

***Leoni Township Office***  
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**[Leonitownship.com](http://Leonitownship.com)**

**PLANNING COMMISSION MINUTES**  
**February 19, 2020**

The Leoni Township Planning Commission held a meeting Wednesday, February 19th, 2020 @ 6:00 p.m.  
913 Fifth Street, Leoni Township Meeting Hall, Michigan Center, Michigan.

Meeting opened to call of the Chair: 6:02 pm

Members Present: J. Southworth, B. Carroll, L. Maurer, B. Lester, D. Helmlinger, K. Cole and V.  
Beckwith

Members absent: 0

Persons in attendance: 10

Purpose of Planning Commission read by V. Beckwith

*Motion by J. Southworth, supported by D. Helmlinger to approve the agenda as written.*

***Motion approved by Voice Vote***

*Motion by B. Carroll, supported by L. Maurer to approve the minutes from 1/8/2020 as written.*

***Motion approved by Voice Vote***

*Motion by J. Southworth, supported by L. Maurer to approve the minutes from 1/22/2020 as a discussion.*

***Motion approved by Voice Vote***

**Public Comment:**                      **Open at        6:40 pm.**  
   **Closed at     6:42 pm.**

**NEW BUSINESS:** GH2 LLC Site Plan Review  
Planning Commission read through the check list.

*Motion by J. Southworth, supported by D. Helmlinger to accept site plan review for GH2 LLC  
Parcel # 000-09-33-451-001-00 with the conditions of the drain commissioner.*

***Voice vote: Ayes: K. Cole, D. Helmlinger, B. Lester, L. Maurer, J. Southworth, V. Beckwith  
and B. Carroll***

***Nay:***

***Motion Carried***

**OLD BUSINESS:** Master Plan Review with Grant Baumann  
Grant went over the goals and objectives of roughly half of the Master Plan and defined a Timeframe and a responsibility from the Board.

**Discussion:** D. Helmlinger made the request that we have a need for commercial/industrial zoning along the I-94 and 127 corridor (Ann Arbor Rd, Watts Rd, and Dettman Rd) and would like for it to be added to the Master Plan. This was the suggestion of B. Lester during the November 20, 2019 Planning Commission Meeting.

**Public Comment:** Open at 7:29 pm.  
Closed at 7:32 pm.

**Chris Brennan:** I am from Exit Realty and I have a client that came in for a rezone and they felt that they were treated with bias, specifically from Mr. Cole. This property runs along the 127 corridor.

**K. Cole:** I voted against it because of the road access. They never came back and reapplied. Why didn't they come back and apply?

**J. Southworth:** You are referring to the Seffernick property. I think it would have been accepted if the entrance would have been off Dettman instead of Gregory.

**V. Beckwith:** Why does it seem like K. Cole always objects to everything.

*Motion by D. Helmlinger, supported by V. Beckwith to recommend to the Board of Trustees to remove K. Cole as liaison.*

***Voice vote: Ayes: D. Helmlinger, B. Lester, L. Maurer, B. Carroll and V. Beckwith***  
***Nay:***

*Abstain: J. Southworth “because I have sat next to him for 3 years” & K. Cole*  
*Motion Carried*

*Motion to adjourn by V. Beckwith, supported by D. Helmlinger*  
***Motion approved by voice vote***

**Adjourn 8:05 pm.**

**Next meeting: March 4, 2020**

Dear Leoni Township Board of Trustees,

In the last three years, no one person has been more divisive or has inflicted as much irreparable damage to the character of this great township than Liaison to the Leoni Township Planning Commission and Leoni Township Trustee Kurt Cole. As a result of a motion made by the Leoni Township Planning Commission recommending to the Leoni Township Board that Trustee Cole be removed and replaced as Liaison, this letter will serve as written charges of malfeasance, nonfeasance, and misfeasance pursuant to the Michigan Planning and Enabling Act 125.3815-15(9)<sup>1</sup>:

1. **Malfeasance**; in relation to Trustee Cole's failure to appear for the February 5<sup>th</sup>, 2020 Leoni Township Planning Commission Meeting.

The Cornell Legal Information Institute defines **malfeasance**<sup>2</sup> as "intentional conduct that is wrongful or unlawful, especially by officials or public employees".

- Trustee Cole did not appear before the February 5<sup>th</sup>, 2020 Planning Commission as his duty, as an elected official, requires him to. This meeting began at 6:30pm and Trustee Cole was witnessed in the halls of Leoni Township Administration Building on or around 6:00pm by another member of the Planning Commission. It is that member's testimony that the two made eye contact and acknowledged each other's presence. When the meeting started 30 minutes later, Trustee Cole was nowhere to be found. In the time between the February 5<sup>th</sup>, 2020 meeting and the February 19<sup>th</sup>, 2020 meeting, Trustee Cole was quoted by several Township administration employees and members of the Planning Commission that he "would not show up to any illegal meetings or anymore Planning Commission meetings". This statement indicates that Trustee Cole intentionally did not make himself available for the February 5<sup>th</sup>, 2020 Planning Commission meeting. When questioned about his absence during the February 19<sup>th</sup>, 2020 meeting, Trustee Cole first claimed that he had a family emergency to deal with. Even if this was the case, having been at the Township at 6:00pm and having recognized another member of the Planning Commission, Trustee Cole, as a requirement of his duty, should have informed the Planning Commission member of his required absence. However, later on in the February 19<sup>th</sup>, 2020 meeting, Trustee Cole stated aloud that he "wouldn't be a part of an illegal meeting" when questioned again about his absence. This statement does not align with his previous statement of a family emergency and matches the statements made in private to Township officials. Furthermore, the statement and previous actions follow a pattern in which Trustee Cole deliberately does not appear before either the Planning Commission or the Board of Trustees when there is a perceived vote Trustee Cole views as insufficient or "illegal". To begin, it is not viable for one member to state that a meeting is illegal before it begins and then intentionally not show up for the meeting when the member is fiducially required to be present. More importantly, one member cannot will into existence an illegal meeting with the sole basis of that member believing the meeting to be illegal. The most appropriate course of action in this circumstance would be for that member to appear, as required, and state his or her case before the public, as also required per Government transparency laws. Additionally, any

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<sup>1</sup> <http://www.legislature.mi.gov/documents/mcl/pdf/mcl-Act-33-of-2008.pdf>

<sup>2</sup> <https://www.law.cornell.edu/wex/malfeasance>

absence from any member, especially an elected official, should not be taken lightly. The Charter Township Act<sup>3</sup> goes so far as to permit a township board to "compel" the attendance of elected board members and makes the failure to appear a "misconduct in office" per MCL 42.7<sup>4</sup>. Trustee Cole's seemingly intentional failure to appear for the meeting, and any instance prior, is a grave abuse in relation to the duty of care fiducially required of elected township officials. This is also a willful neglect of duty, punishable by Michigan Penal Code 750.478.

2. **Nonfeasance**; in relation to Trustee Cole's failure to deliver vital information to the Leoni Township Board of Trustees.

The Cornell Legal Information Institute defines **nonfeasance**<sup>5</sup> as "the failure to act when a duty to act existed".

- The Michigan Planning and Enabling Act 125.3819-19(1)<sup>6</sup> states "a planning commission shall adopt bylaws for the transaction of business". It is undisputed that the Planning Commission has not formally adopted, by a vote of the Board of Trustees, bylaws that define the operations of the Planning Commission. When this discrepancy was identified, the Planning Commission took steps to formally adopt bylaws during the October 2<sup>nd</sup>, 2019 Planning Commission meeting by an approved motion<sup>7</sup>. 6 months later, the bylaws have not been presented to the Board of Trustees as required by the duties vested to the Liaison to the Planning Commission. There are also several other instances in which information decided on at the Planning Commission level is not properly communicated to the Leoni Township Board of Trustees, such as the decision to mail out postcards for the Adult Use Marijuana ordinance which resulted in the stalling of the process in which the Township was required to notify citizens.
3. **Nonfeasance**; in relation to Trustee Cole's attempt to influence an arbitrary end to a lawfully called Planning Commission meeting and subsequently failing to vote in matters in which Trustee Cole was fiducially required to vote on.
    - The meeting minutes<sup>8</sup> for the special meeting the Leoni Township Planning Commission conducted on May 23<sup>rd</sup>, 2019 states that Trustee Cole was present for the meeting at the opening yet did not vote, abstain, or formally recuse himself from votes on motions that were made during the meeting. From our understanding, Trustee Cole claimed that this meeting was illegal and that he would not take part in it. Again, the proper solution would be to remain a member of the body and formally recuse or abstain, with appropriate reasons, when the time comes to vote on a motion. The original explanation Trustee Cole gave was that Public Notice was not given within the required 48 hours. This statement,

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<sup>3</sup> <http://www.legislature.mi.gov/documents/mcl/pdf/mcl-act-359-of-1947.pdf>

<sup>4</sup> <http://legislature.mi.gov/doc.aspx?mcl-42-7>

<sup>5</sup> <https://www.law.cornell.edu/wex/nonfeasance>

<sup>6</sup> <http://www.legislature.mi.gov/documents/mcl/pdf/mcl-act-33-of-2008.pdf>

<sup>7</sup> <http://www.leonitownship.com/MINUTES%2010-2-2019.pdf>

<sup>8</sup> <http://www.leonitownship.com/MINUTES%20Special%205-23-19.pdf>



now and at the time of the meeting, is factually untrue. 15.265(4) of the Open Meetings Act<sup>9</sup> states that *"a special meeting of a public body, a public notice stating the date, time, and place of the meeting shall be posted at least 18 hours before the meeting"*. After Trustee Cole's hourly requirement was debunked, he then moved on to assert that due to the public notice, through a clerical error, claiming the wrong day of the week, the meeting was then in violation of the Open Meetings Act. As quoted above, the Open Meetings Act only states that a date is required. A *date*<sup>10</sup> can be defined as either *"a particular month, day, and year at which some event happened or will"* or *"a day of the month"*. The argument that a public notice defining the year, month, and day in which a public meeting will occur is somehow wrong because the day of the week was mistaken is unfounded. The day of the week is neither a day, month, or year, nor is it in any way a measure of time, the most common and acceptable perception of a date. Trustee Cole frequently reminds members of the Planning Commission that he "knows the law better" than any other member. Although this is an unlikelihood, it is important to recognize that simple numbers and common terminology appear to escape him when the moment requires accuracy. Or more likely, Trustee Cole is attempting to intentionally misrepresent the goal of the public notice requirements in the Open Meetings Act to further an unwarranted vendetta against the Leoni Township Planning Commission and Leoni Township as a whole. By not formally abstaining or recusing himself from a recorded vote, simply joining the audience, and remaining within the proximity of the voting body, Trustee Cole breached his duty of care in which he is fiducially obligated, as an elected official of Leoni Township, to vote on matters in which he is physically present. This is also a willful neglect of duty, punishable by Michigan Penal Code 750.478.

4. **Misfeasance**; in relation to Trustee Cole's ongoing intimidation tactics and unethical behavior towards members of the Leoni Township Planning Commission, the Leoni Township Administration, formal applicants, and Leoni Township citizens.

The Cornell Legal Information Institute defines **misfeasance**<sup>11</sup> as *"the incorrect, improper, or wrongful performance of a legal act"*.

- Trustee Cole, on several occasions, has both threatened to sue individuals on the Planning Commission and has insinuated that he can "send the State Police" to Planning Commission member's houses (as witnessed in public during the February 19<sup>th</sup>, 2020 Planning Commission meeting). Trustee Cole's disturbing rhetoric undermines the sanctity and safety of the duties necessary to be performed by each member of the Planning Commission and of the Township Administration. It can also be assumed, with a pattern of these statements, that Trustee Cole organized the complaint with the Michigan State Police that resulted in the inspection of the Township and multiple members of the Planning Commission. This leads many to believe these are more than empty threats and are intended to influence the decisions made by Planning Commission members and are designed to shift the results to which Trustee Cole finds acceptable.

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<sup>9</sup> <https://www.legislature.mi.gov/documents/mcl/pdf/mcl-act-267-of-1976.pdf>

<sup>10</sup> <https://www.dictionary.com/browse/date>

<sup>11</sup> <https://www.law.cornell.edu/wex/misfeasance>



- It is a well-known fact that the ordinances adopted by Leoni Township are in need of review and amendments in order to accommodate changing markets and demographics. In an effort to address this, the Board considered creating an Ordinance Committee to ensure ordinances are created that benefit both the Township, and its desired regulations, and the community. Trustee Cole fiercely opposed the creation of an ordinance committee at the Board of Trustees level while simultaneously and intentionally stalling ordinance-related decisions at the Planning Commission level with no clear reason other than interrupting the appropriate processes in which ordinances are created or amended.
- Trustee Cole has repeatedly relied on the argument of "if you don't want me to say anything then you shouldn't do things that are illegal". First, claiming something is illegal does not make it illegal, even when that claim is so fiercely defended but is without proper predication. Secondly, when Trustee Cole commits an act that is clearly in violation of established laws (e.g. the New Years Eve Board of Trustees meeting) he denies such accusations and labels anyone who opposes him as uninformed of issues related to law and insists he is the sole authority on such matters.
- Numerous occasions exist where Trustee Cole, in an open meeting, states to an applicant the desired conditions in which he will support the applicant's request. Upon the applicant satisfying those conditions (e.g. Matthew Baker's request), Trustee Cole then votes against the applicant, even after expressing support if, and when, the conditions are met.
- It is the duty of the members of this commission to work with applicants and assure their legal right to request any and all items under the purview of the Planning Commission, by conforming their requests to the legal bounds in which they must exist. Unfortunately, Trustee Cole has been quoted by many members of the Township Administration and members of the Planning Commission as saying that he "will do everything possible to stop [certain individuals] requests". Instead of collaborating with citizens towards a common goal, Trustee Cole plots against them for personal gain and conforming to known disinterested parties by making statements such as those above.
- There are also numerous ethical concerns in which Trustee Cole has sold out the trust of the public for the sole purpose of furthering his personal agenda. One such issue has occurred when Trustee Cole transmitted Leoni Township attorney-client information to an attorney who is representing an individual actively engaged in litigation against Leoni Township. As a result, the Board of Trustees has since responded by restricting the information allowed to be shared by individuals (e.g. the Board of Trustees and the administration) with privileged access to Leoni Township information. As an individual elected by the People of Leoni Township, there is no excuse for Trustee Cole sharing privileged information.
- When a member of the Planning Commission opposes Trustee Cole's perspective, and instead of engaging in civilized dialogue, Trustee Cole seeks to verbally bully the individual and incite discourse among the Commission. One example includes the February 20<sup>th</sup>, 2020 Planning Commission meeting in which one member of the Planning Commission had the floor and was speaking against Trustee Cole's position and Trustee Cole continually spoke into his microphone "you're blind" until the member stopped speaking. Furthermore, Trustee Cole's most common insult is to claim individuals, both members of the Planning Commission and members of the public, are "liars" when stating anything that doesn't align

with Trustee Cole's chosen narrative. Even when what those individuals are stating is factually true and permissible for the public to hear.

- Trustee Cole continually exhibits an irresponsible lack of candor when interacting with the public and with his fellow commissioners. Specifically, Trustee Cole has championed a hostile relationship with a number of applicants and individuals in the community over the past three years which does not end with the Planning Commission and frequently bleeds into the Board of Trustees and issues in which the Board must address in its capacity as the governing body of Leoni Township.
- Half-truths are commonly presented in public meetings as a method to deceive both applicants and the other commissioners. Furthermore, the shadow politics Trustee Cole conducts in the halls of Leoni Township with certain members of the Administration outside the transparency of the public assists in contributing to the perception of the commissioners and the public that Trustee Cole has disinterested intentions when formally conducting official duties. The Leoni Township Planning Commission is comprised of hard-working citizens who truly care about seeing forward progress in our community and are not here to be used as pawns in Trustee Cole's game of deception he so commonly plays with this commission, applicants, and the Board of Trustees.
- Multiple members of the Leoni Township Planning Commission and the public have expressed sincere unease with the tactics in which Trustee Cole employs. More specifically, members of this Commission and the public have, and continue to feel, intimidated by Trustee Cole. No member of the Leoni Township Planning Commission should ever feel threatened or intimidated by any other member of this commission, let alone the only elected official. And neither should the public.

The Leoni Township Planning Commission can no longer tolerate being placed at the bottom of a two-tier system. Trustee Cole, as the Leoni Township Planning Commission Liaison, has fostered, to the best of his ability, an adversarial relationship between the Planning Commission and the Leoni Township Board of Trustees and is directly responsible for the bitter circumstances in which both parties find themselves today. Failure to act, in the capacity of Liaison and as a representative of the Leoni Township Board in accordance with the written charges stated above, along with a number of unethical actions taken with the intent to further personal gain or belittle his peers and applicants, has led the Leoni Township Planning Commission to declare Trustee Cole unfit to perform his duties as the Leoni Township Planning Commission Liaison and formally recommend to the Leoni Township Board of Trustees that Trustee Kurt Cole be removed and replaced as Liaison to the Leoni Township Planning Commission.

X Richard V Beckwith  
Vern Beckwith

X \_\_\_\_\_  
Trustee Kurt Cole

X Judy Southworth  
Judy Southworth

X Billy Lester  
Billy Lester

X Debbie Helminger  
Debbie Helminger

X Benjamin Carroll  
Benjamin Carroll

X Lynn Maurer  
Lynn Maurer

3-4-2020