

CHARTER TOWNSHIP OF FLUSHING

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**PLANNING COMMISSION MEETING**

DATE: MAY 12, 2008

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, Doyle, Swanson, Buell, Flowers, Gibbs, Pratt, Fitch, and Morford

**ABSENT:** None

**OTHERS PRESENT:** None

**I. MEETING CALLED TO ORDER** at 7:00 p.m. by Planning Commission Chair  
**MARK NEWMAN** with Roll Call and the Pledge to the American Flag.

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

**III. APPROVAL OF MINUTES:** There were no minutes available.

**IV. UNFINISHED BUSINESS:**  
None

**V. NEW BUSINESS:**

**1. Continued Discussion of the Permitting Process for Day Care Homes**

**NEWMAN** stated that within the last couple of months, there had been three (3) day care permit requests. The Planning Commission felt it would be better to update the zoning ordinance to reflect the different type of facility and principal use and to make day care homes a non-discretionary special use.

A request had been made by the Planning Commission to have **ATTORNEY STEVE MOULTON (ATTORNEY MOULTON)** draft a proposed ordinance to amend *Section 20-200* of the Zoning Ordinance.

**COMMENTS BY THE PLANNING COMMISSION:**

- **DOYLE:** the Planning Commission would be looking at a special use permit; if it should be a non-discretionary special use permit, the Planning Commission would not be allowing the legal grant of a special use permit anymore; felt the people should have the opportunity to come before the Planning Commission.
- **FLOWERS:** by going through the building inspector, the residents within 300 feet would not be notified as required by some of the ordinances.
- **NEWMAN:** made reference to comments by **DOYLE** and **FLOWERS** that if discretionary special use, the applicant would come to the Planning Commission so that everyone would be able to hear and speak about the issue; the neighbors within 300 feet would know what was happening.
- **BUELL:** in the proposed Ordinance (drafted by **ATTORNEY MOULTON**) listed under 1) Family Day Care Home and 2) Group Day Care Home, should the words “single family” private home be added? Are the homes bound by the Condominium/Townhouse Rules and Regulations or would the Planning Commission be able to act as a mediatory on behalf of the condominium owner who was on the other side of the wall who would like to sleep in, but unfortunately has seven (7) children in the next unit?
- **PRATT:** zoning districts RU-2 and RU-3 were referenced.
- **NEWMAN:** should there be wording in the proposed ordinance to the effect as to four (4) free standing walls, unattached structure. Condominium documents have been a civil agreement between property agreements.
- **BUELL:** it seems the Planning Commission doesn't have much discretion.
- **PRATT:** thought his motion made at the April 14, 2008 Planning Commission was to make the day care home a non-discretionary special use permit situation.
- **NEWMAN:** the motion made at the April 14, 2008 Planning Commission was approved by four (4) to three (3). He (Newman) felt **BUELL** had a legitimate concern as to the language of the ordinance, but at the same time, **FLOWERS** stated the State Statute didn't specify the facility had to be a free standing independent structure.
- **BUELL:** it seems the State has created their own rules and left the townships out of the contributing side.
- **NEWMAN:** if the township should give the facility a license, the State would let the issue take place.
- **PRATT:** the township was enacting so many different ordinances against facilities such as homes for mental patients, etc. that the State come in and told the townships they (townships) couldn't do anything about the issue.
- **BUELL:** felt the Planning Commission should be very cautious in looking to the future; there are so many ADHD and severally autistic young people that will be entering the communities in the future to attend the school systems. The rules needed to be crafted as carefully as possible because there will be a lot more homes.
- **NEWMAN:** felt the proposed Ordinance to Amend *Section 20-200* of the Zoning Ordinance had been well drafted by **ATTORNEY MOULTON**.

- **BUELL:** recommended asking **ATTORNEY MOULTON** for his opinion on the ruling of the specific issue and would like to see the wording be changed to:  
    “Family Day Care Home means a private single family home in which. . .”
- **SWANSON:** the wording could be:  
    “A single family home means a single family detached home.”

Does the Planning Commission really want to change the ordinance? In a condominium association, if the association itself doesn't have any objection, then why should the township have any objections?

- **DOYLE:** if all communities were down on the issue, and the State didn't govern the issue, then the Planning Commission would have to.
- **PRATT:** the definitions on the proposed Ordinance Section 20-200 are verbatim from the Child Care Act Organization MCL 752.111.
- **FLOWERS:** “private residence” means a single family home. A duplex, condominium, or townhouse would mean more than one unit.
- **PRATT:** could see the rationale but the Planning Commission needed to go along verbatim with the State definition and if the issue should ever go to Court, the Planning Commission would have everything in line.
- **DOYLE:** if anyone comes to **FITCH**, he would have the option to send the applicant to the Planning Commission.
- **BUELL:** how could the Planning Commission enforce the section of the ordinance when the Planning Commission doesn't know where all the facilities are located? There isn't any one clearing house that permits the facilities.
- **NEWMAN:** the ordinances are State Ordinance so they (the State) should know where the facilities are located; the State should not issue the permit until the State reviewed the situation and location.
- **PRATT:** **FITCH'S** records would show where the facilities are located.
- **BUELL:** there are facilities, in other group facilities, that pre-dated the recent ordinance which the Planning Commission would have no idea of where the facilities were located.
- **FITCH:** if less than six (6) children were involved, no permits would be issued because the facility was accepted as residential use. The ordinance stated the Township should have a copy of the license, but Flushing Township hasn't received a copy of the license from the State.
- **BUELL:** if a member of the Planning Commission wore “blinders” to work every day would they know a specific home close to the township was a group home. There could be a dozen or more homes in the township.
- **SWANSON:** when he was Code Enforcement Officer, he saw a couple of the facilities when he was out resolving problems in the neighborhood.
- **BUELL:** it would be silly to put together an ordinance that, by definition, would be unenforceable because the data that was required would be unknown to understand the ordinance.

- **PRATT:** per the wordage from the State, when the individual received a license from the State, the property could not be located closer than 1,500 feet. The burden would be on the State.
- **NEWMAN:** the State built in their own protection with “another licensed group.”
- **BUELL:** there were a lot of “holes” in the ordinance.
- **NEWMAN:** would the Planning Commission like for **FITCH** to get additional information from **ATTORNEY MOULTON** regarding putting in a restriction about making sure the facility would be an “independent” free standing structure without running afoul against the State Statute? .
- **FITCH:** could the Planning Commission do their own thing and not fool with the State?
- **NEWMAN:** in the end result, the Planning Commission could run afoul with the State Statute.
- **DOYLE:** the Planning Commission would be the only one to find out how close the facilities were located to each other.
- **SWANSON:** page 3, letter b, which states, would give the township the authority:
  - (b) has appropriate fencing for the safety of the children in the group day-care home as determined by the local unit of government.
  - (c) maintains the property consistent with the visible characteristics of the neighborhood.

**DOYLE MOVED**, seconded by Buell to get further information on:

1. Restricting the type of structures.
2. Ability of the Planning Commission to deny another unlicensed facility close by.

**DISCUSSION:**

1. The issue would be placed under “Unfinished Business” at the next regularly scheduled Planning Commission Meeting.
2. Get a legal opinion from **ATTORNEY MOULTON** as to the restriction of types of structures which the facilities might have.
3. **NEWMAN:** concern in the general authority to do the well being of the citizenry that someone could get a license from the State to operate a facility in an apartment or condominium that has one or more shared walls, floors, or ceilings with other people that may work third (3<sup>rd</sup>) shift and wouldn’t want a day care facility next door. Would the Planning Commission have the ability to say “No” to the request?
4. **PRATT:** these issues happen everyday with such ordinances as code enforcement issues and noise problems and could be accessed in the case regardless. **PRATT** doesn’t think the Planning Commission could enter into an area where the units could be restricted since the State allowed the facilities. There wouldn’t be any difference from a family with seven (7) children and a day care center other than a noise ordinance that could be used.
5. **NEWMAN:** there would an extra flow of people and traffic in a subdivision, let along going into a condominium development where there would be parking on the street.

6. **PRATT:** the situation would come under the By-Laws of the Apartment Complex or Condominium Association.
7. **FLOWERS:** page 2, number 2, *Family Day Care Home*, states:
  - 2) The property is located in an area zoned RSA, RU-1, RU-2, RU-3, or RU-4.

Under the Zoning District Uses, *Group Day Care Homes* are only allowed in RSA, RU-1, and RU-2; nothing is mentioned about RU-3 and RU-4. The Planning Commission would be contradicting itself if they (Planning Commission) allowed RU-3 and RU-4 to stay. The *Child Care Home* would be a discretionary special use permit.

**NEWMAN** recommended getting a clarification from **ATTORNEY MOULTON** regarding the structural issue of the buildings. The issue would be placed on the next regular scheduled meeting for June 9, 2008 to be listed under “Unfinished Business”.

**ACTION OF THE MOTION:**

ROLL CALL VOTE:

AYES: Doyle, Swanson, Buell, Flowers, Gibbs

NAYS: Pratt and Newman                      MOTION CARRIED

**2     Review and Discussion of Wind Turbines**

**FITCH** stated within the last week he had received phone calls regarding putting wind turbines on personal property. Currently, there are no ordinances regarding wind turbines. Wind Turbines could range from seventy (70) to eighty (80) feet tall. He understood the turbines could be quite noisy but it was something that was coming with the increase of energy cost. More and more turbines are going to be constructed. Currently, there isn't any problem with the issue, but when something that tall was going to be constructed on a one-half (½) acre of land, there would be issues similar to a tower ordinance. The cell tower ordinance has some pretty restrictive setbacks in case the tower should fall.

**COMMENTS FROM THE PLANNING COMMISSION:**

- **NEWMAN:** the issue should be addressed before someone comes before the Planning Commission and stated there was nothing restricting the turbines.
- **FITCH:** he had a discussion with **ATTORNEY MOULTON**; currently, **FITCH** would apply special structures which would have a maximum height of twenty-five (25) feet. Therefore, **FITCH** would deny the permits and the issue would go to the Zoning Board of Appeals (ZBA).
- **BUELL:** could assume that people are just gathering information to see if the turbines were liable. Flushing Township would be pitifully positioned for the turbines to be commercially viable. There won't be a commercial liability.
- **FITCH:** the turbines would be for residential properties only. **FITCH** has been told that power could be generated on an average of twelve (12) miles of wind.

- **NEWMAN:** some of the smaller turbines are designed for homes; the whole issue is about the quality of the equipment; the turbines are very efficient, low resistance, and can get fifteen (15) miles an hour.
- **PRATT:** could the turbines power a home? **BUELL:** they could power several homes.
- **NEWMAN:** if the turbines produce more power than the home owner could use, the power would go back into the ground and the meter would run backwards.
- **FITCH:** has been told that the turbine tower would have to be thirty (30) feet taller than the tallest structure on the home owners' property.
- **FITCH:** there are rumors that Shiawassee and Huron County have proposed ordinances.
- **NEWMAN:** recommended **FITCH** obtain information from the other municipalities that already have an ordinance or are working on a proposed ordinance.
- **FITCH:** another area of concern would be the flight plan area for Bishop Airport. Would the Federal Aviation Agency (FAA) have any information concerning wind turbines?
- **SWANSON:** FAA could be very strict on height rules. In the 1980's there was a Don Sealy in the Clio/Vienna area that had wind turbines erected.
- **GIBBS:** the wind turbines are so perfected now that an article in a recent magazine showed twenty (20) turbines in a row.
- **FLOWERS:** In Nevada, wind turbines are used for the radio control for submarines.
- **FITCH:** the cell phone industry has addressed the issue by keeping the height of the cell towers below a height so the company won't have to have lighting on the towers.
- **NEWMAN:** there is a tower in 12 Oaks Mall that looks like a Christmas tree.
- **FLOWERS:** most cell towers are setting on leased land.
- **SWANSON:** have heard that it only takes twelve (12) mile an hour wind to operate, but how often does the wind blow twelve (12) mile an hour in this part of the country.
- **BUELL:** don't think there would be enough wind for commercial operations of wind turbine. A marginally successful home owner's version might work part of the time
- **FITCH:** it might get to the point where the power could be sold back; but then it might reduce the electric bill.
- **FLOWERS:** methane engines are used at garbage dumps and they have dynamos on the engines that turn into power; the power companies have to buy out the power they have to generate. The engines could send out between four (4) to six (6) watts per hour off the generators into the power system.
- **NEWMAN:** recommended that **FITCH** get the information from Osceola and Huron County, and from the Clio/Vienna area. It would be a good idea to gather information and work on the issue slowly to get a well thought out ordinance if one is needed, rather than trying to get everything at the last minute.
- **FLOWERS:** the "new green scene" slogan has been going across the country; recommended contacting the Genesee County Metropolitan Planning Commission.

## VI. PUBLIC COMMENTS:

**7:58 P.M. – OPENED TO THE PUBLIC FOR NON-AGENDA ITEMS**

**7:59 P.M. – CLOSED TO THE PUBLIC FOR NON-AGENDA ITEMS**

**VII. BOARD COMMENTS:**

1. **BUELL** wanted to compliment **NEWMAN** for the suggestion to work with Huron and Osceola County on the wind turbine issue. Why reinvent a wind turbine ordinance when the information has been available for a long time.
2. **GIBBS** stated that, in one of his farm magazines, reference was made to a windmill type generator that took a minimum of twelve (12) miles an hour wind to turn it.

**VIII. MEETING SCHEDULE:**

**REGULAR SCHEDULED MEETING – MONDAY – JUNE 9, 2008 AT 7:00 P.M.**

**REGULAR SCHEDULED MEETING – MONDAY – JULY 14, 2008 AT 7:00 P.M.**

**REGULAR SCHEDULED MEETING – MONDAY – AUGUST 11, 2008 AT 7:00 P.M.**

**REGULAR SCHEDULED MEETING – MONDAY – SEPTEMBER 8, 2008 AT 7:00 P.M.**

**IX. ADJOURNMENT:** There being no further business items on the Agenda, **NEWMAN** adjourned the meeting at 8:04 p.m.

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MARK J. NEWMAN, Chair

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JULIA A. MORFORD, Recording Secretary

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ERIC SWANSON, Secretary

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Date of Approval

Planningminutes 05/12/08