

CHARTER TOWNSHIP OF FLUSHING
6524 N. SEYMOUR ROAD
FLUSHING, MICHIGAN 48433
810-659-0800 FAX: 810-659-4212
SPECIAL PLANNING COMMISSION MEETING
DATE: JUNE 26, 2006 TIME: 7:00 P.M.
WEB ADDRESS <http://www.flushingtowship.com>

MEMBERS OF PLANNING COMMISSION

Mark J. Newman, Chair	Richard Buell
Jerome Doyle, Vice Chair	Ronald Flowers
Eric Swanson, Secretary	David Gibbs
Barry Pratt, Board of Trustee Representative	

Jerald W. Fitch, Building Inspector
Julia A. Morford, Recording Secretary

PRESENT: Newman, Pratt, Buell, Doyle, Swanson, Flowers, Gibbs, Fitch, and Morford

ABSENT: None

OTHERS PRESENT: None

I. MEETING CALLED TO ORDER at 7:01 p.m. by Planning Commission Chair Mark J. Newman with Roll Call and the Pledge to the American Flag.

II. ADOPTION OF AGENDA: FLOWERS MOVED, seconded by Pratt to adopt the Agenda as presented. **MOTION CARRIED.**

III. APPROVAL OF MINUTES OF MAY 8, 2006: SWANSON MOVED, seconded by Doyle to approve the Minutes of May 8, 2006 as corrected. **MOTION CARRIED.** (NEWMAN abstained from voting due to not being present at the May 8, 2006 meeting.)

IV. UNFINISHED BUSINESS:

1. Review and Discussion Regarding:

A. An Ordinance to Amend Section 16-1 of the Code of Ordinances to Require a Survey with a Requested Property Subdivision, Division or Split.

NEWMAN reviewed the proposed amendment to Section 16-1 as prepared at ATTORNEY STEVE MOULTON (ATTORNEY MOULTON).

Paragraph 1: defines the terminology

Paragraph 2: a current survey prepared by a licensed surveyor showing each parcel

Paragraph 3: the Planning Commission, at its discretion, may waive the stake survey requirement.

COMMENTS FROM THE PLANNING COMMISSION:

- **PRATT:** there was a discussion to where **JERRY FITCH (FITCH)**, Building Inspector, at his discretion, would make the decision in cases where the stake survey would not be required.
 - a. **FITCH** stated there was discussion regarding situations of an existing survey even though it was several years old.
 - b. Planning Commission felt it would be burdensome to make someone do a survey twice.
 - c. **FITCH:** if there had been a survey ten (10) or fifteen (15) years old, as long as it was an accurate survey and the stakes could be found, he (Fitch) would have no problem accepting the survey.
- **FITCH:** the property divisions are all given to **DENNIS JUDSON (JUDSON)**, Assessor for the Charter Township of Flushing, who actually divides the property. **FITCH** stated that **JUDSON** agreed with the terms of the stake survey.
- **FITCH:** any issue that **FITCH** could not make a decision on, he would bring before the Planning Commission.
- **NEWMAN:** the way he (Newman) read paragraph 3 was the Planning Commission could only waive the requirement.
- **FLOWERS:** coming before the Planning Commission would relieve the pressure off the building inspector.
- **SWANSON:** in previous discussions concerning stake surveys, instead of having the Planning Commission make the decisions, it was changed to the Building Department with an appeal to the Planning Commission or the Zoning Board of Appeals; **SWANSON** felt **FITCH** and **JUDSON** should have the discretion to determine if the matter is “good enough.”
- **NEWMAN:** additional wording could be added to paragraph 2 which stated: “a current survey as determined by the Building Department;” If **FITCH** should be in a situation where the survey was ten (10) years old and thought the survey was great, but on the other hand **FITCH** had reviewed the property and felt it was useless to the township; a current survey would be needed. If the resident had an issue with the decision being made by **FITCH**, the resident could come before the Planning Commission and the survey possibly could be waived under paragraph 3. There would have to be a two (2) step method.
- **DOYLE:** the Planning Commission would make the final decisions if there was a problem.
- **SWANSON:** both **FITCH** and **JUDSON** could use the stake survey. If there was a problem, the resident would be sent to the Planning Commission which would be determined by paragraph 3.
- **BUELL:** believed in surveys, but has a problem with the ordinance from the stand point of the timing of the survey. **BUELL** wanted to know if it would be more useful, in the long run, to have the survey done, not at the time of the split of the parcel, but at the time the parcel was going to be built upon?

- **DOYLE:** the rational being if an individual had a stake survey and there was a written order to the affect the engineer had preformed the survey, the resident would still have the paper; if the stakes were lost, the stakes could be reset but the survey would still be the same.
- **FLOWERS:** the individual would not be starting over; the surveyor could set up on both section corners and shoot down the property, put the stakes back into the ground, and everything would be done. The survey would not have to be re-written; only retracing the survey even if it was fifteen (15) years old.
- **BUELL:** if the stakes were lost, it would necessitate two (2) visits by a surveyor. Why wouldn't it be easier to have the survey done just prior to constructing on the property?
- **FLOWERS:** sometimes when the stakes have been put into the ground they are run over and broken. If the stakes have been marked good, they would stay there fifteen (15) years or longer.
- **DOYLE:** if the ordinance is left as it is for the time, and until such time it would be the only time to follow up which would be when the property was split with the use of metes and bounds descriptions, etc. If an individual was going to do something with the property, then go to the time when he/she wanted to build, then a stake survey would be necessary; up until that particular time, it could be left as is, which a stake survey would not be needed.
- **FLOWERS:** there have been cases when splits have occurred and when the actual survey had been completed, the acreage was short.
- **NEWMAN:** it would be a preventative matter.
- **PRATT:** if going to go with the stake survey, one of the big concerns from real estate people, or sellers selling property, would be some property owners don't have a clue as to what they are selling – the stake survey would take care of the issue. If the survey was done on the split of a particular parcel, there would actually be stakes to see rather than someone drawing up his/her own legal description stating “here is your five (5) acres”. It would be a *buyer beware* and possibly the case could end up in Court. It would force the individual to have a stake survey to eliminate the problem.
- **FLOWERS:** when the individual come into the township office, the building inspector/assessor would know exactly what the split involved.
- **BUELL:** perhaps it would be more of a benefit for the assessor.
- **FITCH:** if the stake survey was required at the time of the building permit, what has happened nine (9) times out of ten (10), would be that someone would come in on Monday ready to dig Wednesday and pour footings on Wednesday. It would take approximately two (2) weeks to get a surveyor out to the property to do the survey.
- **NEWMAN:** it might turn out to be a favor in disguise for the individual if they had to wait a while due to not having the acreage the individual thought he/she had, or perhaps the setbacks were not correct, then the project would come to a halt; the contractors could actually leave the area.
- **SWANSON:** the situation which **FITCH** mentioned has actually happened more times that one even in Flushing Township.

- **DOYLE:** he has seen two (2) different individuals have surveys with two (2) different engineers where the lines don't agree; there could be a problem with the setbacks as to which survey to use?
- **NEWMAN:** he litigated a case for fourteen (14) months over two (2) parcels of land that didn't exist because the township did not require surveys and no one got a survey. The appraiser appraised both lots, the road commission had given addresses, and when the people went to build, the building inspector stated the property wasn't a lot and the individual didn't even own the property. There was only one (1) parcel with one person's name. It turned out to be a very expensive mistake.
- **PRATT:** had a concern regarding the ordinance which states: "a division or split and provide a stated legal description for each such parcel prepared by a licensed surveyor." **PRATT** wanted to know if the legal description would also be prepared by the surveyor? The Planning Commission members also agreed this was their (Planning Commission) interpretation to the language.
- **FLOWERS:** if a individual decided to split his/her property and wanted to know where the survey markers were located, it would be very important to mark the markers with something permanent. The stamp and name on the bottom of a survey is the licensed surveyor. Whoever puts the stamp on the bottom of the survey is the licensed surveyor.
- **DOYLE:** a stake survey would be different from giving a description.
- **PRATT:** has talked to a friend that was a surveyor and he stated he has seen more problems with bad legal descriptions than with surveys themselves. The surveyor recommended each legal description being drawn up by a licensed surveyor.
- **FLOWERS:** felt the ordinance should state "stake survey".
- **NEWMAN:** should the terminology of "stake" or "boundary" be used?
 - a. boundary = the boundary of the whole property
 - b. stake = staking out the area that was needed.
 - c. also a written form of survey could be used instead of using stakes
- **NEWMAN:** recommended the wording be change to read as follows:

(2) . . ."a current stake survey, as determined by the Building Department or Assessor, and a stated legal description prepared by a licensed surveyor showing each parcel which will result from the requested subdivision, division, or split, which shall include a stated legal description for each parcel".
- **PRATT:** recommended using the wording:

(2). . ."shall provide to the township a current stake survey and a stated legal description for each such parcel prepared by a licensed surveyor also showing each parcel which would result from a requested subdivision, division or split."
- **NEWMAN:** recommended using the language:

(2). . ."a current stake survey, as determined by the Building Department and Assessor, and a stated legal description prepared by licensed surveyor showing each parcel which will result from the requested subdivision, division, or split."
- **FITCH:** would like to add the word "Assessor" to the language.
- **FITCH:** will review the new language with **ATTORNEY MOULTON**, check on the time frame for publication to the newspaper, then bring the proposed ordinance back to

the Planning Commission for review; a Public Hearing would then be scheduled. The next regular scheduled Planning Commission meeting will be August 14, 2006.

B. An Ordinance to Amend Section 13.5 of the Code of Ordinances to Allow Signs Advertising the Sale of Certain Agricultural Products

NEWMAN briefly reviewed paragraph 1 of an Ordinance to Amend Section 13.5 of the Code of Ordinances to allow signs advertising the sale of certain agricultural products. A discussion regarding the number of acres to be occupied or used in part for agriculture or agricultural purposes, was left blank. (There had been a discussion at one of the previous Special Planning Commission Meetings regarding Agriculture Signs).

DISCUSSION REGARDING THE ACREAGE:

- **DOYLE:** there would be a lot of different parcels of property that would be able to have the signs; ½ acre of land could be considered.
- **NEWMAN:** the purpose of the signs was to be used for individuals who wanted, not necessary a road side stand, but someone that would be selling products every year with things items as corn, squash, etc.
- **DOYLE:** another example would be if the individual was only selling berries.
- **FITCH:** berries are grown on less than a ten (10) acre parcel. Signs for larger parcels of land had started the agriculture sign issue.
- **FITCH:** currently there is an ordinance regarding farm animals and horses with parcels less than twenty (20) acres in size. **FITCH** stated his intention had been the same but on parcels containing at least twenty (20) acres or more of land. Anything less than twenty (20) acres would be dealt with by road-side stands which would similar to a home occupation sign.
- **FITCH:** there are a lot of “u-pick farms” with ten (10) acres or less. **FITCH** had no problem with ten (10) acre parcels, but if the Planning Commission went with the ten (10) acres, the produce should be something that has been grown on the property.
- **GIBBS:** the dictionary describes a “farm” as an area of land under cultivation, animal breeding under individual or collective management; the definition has been in affect for fifty (50) years. Would the definition of a farm be changed?
- **FITCH:** the definition of a farm would not be changed; the sign ordinance had not addressed farms. **FITCH** inquired from **GIBBS** as to the number of acres he (Gibbs) owned. Per the Ordinance, **GIBBS** would only be limited to two (2) two square foot signs.
- **GIBBS:** a farm could be one-half (½) acre or larger.
- **FITCH:** the individual, that had initially brought up the agriculture sign issue, had wanted to put up a sign to start a tree farm.
- **DOYLE:** why not start with the smallest amount of property that could be used for something similar and go up to one hundred (100) acres.
- **FITCH:** the flip side of the matter would be does the Planning Commission want large signs going up on small parcels of land?
- **GIBBS:** an individual has the right to advertise his products.

- **PRATT:** there have been cases where farmers didn't live on the farm. **PRATT** stated he had bought corn from an individual who lived off M-13, but the farmer's house was down the road and the wife was able to come out and sit at the stand and sell the corn. There were signs in front of the farmer's home also. **PRATT** stated if we are enabling a farmer to sell his produce somewhere, should we not think about his own personal residence which might be a small lot.
- **GIBBS:** why not limit the signs but don't tie them to a farm. There are individuals that have small farms that have sold produce but are still considered a farm. **GIBBS** has acreage.
- **BUELL:** it would be unfortunate to have a twelve (12) square foot sign every place there was a farm.
- **GIBBS:** an agreement has to be determined as to the size of the piece of property or size of the farm.
- **BUELL:** (1) once a sign has been put up, there needed to be language that directed signs of this condition would be kept in a good and attractive condition. (2) How would the permit be maintained with such issues as fees, etc.
- **SWANSON:** when dealing with the agriculture signs, the Planning Commission would be dealing with permanent signs. **SWANSON'S** wife's family had an orchard on McKinley Road. There use to be orchard signs all the way from Flushing City continuing North advertising all the orchards; the signs were kept in good condition. The twenty (20) acres has been the definition of a farm in the township ordinance that had dealt with the control of livestock. Listed under the *Temporary Sign Ordinance* there is a section which states:

“there shall be permitted in all residential districts non-aluminated signs for residential sales such but not limited to produce, etc.” (Section 13.5)

The agriculture signs could be handled the same way as garage sales. Because the zoning districts allowed for a roadside stand in RSA by right, or a sale of produce by Discretionary Special Use Permit, the individual could get a Special Discretionary Use Permit for the sale of produce for a small one (1) acre lot, he should be able to obtain the permit from the township.
- **NEWMAN:** if someone had twenty (20) acres or more and involved agriculture on the property they could avail themselves of the language listed under Permanent Signs. If there was less than twenty (20) acres and didn't fall into one of the other provisions listed under Section 13.5 – 57, there would be a limitation to the temporary signs.
- **NEWMAN:** interpretation: if property less than twenty (20) acres and didn't fall under one of the other provisions listed under Section 13.5-57, there would be a limit to the temporary signs.
- **DOYLE:** no one with less than twenty (20) acres would be able to have a permanent sign.
- **NEWMAN:** if selling berries on two (2) acres of land, and even though using property for agricultural purposes, the individual would not be able to have a permanent sign.
- **GIBBS:** felt the situation was wrong.
- **BUELL:** during the season when the individual would be producing the berries and I would want to advertise the berries, a temporary sign could be used.

- **GIBBS:** what about having a sign two (2) months prior to the berries were ready and two (2) months after the berries were due. Start the process early.
- **SWANSON:** what about the person that has two (2) acres and grows tomatoes on a small section of his land and then puts the tomatoes out to the road – does he get a permanent sign to sell the tomatoes?
- **SWANSON:** when an individual comes into the township office to get a permit, he/she would tell what type of permit they are seeking; the same procedure could be applied to the agricultural signs.
- **PRATT:** why was acreage mentioned in the first place for the agricultural signs?
- **BUELL:** the acreage was mentioned because no one would like to see permanent signs on every corner of the township. There doesn't need to be a permanent 4 foot x 3 foot sign that sits by the driveway all year round that would only be needed to sell strawberries ten (10) days out of a year.
- **DOYLE:** need to go back to the point of why we have signs in the first place. What if there was a sign that was just an introduction to a farm but didn't say anything? Are we loosing our freedom of rights?
- **FITCH:** the agricultural sign issue started when a local individual came into the office to get a permit to operate a small green house where his wife wanted to grow plants; the business blossomed to where the woman was selling the plants to a florist. Now the individual would like to start a tree farm. The individual could only put up a two (2) square foot sign.
- **NEWMAN:** why not take out the size requirement and change to:

“on premises occupied or used in part for agriculture or agricultural purposes. . .”

NEWMAN: inquired as to him (Newman) growing strawberries in his back yard and has too many, so would that be an agricultural purpose.

- **GIBBS:** in a case like the example given by **NEWMAN**, he (Newman) would not spend the time to put up a large sign; maybe a smaller sign on a piece of cardboard, since there were only twenty (20) quarts of strawberries.
- **SWANSON:** if an individual had a couple of horses on his five (5) acres – would he be a farmer and should he put up a large sign?
- **NEWMAN:** what about wine makers – would they be able to put up a large sign?
- **DOYLE:** the township needed a sign ordinance that doesn't specify anything in particular and if an individual would like a sign, they would have to come to the Planning Commission and they (the Planning Commission) would decide if the individual needed a sign.
- **BUELL:** a lot of people have traveled M-13 and seen all the agriculture signs; the “favorites” being:
 - a. “free horse manure” sign on a 4 x 3 sign
 - b. “do you like getting ripped off. . .” which is a hand painted sign on OSB Board
- **FITCH:** building permits for an accessory structure on a farm are exempt from building codes. There is always the question of “does he get a permit for his pole barn or not?”

- **NEWMAN:** **GIBBS** fear would be where there would be an individual that has a legitimate agricultural operation on two (2) acres as opposed to an individual who sells raspberries for three (3) weeks and has sixty (60) acres of land.
- **FITCH:** don't have a problem if wanted to limit the size or leaving the acreage open; the approach would be similar to **GIBBS**.
- **NEWMAN:** if an individual would like to put up a sign – per the ordinance, the sign should be a 1 x 2. If the individual does not like the decision, they could take the matter to the Zoning Board of Appeals who has meetings four (4) times per year.
- **PRATT:** recommended tying the issue to seasonal such as not to exceed one hundred twenty (120) days.
- **FITCH:** not sure if there was a time frame for temporary signs.
- **PRATT:** could come in and get a temporary sign permit from **FITCH** and then limit the time frame to take the sign down.
- **SWANSON:** who does the township want to have a permanent sign? The temporary signs could be taken care of.
- **NEWMAN:** if an individual has left over items and wanted to sell, the temporary sign would work great. The individual that regularly sells the seasonal crop at a greater volume, but maybe on the smaller parcels, would not be able to have a permanent sign that would be placed year round.
- **NEWMAN:** the main concern would be for the individual that has a small operation, who year end and year out would be selling an agricultural product, who instead of coming to the township to get a sign permit to put his sign up temporarily, would want to just stick a sign in the ground and leave it there all year round.
- **PRATT:** does the township want ordinances of how to maintain the condition of signs?. If there was a temporary sign, it would satisfy everyone.
- **NEWMAN:** there would be a burden on the regular farmer who sold his product year end and out. They would have to come to the township office to get a temporary sign every season.
- **PRATT:** if the ordinance enforcement division deemed the sign as not being maintained in a proper fashion, the permit would not be renewed for the following year.
- **DOYLE:** put an acreage on the proposed ordinance and then for the other requests, the individual would have to come into the township office and request a sign for parcels smaller than twenty (20) acres; there could be an ordinance written that stated what the individual had to do so the “odd” things could be handled in a manner of “tell me what you want to do” and the Planning Commission could handle the issue specifically such as a special use for that particular issue. Handle the issues separately so not creating big problems for large property farmers.
- **SWANSON:** a sign could be put up for twenty (20) acres by right. Under the acreage, there would be an ordinance under the Zoning District entitled “the sale of produce” which required a discretionary special use permit. It could be specified whether the sign would be permanent or temporary.
- **PRATT:** the wording could be: “on premises consisting of at least twenty (20) acres occupied or used in part for agricultural purposes.” There shall be permitted on the

premises, one non-aluminated sign twelve (12) foot in area and six (6) foot in height. Less than twenty (20) acres, shall be put through the special use permit process.

- **BUELL:** the number of permanent signs would be decreased.
- **PRATT:** there would not be that many properties with twenty (20) acres in the township. It would give the Planning Commission the discretion to protect the welfare of the people, and not having ugly signs that would block people's vision area.
- **NEWMAN:** when it comes to the discretionary situation, an individual that has thirteen (13) acres, would not automatically qualify under the proposed ordinance if adopted; he would have to go through additional hurdles and it would come to a point as to who would you say "no" to. Or if someone come to the township and stated that he owned twenty (20) acres but only uses five (5) acres for agriculture; another person might have thirteen (13) acres and use ten (10) acres for agriculture.
- **PRATT:** if the individual had a narrow thirteen (13) acres and had fifty (50) houses on each side and there would be a traffic problem and an eye sore and it was located in an area even though he had thirteen (13) acres in the back where there shouldn't be that type of operation between the houses, it should be a special use permit.
- **DOYLE:** the Planning Commission could also decide if the sign would or would not be permanent.
- **GIBBS:** felt the Planning Commission would be talking about dollars per acre; it only take an acre of asparagus to turn a lot of dollars.
- **SWANSON:** his family had three hundred (300) acres and part of it was in orchards; what about a cattle farm. The individual that had a large operation should be able to have the permanent sign advertising the operation.
- **BUELL:** wanted to know how many sign requests **FITCH** had had over the years since he has been building inspector. **FITCH** stated this was the first time he had a request of this nature; home occupation signs would be the biggest issue, with commercial coming in second. The township's sign ordinance has been very restrictive.
- **SWANSON:** there was an individual in the township that had more than one hundred (100) acres who had a produce garden along with all his cattle farm; in his front yard he had a 4 x 4 post that had a wood bar that came out and some chains hung from the bar - on the sign he would hang what he had "*For Sale*". The wood sign was very nice with engraved lettering. The code enforcement officer for his township made the individual take the sign down because it wasn't in the township's ordinance.
- **PRATT:** wanted to know if the acreage could be made twenty (20) contiguous acres in order to prevent the acreage on different properties.
- **BUELL:** how would it work to change the two (2) square feet limitation in the ordinance to four (4) square feet?
- **DOYLE:** if an individual is in business, most of the business would come from the signs placed in front of the property, not from advertisement from the paper whether you are in real estate, or builders, etc.
- **SWANSON:** fewer and fewer people are farming more and more land per an article which he read concerning farms in Minnesota.

NEXT MEETING SCHEDULED FOR JULY 10, 2006

NEWMAN recommended placing the proposed ordinance on the July 10, 2006 Planning Commission Meeting Agenda listed under “Unfinished Business.”

NEXT SPECIAL PLANNING COMMISSION MEETING

80’ frontage for cul-de-sacs

V. NEW BUSINESS:

None

VI. BOARD COMMENTS:

1. **FLOWERS** passed out information packets from the Genesee County Metropolitan Alliance dealing with different issues important for the Planning Commission.
2. **SWANSON** won’t be at the July Planning Commission Meetings.
3. **BUELL** won’t be at the July 10th or August 14, 2006 Planning Commission Meetings.
4. **DOYLE** felt the Planning Commission should continue to review the items that had been on a previous list of “Items for Discussion” in order to keep the ordinances up to date. In five (5) years the Master Plan will have to be updated so if the Plan is kept up to date, it would be easier to review the Plan.
5. **NEWMAN** would like for the Clerk to make a copy of the “Items for Discussion” for himself and each of the Planning Commission Members. The Master Plan is up for review in 2007.
6. **DOYLE** would like for the Planning Commission to review the private drive.
7. **NEWMAN** thanked **DOYLE** for filling in a Chair and continuing to serve as Vice Chair. Everyone works together very well.

VII. PUBLIC COMMENTS:

8:44 P.M. – OPENED TO THE PUBLIC FOR NON-AGENDA ITEMS

8:45 P.M. – CLOSED TO THE PUBLIC FOR NON-AGENDA ITEMS

VIII. MEETING SCHEDULE:

REGULAR SCHEDULED MEETING – MONDAY, JULY 10, 2006 AT 7:00 P.M.

PROPOSED SPECIAL MEETING – AT THE DISCRETION OF THE PLANNING COMMISSION, THERE COULD BE A SPECIAL MEETING ON MONDAY, JULY 24, 2006 AT 7:00 P.M.

REGULAR SCHEDULED MEETING – MONDAY, AUGUST 14, 2006 AT 7:00 P.M.

PROPOSED SPECIAL MEETING – AT THE DISCRETION OF THE PLANNING COMMISSION, THERE COULD BE A SPECIAL MEETING ON MONDAY, AUGUST 28, 2006 AT 7:00 P.M.

IX. ADJOURNMENT: PRATT MOVED, seconded by Flowers to adjourn at 8:46 p.m.
MOTION CARRIED.

MARK J. NEWMAN, Chair

JULIA A. MORFORD, Recording Secretary

ERIC SWANSON, Secretary

Date of Approval

Planningminutes 062606