to be located on the east building elevation, and to be used for ordering, paying, and picking up food or beverages.**
- 4. The primary use of the drive-through window is for serving non-alcoholic beverages, pastries, and baked goods. Other products from within the convenience store shall not be sold through the drive-through window.**
- 5. Any changes in the use of the drive-through window or an additional drive-through window would require an amendment to Special Use Permit #10-09081 and shall be subject to the approval of the Planning Commission.**
- 6. Exterior message or pre-sell boards or amplification are not approved as part of the amendment to the special use permit.**
- 7. The hours of operation for the drive-through window shall be the same as the convenience store, 5:30 a.m. to 11:30 p.m., Monday through Sunday.**
- 8. The applicant shall obtain all other necessary and applicable permits, licenses, and approvals from the Michigan Department of Natural Resources and Environment, Ingham County Drain Commissioner, and the Township prior to any construction on the site. All approval documents shall be submitted to the Department of Community Planning and Development.**
- 9. The applicant shall submit for and receive site plan review approval from the Director of Community Planning and Development prior to the commencement of any demolition or construction on the subject site.**

Seconded by Commissioner Scales.

Planning Commission and applicant's representative discussion:

- Sufficient conditions placed on the special use permit prevent future development as a fast food restaurant without returning to the Planning Commission for approval
- The convenience store is a good distance from the property line
- Lack of a menu board prevents patrons from knowing what is available for sale

- Repeat customers have a good “feel” what products are being provided at the drive-through window
- Drive-through establishment adjacent to a rural residential neighborhood would set a precedent in Meridian Township
- Drive-through establishment is inconsistent with the character of the area
- Drive-through establishment at this location is inconsistent with the smart growth principles of the Master Plan
- Type of drive-through window (single station) is inherently self-limiting

ROLL CALL VOTE YEAS: Commissioners Goldsberry, Honicky, Jackson, Scales, Chair
ON THE MAIN Deits
MOTION: NAYS: Commissioners Beyea, Cordill, Goodale, Norkin
Motion carried 5-4.

Commissioner Scales moved to suspend Rule #6.4a of the Planning Commission’s Bylaws which states, “A decision on a special use permit, zoning request or ordinance will not be made on the date of the public hearing considering such item.” Seconded by Commissioner Jackson.

VOICE VOTE: Motion carried unanimously.

- B. *Special Use Permit #11-71231 (Aver Sign Co.), request to install changing message sign on existing free-standing pole at the Marathon gas station, 1619 Haslett Road.

Commissioner Scales moved [and read into the record] NOW THEREFORE, BE IT RESOLVED THE PLANNING COMMISSION OF THE CHARTER TOWNSHIP OF MERIDIAN hereby approves the special use permit for the installation of a changing message sign on an existing freestanding sign pole at 1619 Haslett Road, subject to the following conditions:

- 1. Approval is granted in accordance with the sign rendering submitted by the applicant, received by the Township on January 4, 2011.**
- 2. Only one freestanding changing message sign shall be allowed for the site.**
- 3. The special use permit shall only apply to the portion of the freestanding sign displaying the price of gasoline.**
- 4. The changing message sign displaying the price of gasoline shall not flash, scroll, or otherwise move. Movement shall only occur to display a change in the price of gasoline.**
- 5. The applicant shall reduce the portion of the sign used for the display of price and grade of gasoline to a maximum of 12 square feet in surface display area per side or receive a variance from the Zoning Board of Appeals.**

Seconded by Commissioner Honicky.

ROLL CALL VOTE: YEAS: Commissioners Beyea, Cordill, Goldsberry, Goodale, Honicky,
Jackson, Norkin, Scales, Chair Deits
NAYS: None
Motion carried unanimously.

10. Other Business

A. Resolutions of Appreciation

Commissioner Jackson moved [and read into the record] NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CHARTER TOWNSHIP OF MERIDIAN, INGHAM COUNTY, MICHIGAN as follows:

The Planning Commission of the Charter Township of Meridian, by means of resolution, extends to Tamara Jorkasky grateful thanks for her voluntary effort on behalf of all residents of the community during this period of dedicated service on the Planning Commission.

Seconded by Commissioner Goldsberry.

ROLL CALL VOTE: YEAS: Commissioners Beyea, Cordill, Goldsberry, Goodale, Honicky, Jackson, Norkin, Scales, Chair Deits

NAYS: None

Motion carried unanimously.

Commissioner Honicky moved [and read into the record] NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CHARTER TOWNSHIP OF MERIDIAN, INGHAM COUNTY, MICHIGAN as follows:

The Planning Commission of the Charter Township of Meridian, by means of resolution, extends to David Reicosky grateful thanks for his voluntary effort on behalf of all residents of the community during this period of dedicated service on the Planning Commission.

ROLL CALL VOTE: YEAS: Commissioners Beyea, Cordill, Goldsberry, Goodale, Honicky, Jackson, Norkin, Scales, Chair Deits

NAYS: None

Motion carried unanimously.

11. Township Board, Planning Commission officer, committee chair, and staff comment or reports

Chair Deits inquired as to Planning Commission desire with respect to the medical marihuana issue.

Planning Commission discussion:

- Lack of Planning Commission action allows the possibility of medical marihuana related businesses to be grandfathered
- Lack of Planning Commission action leaves the decision up to the Township Board
- Concern that any Planning Commission action will result in a legal challenge and costly legal fees financed with taxpayer monies
- Only four (4) lawsuits have been filed while 60 communities in Michigan have taken some type of action on this issue

It was the consensus of the Planning Commission to place this item on for discussion at a future Planning Commission meeting.

Commissioner Beyea suggested the Planning Commission place the issue of a doggie day care zoning amendment on for discussion at a future Planning Commission meeting.

Chair Deits noted the doggie day care issue was denied by the Planning Commission, but overruled by the Township Board.

12. New applications

- A. Zoning Amendment #11010 (Planning Commission), to retain the ability to extend special use permit (Section 86-128) and site plan (Section 86-158) approvals.
- B. *Special Use Permit #11-71231 (Aver Sign Co.) Install changing message sign on existing free-standing pole at the Marathon gas station, 1619 Haslett Road.
- C. Special Use Permit #11-06031 (Extencicare), a request to expand the parking lot for Okemos Health and Rehabilitation Center, 5211 Marsh Road.

13. Site plans received (None)

12. Site plans approved (None)

13. Public remarks

Chair Deits opened and closed public remarks.

14. Adjournment

Chair Deits adjourned the regular meeting at 10:51 P.M.

Respectfully Submitted,

Sandra K. Otto
Recording Secretary