

**Crockery Township**  
**Regular Planning Commission Meeting**  
**March 19, 2013**  
**(Approved)**

Chairman Bill Sanders called the March 19, 2013, Regular Planning Commission Meeting to order at 7:31 P.M. Roll-call was taken with Dave Meekhof, Jon Overway, Bill Sanders, Ryan Arends, Rich Suchecki, Nancy Schindlbeck, and Mike Munch present. Z/A Robert Toland and Attorney (for the Township) Ross Leisman were also present for this session.

**Agenda Item 2. Approval of the Agenda**

Approved as submitted.

**Agenda Item 3. Approval of Minutes**

The Commission reviewed the minutes from the February 19, 2013, Regular Planning Commission Meeting. Commissioner Ryan Arends made a motion to accept the minutes as written. A 2<sup>nd</sup> was offered by Commissioner Rich Suchecki. The motion was unanimously approved.

**Agenda Item 4. Announcements**

None.

**Item 5. Communications**

None.

**Agenda Item 6. Public Comment**

None offered at this time.

## **Agenda Item 7. Action Items**

### **A. Jerry Smith Special Land Use – Pond – Public Hearing.**

Documents provided to the Commission for this Public Hearing include; (1) a Planning and Zoning Review by Z/A Toland, dated March 12, 2013, addressed to the Commission, (2) a review by Kevin S. Kieft of Prein & Newhof, Engineers for the Township, addressed to Z/A Toland, dated March 6, 2013, (3) a Township zoning application, with accompanying sketch of pond and relative dimensions, signed by Jerry L. Smith, dated December 21, 2012, (4) a warning letter addressed to the Resident, 12296 Taft Street, issued by Township Zoning Enforcement Officer Eduard Rusticus, dated November 16, 2012, (5) a letter of concern issued by Penney and Dennis Childs 12340 Taft Street, undated, (6) an anonymous letter of concern, undated, and (7) a letter of concern issued by David and Alice Kieft, 18265 120<sup>th</sup> Ave, dated March 10, 2013.

Mr. Smith has made application for a Special Land Use to clean out and expand an existing pond on his family property, located at 12296 Taft Road, parcel #70-04-09-200-002. Mr. Jerry Smith and Ms. Marie Smith were present during this hearing.

Mr. Toland advised the Commission the clean-out and expansion of the pond was done sometime during 2012. A warning notice was supplied to the property owner and this hearing set to bring the parties involved into compliance.

Mr. Smith advised the pond was originally constructed in the 1960's, when the home was built. The excavated material from the pond was used to provide an elevated home foundation at that time.

Mr. Smith further stated he intended to deepen and expand the pond to provide irrigation for the blueberries on the property, however, he could not manage to create the depth needed with the equipment he was utilizing. Mr. Smith indicated the pond is between four to five feet in depth and the slope naturally occurred and is well within the standard set by the Township. Mr. Smith intends to utilize the excavated material on the property, however, has no immediate plan for distribution of the material. It remains in a 12 foot high pile adjacent to the north side of the pond. Mr. Smith indicates the material pile is screened from the roadway by existing trees.

Public comment was opened by Chair Bill Sanders.

Mr. Tom Mellema inquired if the Commission was aware of the "Generally Accepted Agricultural Management Practices" (GAAMPs) and if a copy was available for this hearing. Mr. Mellema inquired if an agricultural pond might fall under such guidelines. Mr. Mellema questioned whether a permit was needed for clean-out and expansion of a farming pond.

There was some question as to whether the pond could be considered an agricultural endeavor, as Mr. Smith had indicated it turned out not to be suitable for irrigation. The Commission felt the pond could only be maintained as a residential pond under the circumstances.

No further public comment was offered and Public Comment was therefore closed.

After considering the information provided, the Commission felt the pond could be permitted as a residential pond and that the pond did meet the Township standards for construction. Mr. Smith was advised to consult with Township Officials prior to any such work he may do in the future.

**A motion** supporting a resolution to approve the pond was offered by Commissioner Nancy Schindlbeck. A 2<sup>nd</sup> was offered by Commissioner Mike Munch. The motion was unanimously approved by the Commission.

**B. Millbocker & Sons Excavating – Special Land Use/Planned Mineral Removal – Public Hearing.**

Documents provided to the Commission for this Public Hearing include; (1) a Planning and Zoning Review by Z/A Toland, dated March 8, 2013, addressed to the Commission, (2) a review by Kevin S. Kieft of Prein & Newhof, Engineers for the Township, addressed to Z/A Toland, dated March 8, 2013, (3) a Township zoning application, with accompanying volume report, signed by Thomas Rumpitz, dated February 8, 2013, (4) a memorandum issued by Mika, Meyers, Beckett & Jones, commenting on this project, dated March 15, 2013, (5) a soil boring report, provided by Milbocker & Sons, Inc., for parcel #70-04-21-400-016, dated March 19, 2013, (6) an Environmental Impact Statement, provided by Mickey E. Bittner P.E. of Wightman and Associates, Inc., with MDOT attachment, dated February 19, 2013, (7) a Scope of Planned Mineral Removal document, (8) a Standards for Considering Special Land Uses document, (9) an excerpt of the Michigan Zoning Enabling Act, provided by Attorney Leisman, (10) a site plan by Wightman & Associates, 264 Western Avenue, Allegan, MI, by Mickey E. Bittner, #130092-01, dated February, 2013 (Reduced Size), (11) a site plan by Wightman & Associates, 264 Western Avenue, Allegan, MI, by Mickey E. Bittner (sealed & signed), #130092-01, dated February, 2013 (Full Size), (12) a letter of recommendation by Leon Belden, Operations Manager for Aggregate Industries supporting Milbocker & Sons, Inc., (13) a letter of recommendation by Larry W. Brown, P.E., Managing Director for the Allegan County Road Commission, dated February 15, 2013, supporting Milbocker & Sons, Inc., (14) a cover letter by Kyle Ellis of Milbocker & Sons, Inc., dated February 15, 2013, to Z/A Toland briefly outlining

the proposed project, and (15) a letter of concern, issued by Kurt Gillespie, representing the Spoonville Gun Club, dated February 28, 2013.

Millbocker & Sons Excavating have made application for a Planned Mineral Removal Special Land Use permit to excavate fill material on parcel #70-04-21-400-016, located on the northwest corner of 120<sup>th</sup> and Leonard Road, for use in the M-231 build-out. This parcel is currently owned by Thomas Rumpitz.

On the on-set of this Public Hearing, Commissioner Dave Meekhof requested to recuse himself due to a conflict of interest. Chair Bill Sanders approved the recusal and Commissioner Meekhof left the hearing room for the duration of the Public Hearing.

Mr. Kyle Ellis of Milbocker & Sons, Inc., Mr. Mickey Bittner P.E. for Wightman & Associates, Inc., and Attorney Kenneth W. Vermeulen of Barnes & Thornburg were present to represent the interests of Milbocker & Sons, Inc. during this hearing.

Mr. Toland provided a brief lead-in to this proposed project, indicating this was the second PMR proposed in the Township to support the M-231 build-out. The first (approved) PMR, being located on the Spoonville Gun Club property, will be utilized to support the bridgeworks over the Grand River.

Mr. Ellis provided an overview of the proposed mineral removal, indicating the plan would be carried out in three distinct phases of extraction and reclamation. The material removed would support the M-231 build-out from the north side of the Grand River bridgeworks, working northward and include the material necessary for the Leonard Road overpass. Mr. Ellis also stated a soil and sedimentation permit had been issued for the project. Mr. Ellis is confident Milbocker & Sons, Inc., will be capable of restoring the property so it once again can be farmed. Mr. Ellis further stated the reclamation is also important to Milbocker & Sons, Inc., as they intend to buy the property for the PMR process and resale the land as agricultural property upon completion of the reclamation.

Mr. Bittner explained the site plan, indicating the (excavation) plan would generally follow the existing contours and maintain the three drainage districts found on the parcel. Mr. Bittner explained the measures to be taken to control run-off and protect the topsoil during the extraction. Mr. Bittner indicated the drainage tile installation would be accomplished at the end of the reclamation phase, which Mr. Ellis confirmed, indicating an effective tile pattern could be better judged at that time.

Public comment was opened by Chair Bill Sanders.

Mr. Ellis, Mr. Bittner, and Attorney Vermeulen fielded questions and comments, in an open forum, from the public during the initial phase of public comment.

Mr. Charles Gould, MSU Extension Office, indicated disturbed soil will affect the agricultural yield for as much as 10–15 years. Mr. Gould advised extensive crop root systems have a hard time developing in compacted soil and would likely prevent traditional crops, such as corn and alfalfa hay from establishing themselves successfully.

Mr. Kurt Gillespie spoke out against the project as he felt the agricultural value of the property would be lost as a result of the PMR. He felt the project was counterproductive for the Township.

Mr. Stan Scott also spoke out against the proposal, his main concern being the protection of agricultural land, as did Mr. Jack Fisher.

Board Member Gordy Constantine questioned the proposed contours as they apply to proper drainage, feeling they were not sufficient to create adequate drainage. Mr. Constantine further questioned what impact this proposal would have on Leonard Road traffic.

Mr. Jim Erhorn, who formerly owned and farmed the parcel, stated he believed it would be hard to judge the yield of the property after reclamation as so many variables affect crop production. Mr. Erhorn felt the land could be reclaimed in a manner that might make it easier to farm in terms of tilling the soil.

Ms. Miriam Stalzer expressed concern regarding drainage issues that may affect her property from both this project and the overpass construction. Ms. Stalzer worried the tile might increase the volume of water flow throughout the current drainage, causing erosion or flooding.

Mr. Ellis indicated, although the equipment is large, the tire design creates less compaction than a pick-up truck would and that the tile installed would not be the cause of flooding. Mr. Ellis explained a tiled field first sheds the surface water, followed by the water that filters into the drain tile, which helps to control run off.

Attorney Vermeulen advised the “is it reasonable” standard should be applied to the mineral extraction and that arguing crop yields alone would not likely supersede the public need in this case. Attorney Vermeulen further indicated, however, he did believe the land could be restored to its agricultural state.

Chair Bill Sanders suggested a five minute break at this point in the proceedings (8:52 P.M.)

Call back to order at 9:10 P.M.

Township Supervisor Leon Stille had concerns regarding the proposal indicating the recovery of the land would take far to long to bring it back to a productive agricultural state. Supervisor Stille indicated this proposal seems to be a matter of convenience and profit.

Mr. Tom Mellema also questioned the ability to restore the parcel to an agricultural state. Mr. Mellema further supported Mr. Gould's position regarding disturbed soils, indicating that excavation process would destabilize or damage the micro biology of the soil, which would take years to recover. Mr. Mellema advised simply replacing the topsoil over the excavated ground will not restore the viability of the land.

There were many exchanges of positions and opinions during the public comment section.

After all interested parties were heard, Chair Bill Sanders closed the public comment portion of the hearing.

The Commission indicated they had a number of concerns and questions regarding this PMR proposal. The Commission felt it was best to allow some time to absorb the information provided and discussed during this hearing. In keeping with this position **a motion** was made by Commissioner Mike Munch to table the discussion until the March 26, 2013, Special Planning Commission Meeting, where further information could be obtained and questions could be properly formulated by the Commission. A 2<sup>nd</sup> was offered by Commissioner Rich Suchecki. The motion was unanimously approved.

Commissioner Dave Meekhof returned to the meeting.

### **Agenda Item 8. Presentations.**

None.

### **Agenda Item 9. Discussion Items**

#### **A. Master Plan.**

The Commission hopes to continue the Master Plan discussion at the March 26, 2013, Special Planning Commission Meeting.

**Agenda Item 10. Adjournment**

A **motion** to adjourn was made by Commissioner Nancy Schindlbeck at 10:35 P.M. A 2<sup>nd</sup> was offered by Commissioner Ryan Arends. The motion was unanimously approved.

Respectfully Submitted,  
Jon C. Overway, Secretary  
Crockery Township Planning Commission

Next Meetings:       Regular Session - April 16, 2013  
                              Special Session - March 26, 2013

**Crockery Township**

**Special Planning Commission Meeting**

**March 26, 2013**

**(Approved)**

Vice-Chairman Ryan Arends called the March 26, 2013, Special Planning Commission Meeting to order at 7:31 P.M. Roll-call was taken with Jon Overway, Ryan Arends, Rich Suchecki, Nancy Schindlbeck, and Mike Munch present. Z/A Robert Toland and Attorney (for the Township) James F. Scales were also present for this session.

Commissioner Dave Meekhof was recused due to a conflict of interest and did not attend this session. Commissioner Bill Sanders was absent.

**Agenda Item 2. Approval of the Agenda**

Approved as submitted.

**Agenda Item 3. Approval of Minutes**

The Commission reviewed the minutes from the March 19, 2013, Regular Planning Commission Meeting. Commissioner Rich Suchecki made a motion to accept the minutes as written. A 2<sup>nd</sup> was offered by Commissioner Mike Munch. The motion was unanimously approved.

**Agenda Item 4. Announcements**

None.

**Item 5. Communications**

None.

**Agenda Item 6. Public Comment**

None offered at this time.



## **Agenda Item 7. Action Items**

### **A. Millbocker & Sons Excavating – Special Land Use/Planned Mineral Removal.**

Additional documents provided to the Commission for continuance of this hearing include; (1) a letter by Mr. Kyle Ellis of Milbocker & Sons, Inc., dated March 21, 2013, addressed to Z/A Toland, containing brief testimonials of crop yields after reclamation and names of references, (2) an e-mail from Mr. Kyle Ellis of Milbocker & Sons, Inc., addressed to Z/A Toland, dated March 26, 2013, listing a further reference, Mr. Jay Drozd, with contact information, and (3) a discussion and summary of “very serious consequences”, authored by Attorney James R. Brown of Mika Meyers Beckett & Jones (Attorney for the Township), addressed to Members of the Planning Commission, dated March 25, 2013.

Millbocker & Sons Excavating have made application for a Planned Mineral Removal Special Land Use permit to excavate fill material on parcel #70-04-21-400-016, located on the northwest corner of 120<sup>th</sup> and Leonard Road, for use in the M-231 build-out. This parcel is currently owned by Thomas Rumptz.

Commissioner Dave Meekhof has recused himself due to a conflict of interest and did not attend this session.

Mr. Kyle Ellis and Mr. Ken Peters of Milbocker & Sons, Inc., along with Attorney Kenneth W. Vermeulen of Barnes & Thornburg were present to represent the interests of Milbocker & Sons, Inc. during this hearing.

Attorney James F. Scales opened further discussion of this PMR proposal by reviewing the discussion and summary of “very serious consequences”, as authored by fellow counsel James R. Brown. Attorney Scales provided insight into the court precedents and legislative action that ultimately affected the Michigan Zoning Enabling Act regarding “very serious consequences”, and how this concept might apply to the proposed PMR before the Planning Commission.

The letter and e-mail provided by Mr. Ellis, containing testimonials of crop yields after reclamation and references, was also discussed. It was noted, with the exception of one reference (Mr. Commissaris), none of the referencing parties had a financial interest in Milbocker & Sons, Inc., activities.

Public Comment was opened by Vice-Chair Ryan Arends.

Mr. Stan Scott expressed concern over the reclamation of the property and if, in particular, the local water table would be affected by the excavation. Mr. Scott also inquired if proper soil and sedimentation controls were in place, as did Mr. Jack Fisher.

Mr. Ellis and Mr. Peters indicated the soil borings (up to 13 feet) on the parcel did not reach the water table, therefore, the excavation would not impact the water table of adjoining properties. Mr. Ellis also confirmed a soil & sedimentation permit had been obtained (from Ottawa County) and erosion control measures were also indicated on the site plan.

Mr. Mark Bos, who resides on the SE corner of 120<sup>th</sup> & Leonard Road, stated he has farmed this parcel since 1995. Mr. Bos indicated disturbing this soil would not be his “first choice”, however, he felt he could successfully farm the parcel in the future, if “best practices” were applied to the reclamation and future farming efforts. Mr. Bos further facilitated a discussion regarding soil science and potential recovery methods.

The Commission and all interested parties present engaged in a lengthy, detailed discussion regarding site plan, the mineral removal and reclamation process, and in particular the stabilization of the land during reclamation. The Commission understands that time and “best practices” in soil science and farming would be an integral part of this proposal

Hours of operation were specifically discussed. The Commission felt the (expanded) hours of operation suggested by Milbocker & Sons, Inc., were appropriate under the circumstances. It was noted the construction crews working on the roadway itself would likely be working 7:00 A.M. to 7:00 P.M., weekdays, and would include Saturday hours. It was also noted by the Commission that this project would require late summer or early fall cover crops to be planted on the final phase, which must be done during the growing season in order to protect the topsoil. Further, the Commission felt the sooner the project could be completed, the better for the neighbors, who have to deal with the disruption.

The Commission also inquired regarding alternative sources of mineral material and the distance from the project. Mr. Ellis indicated the nearest site would be seven miles, creating a fourteen mile round-trip over local roads, for approximately 9500 truckloads.

Vice-Chair Ryan Arends lead the Commission in a point-by-point discussion of the Township Ordinance, Section 19.14 (44) (F);

Point (a), the Commission felt that very serious adverse consequences could be avoided to adjacent and surrounding properties, and including the affected parcel itself, by appropriate soil & sedimentation measures , as well as, applying “best practices” in reclamation phases and initial and ongoing agricultural efforts.

Point (b) The Commission recognized that a certain, but acceptable level of noise would be created by this project, as well as the build-out of the M-231 roadway itself. The Commission feels project safety is enhanced by acquiring needed minerals immediately adjacent to the planned roadway, which limits truck traffic on nearby roadways.

Point (c) The Commission believes the activity created by this proposal will not unduly affect air quality or create odors, and dust control requirements are in place.

Point (d) The Commission does not believe this project will adversely affect adjacent property values. A fair price is being paid for the land by Milbocker & Sons, Inc., and the over-riding factor affecting adjacent property values will likely be the new roadway itself.

Point (e) The Commission notes the area impacted is agricultural in nature and that residential dwelling places and other development is minimal, however, all reasonable measures shall be undertaken to protect nearby residents and property from harm.

Point (f) The Commission believes this condition will be satisfied, as well as other reclamation measures to make the property agriculturally viable again.

Public Comment was closed by Vice-Chair Arends after all interested parties were heard.

Issues needing further refinement before a recommendation can be made to the Board were determined to include, but are not limited to; (1) a revised site plan, showing tile placement, modified contour lines, and grading ranging between 1% (minimum) and 10% (maximum), and include the planned roadway design for reference, (2) a “best practices” plan for top-soil protection and reclamation, including necessary soil testing and proper substrate preparation (sub-soiling minimally at 18”) prior to the distribution of top-soil at a minimal average of 8”, (3) Provide a description of the PMR phases, including “best practices” for the interim storage of the top-soil, (4) Allow expanded hours of operation, including 7:00 A.M. to 6:00 P.M., Monday through Friday, and 7:00 A.M. to 3:00 P.M. on Saturday, (5) that minor amendments to the plan may be approved by the Township’s Zoning Administrator, (6) that major amendments to the plan would be further reviewed by the Planning commission, (7) that appropriate cover crops would be determined by conditions affecting the success of such plantings and mutually agreed upon by Milbocker & Sons, Inc., parties holding active farming interests on the property, and soil and crop experts (soil conservation personnel, MSU soil scientists/crop experts), and (8) and appropriately designed performance bond to be determined by the Township, with input allowed by Milbocker & Sons, Inc.

**Agenda Item 8. Presentations.**

None.

**Agenda Item 9. Discussion Items**

A. Master Plan.

No discussion.

**Agenda Item 10. Adjournment**

A **motion** to adjourn was made by Commissioner Nancy Schindlbeck at 10:22 P.M. A 2<sup>nd</sup> was offered by Commissioner Mike Munch. The motion was unanimously approved.

Respectfully Submitted,  
Jon C. Overway, Secretary  
Crockery Township Planning Commission

Next Meetings:       Regular Session - April 16, 2013  
                              Special Session - April 30, 2013