



MINUTES

**Monday November 16, 2015
 7:00 P.M., Barber School
 102 West Exchange Street
 Spring Lake, Michigan**

1. Call to Order

President **MacLachlan** called the meeting to order at 7:00 p.m.

2. Pledge of Allegiance

3. Roll Call

Present: Doss, MacLachlan, Meyers, Miller, Nauta and Powers.

Absent: Van Strate

Motion by **Nauta**, second from **Miller** to excuse Council Member Van Strate.

Yes: 6 No: 0

4. Approval of the Agenda

Motion by **Meyers**, second from **Miller**, to approve the agenda as presented.

Yes: 6 No: 0

5. Consent Agenda

A. Approved the payment of the bills (checks numbered 57199 to 57282) in the amount of \$285,263.17.

B. Approved the minutes for the October 19, 2015 Council meeting.

C. Approved the followings Board & Committee Appointments:

Committee	Person	Term
Planning Commission	David Kauchek	11/2016
Planning Commission	Chip Bohnhoff	11/2018
Planning Commission	Michael Duer	11/2018
Parks & Recreation/Tree Board	Calvin Braun	11/2016

Historic Conservation Commission	Jane Ladley	11/2018
Zoning Board of Appeals	Vincent Blake	11/2018

- D. Approved budget amendments for the 2015/2016 fiscal year.
- E. Approved a contract with Moore & Bruggink for a proposal for the Buchanan Street reconstruction project in an amount not to exceed \$92,300.
- F. Approved Resolution 2015 – 16, a Resolution of Support for the 2017-2020 Transportation Improvement Program to seek federal funds for street improvements for Exchange Street from Jackson Street to Lake Street.

Motion by **Nauta**, second from **Miller**, to approve the Consent Agenda.

Yes: 6 No: 0

6. General Business

A. All Shores Wesleyan Church (ASWC) Conditional Rezoning Request

On September 22, 2015, Planning Commission members considered a Conditional Rezoning request by ASWC for property located at 214 S. Fruitport Road. Following the public hearing, the Planning Commission voted 4-1 against the Conditional Rezoning Request. Ms. Rita Braun, 121 S. Fruitport Road, filed a formal request (pursuant to MCL 125.3401(4)) which requires the Council also hold a public hearing on this matter. On October 9, 2015 residents filed a protest petition (pursuant to MCL 125.3403) which requires a 2/3 vote of Council to approve the Conditional Rezoning request. A public hearing has been noticed, as required. All written public comments received prior to noon on November 16, 2015 will be distributed at the Council Meeting.

President **MacLachlan** introduced this item and Manager Burns gave a brief overview.

Joel Bouwens, representing All Shores Wesleyan Church, explained that All Shores was requesting conditional rezoning from Residential to Public/Semi Public for property they own at 214 S. Fruitport Road. Mr. Bouwens said that All Shores voluntarily made the conditional rezoning application in order to provide a more flexible solution with built in protections for the neighborhood, the Village and the greater community. Mr. Bouwens explained that the application provided for the location of the driveway and the non-motorized path and contained 9 very important conditions or limitations. Mr. Bouwens then gave a summarization of the 9 conditions.

Village Attorney, Ron **Bultje**, explained to Council that any ZBA decision, either way, could lead to an appeal in Circuit Court. Bultje also reviewed with Council his October 8, 2015 memorandum concerning this conditional rezoning request.

President **MacLachlan** opened the Public Hearing at 7:39 p.m.

The following citizens were present and voiced opposition to Conditional Rezoning of 214 S. Fruitport Road for the use of a driveway by All Shores Wesleyan Church.

- Jeff Beswick of Varnum LLP on behalf of the neighbors opposing the rezoning.
- Richard Brown - 808 River St
- Greg Dutmers - 210 S Fruitport Rd
- Elliot Grysen - 806 River St
- Don Currie (per Elliot Gryson) - 206 S Fruitport
- Elizabeth Wheeler - 120 N Fruitport Rd
- Darcy Dye - 114 N Fruitport Rd
- Jody Foster - 114 S Fruitport Rd
- Sharon Rathbun - 300 S Lake Ave
- Judy Swiftney - 223 S Fruitport Rd
- Jill Grumm - 211 S Fruitport Rd
- David Dye - 114 N Fruitport Rd
- Tim Graham - 802 River
- Larry Boltema - 219 S Fruitport Rd
- Nancy Boltema - 219 S Fruitport Rd
- Bob Duer - 222 S Fruitport Rd
- Cal Braun - 121 S Fruitport Rd
- Rita Braun - 121 S Fruitport Rd
- Vernon Miller - 120 S Fruitport Rd
- Sandra Miller - 120 S Fruitport Rd

John Nash spoke in favor of the Conditional Rezoning of 214 S. Fruitport Road.

Motion by **Nauta**, second from **Doss**, the Village Council closed the public hearing at 8:17 p.m.

Yes: 6 No: 0

Motion by **Doss**, second from **Nauta**, to approve the Zoning Map Amendment Ordinance and the Contract Zoning Agreement for Conditional Rezoning by All Shores Wesleyan Church property located at 214 S Fruitport Road from Residential to Public/Semi-Public for the

reasons given in Section 3 of the Contract Zoning Agreement and supplemented with the Michigan Department of Transportation letter dated November 12, 2015 and authorized the Village President and Village Clerk/Treasurer to execute the documents.

Village President **MacLachlan** asked for discussion on the motion by **Doss**.

Council Member **Powers** said that after reviewing Mr. Bouwens April 17, 2015 letter that read "Because the S. Fruitport Rd access is characterized under the Village Ordinance as a driveway and not a private road no additional permits are necessary for construction" he was wondering if it was the view of Mr. Bouwens client (ASWC) that they could put in the driveway and did not need any more permits except the demolition permit for the garage or was he interpreting that statement wrong.

Bouwens said what they were pointing out, at the time, was that they did have a permit and there was no pending Zoning Board of Appeals so they could have gone ahead pursuant to that permit had they completed the drawings or they could come forward and try to put an end to the controversy and explain and put forth in their application all of the things the Church was willing to do and be subject too.

Powers asked what the Church would do if the community says they just really don't want this.

Bouwens said that they do have a valid permit and now there is something before the Zoning Board of Appeals so they would go through the ZBA proceedings and they believe the correct outcome of the ZBA would be to uphold the permit and then they would proceed with construction of the driveway in accordance with the permit that they had been given. Bouwens said that the opposition they have heard from was very localized and was essentially saying that they do not want any more cars on their road. Bouwens said they have consulted experts that said it would be for a very limited duration of time and the road was fully capable of handling that in a safe fashion.

Powers said that after having grown up on Fruitport Road and fished on the island that is now a home, he wasn't too interested in seeing those things go away and he didn't like to see homes being torn down for parking lots and driveways that would be used for 15 to 20 minutes on Sundays. **Powers** said he had talked to community members that have the same feelings that he has but he does understand a lot of the concerns that All Shores has. Powers asked if All Shores was going to do anything for the community beyond what was stated in the agreement like reach out to the neighbors of the area and getting them a little less

adamant in their opposition.

Mr. Bouwens said that in May, when there seemed to be a rise in community opposition, All Shores, the Township and the Village had an open house with a number of drawings and they requested input from the community and one of the inputs was to locate the driveway so it wasn't adjacent to the homes across the street in terms of the headlights going towards the homes but rather locate it towards where the garage and driveway are and he believed that request was honored. Bouwens said that as this plan was developed and as the preliminary plan was developed there was participation from the Township and Village Officials, the Sheriff's Department and MDOT and the issue of sparing the home was not raised.

Attorney **Bultje** said that a key thing to remember was that the Circuit Court said that the Church would not have to get the property rezoned in order to create this driveway. **Bultje** said the driveway permit was still required but the rezoning request was not required. **Bultje** said he preferred the conditional rezoning to just issuing a permit for the driveway without the rezoning because of all of the advantages of the conditional rezoning that go away if it was just done under the Circuit Court decision which says the property which the driveway runs does not have to be zoned the same as the Church property which wouldn't have to even stay the Church property. **Bultje** said he understood Power's comment on preserving the homes but he had to keep in mind the Master Plan which talks about the advantages of the green pockets and community parks intermixed in with the residential areas and those things don't happen if there are homes on them.

Doss said she felt that the key here were the special considerations protecting the residential area and she would hate to have those taken away.

Nauta said he understood how the resident felt and if he lived there he would probably feel the same way but there are things in his neighborhood that he didn't want but others do want. **Nauta** said he felt this was a good thing and the benefits outweigh the negatives.

Miller said that in his ten years on Council he had never seen such opposition from a neighborhood for something and he has never seen such pressure to override that. **Miller** said the Master Plan does not support this and the Planning Commission voted against it. **Miller** said that he lived across the street from Harvest Bible Chapel and the traffic was viscous and as a Council Member he represented the citizens, not the Township, not a church in the Township and not Village government but the citizens and he has to honor their wishes and he did not like this idea.

Powers said he was very conflicted about this and as he tries to balance this he was stuck with the fact that even if Council says no, that doesn't really end the matter and they lose control of the process in a way that would be worse than the alternative so for that reason he was stuck on approving the conditional rezoning.

Meyer said he had 2 questions. 1) is it legal to do what is being proposed, and it appears that it is, and 2) does the neighborhood want this? Obviously not, but what is worse if this is not changed, that driveway very well goes in and it may not go in as nicely as All Shores has proposed, so what is best for this community. **Meyer** said he understood the conflict of the neighbors and he thought everyone would agree that it was the "NIMBY" theory, Not In My Back Yard. It's good over there, but not in my yard. **Meyer** said he would have to concur with **Doss** and **Powers** ideas on this and he didn't think there was a good answer that would benefit this community as a whole but the better answer was to allow the rezoning.

MacLachlan said that the thing that swayed him was the fact that the conditional rezoning would preclude the Church from some day selling that property and having the driveway go from something being utilized primarily on Sunday mornings to something commercial where traffic, instead of being concentrated on one morning a week, might be significantly present at all times of the week. **MacLachlan** said that the Church could sell that property if they have a plan permit and they did not have to come to Council and ask for rezoning with all of the compromises with the neighbors in order to make it more palatable. **MacLachlan** said he was in favor of this rezoning for those reasons.

Bultje said that he was concerned with the next owner of the property and not that the Church has indicated that they would sell but nothing was forever and the Village was best protected this way. **Bultje** also said that Section 9 had 2 blanks in it about when the conditions would be commenced and when they would be completed and he would suggest commence within 9 months and completed in 12 if that was acceptable.

MacLachlan asked if that was acceptable to the Church and Mr. Bouwens said that it was.

Village President **MacLachlan** called for the vote on the motion by **Doss**.

Yes: 5 No: 1 (Miller)

B. Preliminary Planned Unit Development – Mill Point Senior Housing

On October 27, 2015 the Planning Commission held a public hearing to

consider a request from applicant, Mr. Garrett Seybert, on behalf of property owner Richard Peel, to approve a Preliminary PUD Development Plan for the Mill Point Place project. The Planning Commission was also asked to approve the Final PUD Development Plan at the same meeting. The location of the request is vacant property bounded by Cutler Street, Liberty Street, and Park Street, Permanent Parcel Numbers 70-03-15-352-003 and 70-03-15-352-004. The Planning Commission unanimously recommended approval of both the Preliminary and Final PUD plans.

President **MacLachlan** introduced this item and **Burns** gave a brief overview.

Phil Seybert, 608 Bluegrass, Mount Pleasant, MI. came before Council with his presentation for a 24 unit senior housing development. Mr. Seybert explained the name changes for the project and showed color samples.

Doss asked how high the building would be at the third level.

Mr. Seybert said he did not have that measurement with him but the standard height for the interior of a unit was 8 feet so the 3 story level was somewhere around 24 to 28 feet and at the 2 story would be the height of a standard 2 story home.

Attorney **Sullivan** explained that the height of the building had been discussed a number of times and that they compromised with the step back look and still be able to get the units in but break up the straight wall look.

Burns said they had one resident from Jackson that spoke in opposition and one comment at the public hearing during the Planning Commission meeting. Burns said the Planning Commission did take into consideration the height and with the step back look it wouldn't look like Barrett's. **Burns** said they also took into consideration light infiltration and that's why the design was done the way it was.

MacLachlan said that they had to consider that the project had to have enough scope that there can be enough units to make it financially viable and he personally liked the appearance compared to the other senior housing in the Village and Township that were all squared off.

Powers asked how far of a setback was there from the sidewalk.

Mr. Seybert said the didn't have the setback but there was a bike path on the rear south side and a side walk along Cutler, Park and Liberty with access through the car port to the bike path.

Powers wondered how much green space there would be.

Burns said that the Planning Commission did evaluate that and took into consideration how much green space verses hard surface, lighting, screening from the bike path as well as landscaping around the building and the Village engineer, Ryan Aarons, took into consideration the storm water retention.

Meyers asked if this would be independent or assisted living. Mr. Seybert said it was independent living.

Motion by **Miller**, second from **Meyers**, to approve the Preliminary Planned Unit Development.

Yes: 6 No: 0

C. PUD Agreement – Mill Point Senior Housing

Attorney Bob Sullivan has drafted the Planned Unit Development Agreement for Mill Point Senior Housing, which has been reviewed and approved by the developer.

Motion by **Nauta**, seconded by **Doss**, to approve the Mill Point Senior Housing PUD Agreement and authorized the Village President and Village Clerk/Treasurer to execute the document.

Yes: 6 No: 0

D. Adoption of Ordinance No. 342

Ordinance No. 342 is an ordinance to adopt and approve the fourth amendment to the restated and amended Spring Lake Downtown Development Authority Plan and Tax Increment Financing Plan pursuant to the provisions of Michigan Act 197 or 1975, as amended (“Act 197”).

- i. President **MacLachlan** introduced this item and **Burns** explained Ordinance No. 342.
- ii. President **MacLachlan** opened the public hearing at 9:00 p.m.

Elizabeth Wheeler, 120 N Lake, asked for clarification on what the boundaries would be.

Attorney Sullivan said that the boundaries would not change at this time.

This Ordinance extends the time for the TIF plan and adds some projects.

Tom Craig, 319 Mark, asked if this will affect other tax payers in the Village.

Clerk/Treasurer **Hinga** said tax bills would not change but those dollars would continue to be used for DDA related projects

Rich Draeger, 614 Parkview, asked why the Villa's are included in the Downtown Authority.

Burns said that currently the Villa's are in the district and one of the reasons they need residential homes within the district is because each time this plan needs to be renewed State law requires that the Development Area Citizens Council be made up of residents within the district, not business owners and not property owners, so they need a pool of residents from which to pull in order to serve on the Development Area Citizens Council which ultimately makes the recommendations on this plan to the DDA and then the DDA makes the recommendations to Council.

Motion by **Doss**, second from **Miller**, to close the public hearing at 9:05

Yes: 6 No: 0

President **MacLachlan** asked if this was for another 10 years.

Sullivan said yes it was.

Motion by **Meyers**, seconded by **Nauta**, to adopt Ordinance No. 342 an Ordinance to adopt and approve the Fourth Amendment to the Restated and Amended Spring Lake Downtown Development Authority Plan and Tax Increment Financing Plan pursuant to the provisions of Michigan Act 197 or 1975, as amended ("Act 197").

Yes: 6 No: 0

- 7. **Department Reports**
 - A. **Village Manager**
 - B. **Clerk/Treasurer/Finance Director**
 - C. **OCSO**
 - D. **Fire**
 - E. **911**
 - F. **DPW**
 - G. **Sewer**

H. Water

I. Minutes from Various Board & Committees

1. Planning Commission

8. Old Business and Reports by the Village Council

No old business at this time.

9. New Business and Reports by Village Council

Council Member **Meyers** announced his resignation from Village Council to spend more time in Florida. **Meyers** said it had been an honor to serve.

President **MacLachlan** said they appreciated having had Meyers serve on Council and this would be a big lose

10. Status Report: Village Attorney

No report from the Village Attorney at this time.

11. Statement of Citizens

Lee Schuitema, 408 W Exchange St., spoke to Council about what he felt would be speed and safety issues for Fruitport Road, River and Lake Street with the passage of the driveway rezoning.

12. Adjournment

On a motion by **Miller**, seconded by **Meyers**, Village Council adjourned the meeting at 9:12 p.m.

James MacLachlan, Village President

Maryann Fonkert, Deputy Clerk