

July 6, 2016

A Regular meeting of the Chocolay Township Board was held on Wednesday, July 6, 2016 at the Chocolay Township Hall, 5010 U S 41 South, Marquette, MI. Supervisor Walker called the Township Board meeting to order at 5:30 p.m.

PLEDGE OF ALLEGIANCE.

TOWNSHIP BOARD.

PRESENT: Gary Walker, Ben Zyburt, Max Engle, Mark Maki, David Lynch, Richard Bohjanen, Judy White.

ABSENT: None

STAFF PRESENT: Steve Lawry, Suzanne Sundell, Brad Johnson.

MINUTES – JUNE 1, 2016 REGULAR MEETING.

Engle moved Zyburt seconded to approve the minutes of the regular meeting of June 1, 2016 as presented.

MOTION CARRIED.

AGENDA ADDITIONS/DELETIONS.

White moved Lynch seconded to approve the agenda as presented.

MOTION CARRIED.

PUBLIC COMMENT.

Andrea Beckman, Marquette Motor Lodge 5057 U S 41 South - Had a complaint about her utility bill. The Township charged them for part of a month that the Motor Lodge was not open for business.

Supervisor Walker told the Beckman's that staff will investigate this matter and get back to them.

Deborah Mulcahey, 633 Lakewood Lane – Has a complaint on how the Chocolay Township FOIA coordinator has handled her FOIA request for an attorney letter and her FOIA request for Board monthly updates. She has still not received a response to her June 20<sup>th</sup> FOIA request

PUBLIC HEARINGS- PROPOSED FIREARMS ORDINANCE #61.

The public hearing was opened.

- Peter Ollila, 633 Lakewood Lane commented that the Fire Arms Ordinance should include bows, compound bows and crossbows.
- Deborah Mulcahey, 633 Lakewood Lane feels that bows should be included in the Fire Arms Ordinance.

The public hearing was closed.

ACCOUNTS PAYABLE.

Maki moved Bohjanen seconded that bills totaling \$22,060.18 including checks numbered 21095-21123 and \$33,032.23 including checks numbered 21124-21154 are approved for payment.

MOTION CARRIED.

PAYROLL.

Lynch moved Bohjanen seconded that the payroll for June 2, 2016 for \$32,999.06 including checks numbered 23147-23173 and 10328-10333 and ACH payments for Federal tax, State tax and MERS, and June 16, 2016 for \$32,243.32 including checks numbered 23174-23195 and 10334-10339 and ACH payments for Federal tax, State tax and MERS, and June 30, 2016 for \$36,305.60 including checks numbered 23196-23230 and 10340-10345 and ACH payments for Federal tax, State tax and MERS are approved for payment.

MOTION CARRIED.

FINANCIAL REPORT- MAY 2016.

White moved Lynch seconded to approve the May 2016 financial report.

MOTION CARRIED.

TREASURER'S REPORT/FUND WITHDRAWAL AND DEPOSIT REPORT.

Treasurer Zyburt reported one CD in the amount of \$150,000 matured from Miners State Bank and has been reinvested in 1st Bank with a 1 year maturity with a 90 basis point maturity which is about ½ % higher than the previous C/D. We reinvested \$331,000 from the spend down from Fire Station bond with CDARS and Miners State Bank.

Lynch moved White seconded to accept the Treasurer's report and the Fund Withdrawal and Deposit report.

MOTION CARRIED.

PRESENTATION BY MARQUETTE CHAMBER OF COMMERCE.

Jason Schneider, Executive Director of Marquette Chamber of Commerce was not able to present his Community Calendar proposal due to technical difficulties and requested that this item be placed on the August Board agenda.

SUPERVISOR'S REPORT –

None.

SECOND READING OF REPEAL OF ORDINANCE #35 AND ADOPTION OF PROPOSED ORDINANCE #61, FIREARMS ORDINANCE.

Engle moved Bohjanen seconded that after review of the proposed modifications of the Township Firearms Ordinance, the input from a public hearing, and the recommendations of the Township Planning Commission and the Township Attorney, that the Board adopt the proposed language of Ordinance #61, file the motion with the Township Clerk to publish a notice of adoption in the local newspaper and on the Township website within fifteen days of adoption, and record the

amendment in the Township Ordinance Book within one week after publication, with Ordinance #61 to become effective thirty days after adoption and Ordinance #35 to be repealed concurrently.

ORDINANCE #61  
CHARTER TOWNSHIP OF CHOCOLAY FIREARMS ORDINANCE

An ordinance to secure the public health, safety and welfare of the residents and property owners of the Charter Township of Chocoday, a Municipal corporation of the State of Michigan, by prohibiting the discharge of firearms in certain areas of the Township, to provide penalties for violations thereof and to repeal Ordinance #35, dated January 23, 1978, and all ordinances or parts of ordinances in conflict herewith,

THE CHARTER TOWNSHIP OF CHOCOLAY ORDAINS:

Section 1. **Purpose.**

The purpose of this Ordinance is to secure and maintain the public health, safety and welfare of the residents and property owners of the Charter Township of Chocoday by prohibiting and /or regulating the discharge of firearms in residential and commercial areas in the Township and near residences and outbuildings of the rural and forested areas in the Township where such discharge would be dangerous to persons and property.

Section 2. **Title.**

This Ordinance may be known and cited as the "Charter Township of Chocoday Firearms Ordinance".

Section 3. **Definitions.**

- A. The words "building" or "structure", as used in this Ordinance, shall be construed to mean a space which is enclosed by walls or other means of separation and usually, but not necessarily, covered with a roof.
- B. The word "firearm" as used in this Ordinance, shall mean any weapon or device which will, is designed to, or may readily be converted to expel a projectile by action of an explosive, and shall include, but not be limited to, rifles, shotguns, and pistols as defined by Section 222 of the Michigan Penal Code, MCL 750.222.
- C. "Residence" means a permanent building serving as a temporary or permanent home. Residence may include a cottage, cabin, or mobile home, but does not include a structure designed primarily for taking game, a tree blind, a tent, a recreational or other vehicle, or a camper.
- D. The term "restricted zone" as used in this Ordinance, shall mean Zoning Districts R-1- Single Family Residential District, R-2 – High Density Residential District, MFR – Multi-Family Residential District, WFR – Waterfront Residential District, MP – Municipal

Properties District, C – Commercial District, and I – Industrial District as set forth and defined by Ordinance No. 34, the Zoning Ordinance of the Charter Township of Chocolay and Zoning Maps of the Township, as the same shall, from time to time, be amended, all of which are incorporated herein and made a part hereof by reference thereto.

**Section 4. Regulation of the Use of Firearms.**

No person shall, from and after the effective date of this Ordinance:

- (a) Discharge any firearm within 450 feet of any occupied building, dwelling, house, residence, or cabin, or any barn or other building used in connection with a farm operation, without obtaining the written permission of the owner, renter, or occupant of the property; or
- (b) Discharge any firearm in a Restricted Zone, as herein defined above, except that shotguns shall be permitted in the Restricted Zone if not loaded with slug, ball, buckshot or cut shell load.
- (c) Discharge any firearm across property lines without consent of the neighbor.

**Section 5. Exceptions.**

The prohibitions against discharge of firearms contained in Section 4 hereof shall not apply to:

- (a) Authorized officers of the law acting in the performance of their duties; or
- (b) Persons acting in the reasonable belief that a discharge of a firearm is necessary for the preservation of life or the protection of property.

**Section 6. Penalties.**

- A. Any person who violates any provision of this ordinance shall be deemed responsible for a civil infraction and shall be subject to a civil penalty of not more than Five Hundred Dollars (\$500.00) for each such infraction, all direct and indirect costs allowable by law, and injunctive or other relief as provided under MCL 600.8727 and MCL 600.8735.
- B. This Ordinance shall be enforced by the Ordinance Enforcement Officer(s) of the Charter Township of Chocolay, by the police department of the Charter Township of Chocolay, or by such other person or persons as the Township Board may, from time to time, designate.

**Section 7. Validity.**

Should any action, clause or provision of this Ordinance be declared to be invalid, the same shall not affect the validity of this Ordinance as a whole, or any part thereof, other than the part so declared invalid.

**Section 8. Repeal.**

All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby

repealed.

**Section 9. Effective Date.**

This Ordinance shall take effect thirty (30) days from the 6th day of July, 2016.

Trustee Maki asked if allowing use of firearms in the waterfront district would create an issue that we have to worry about. Supervisor Walker feels that it should not create a problem because the ordinance also requires that you be 450 feet from a building to discharge a firearm.

Trustee Maki also asked about crossbows not being in this Ordinance. Supervisor Walker commented that the Planning chose not to include bows or pellet guns in the Ordinance. Trustee Bohjanen said that State Law prohibits firing a bow within 450 feet of a building.

ROLL CALL.

AYES: Bohjanen, White, Lynch, Zyburt, Engle, Walker.

NAYS: Maki.

MOTION CARRIED.

**SECOND READING OF ZONING ORDINANCE TEXT AMENDMENT 34-16-02 TO ADD CAMPGROUND AS A CONDITIONAL USE IN THE AGRICULTURE/FORESTRY DISTRICT.**

White moved Lynch seconded that after review of the proposed modifications to the Township Zoning Ordinance, the input from a public hearing, and the recommendations of the Township Planning Commission and the Marquette County Planning Commission, that the Board adopt the proposed language of Text Amendment #34-16-02 to add "Campgrounds on parcels of 20 acres or more" to the list of conditional uses within the Agriculture/Forestry Zoning District, file the motion with the Township Clerk to publish a notice of adoption in the local newspaper and on the Township website within fifteen days of adoption, and record the amendment in the Township Zoning Ordinance Book within one week after publication, with the amendment to take effect eight days after publication in accordance with and subject to PA 297 of 1996.

ROLL CALL.

AYES: Maki, Bohjanen, White, Lynch, Zyburt, Engle, Walker.

NAYS: None.

MOTION CARRIED.

Trustee Maki commented that contractor's yards are allowed as a conditional use in A/F zoning district and he has long argued that it is a mistake and feels that it should be deleted in the A/F zoning district.

**RESOLUTION AMENDING GENERAL FUND FY 2016 - BUDGET AMENDMENT NO. 1 REIMBURSEMENTS MAY 3, 2016 SCHOOL MILLAGE SPECIAL ELECTION.**

Maki moved Bohjanen seconded that Whereas, a budget was adopted by the Chocolay Township Board to govern the expenditures of anticipated general fund receipts within the Township on November 4, 2015, for the next fiscal year, and, Whereas, as a result of unanticipated changes in revenues and/or needed expenditures, it is necessary to modify the aforesaid budget between

revenues and expenditures, Now Therefore, Be It Hereby Resolved, that the aforesaid budget be hereby modified as follows:

REVENUE	PREVIOUS	CHANGE	AMENDED
Miscellaneous 101.698	\$20,300.00	+\$3,975.39	\$24,275.39
EXPENDITURE	PREVIOUS	CHANGE	AMENDED
Elections Per Meeting 101.190.710	\$9,525.00	+\$2,205.24	\$11,730.24
Elections Office Supplies 190.727	\$ 2,975.00	+\$ 560.00	\$ 3,535.00
Elections Printing 190.728	\$ 1,400.00	+\$ 68.83	\$ 1,468.83
Elections Postage 101.190.729	\$2,500.00	+\$ 481.10	\$ 2,981.10
Elections Contractual 190.800	\$ 150.00	+\$ 50.00	\$ 200.00
Elections Miscellaneous 190.956	\$ 300.00	+\$ 112.45	\$ 412.45
Clerk Salaries 215.702	\$95,134.00	+\$ 356.81	\$95,490.81
Recreation & Properties Salaries 756.702	\$62,584.00	+\$ 140.96	\$62,724.96

ROLL CALL.

AYES: Maki, Bohjanen, White, Lynch, Zyburt, Engle, Walker.

NAYS: None.

MOTION CARRIED.

2016 CAPITAL IMPROVEMENT FUND BUDGET AMENDMENT #6 & GENERAL FUND BUDGET AMENDMENT #2 TO REFLECT RECEIPT KBIC 2% GAMING FUNDS.

White moved Lynch seconded that Whereas, a budget was adopted by the Chocolay Township Board to govern the anticipated Capital Improvement Fund and General Fund receipts and expenditures within the Township on November 4<sup>th</sup>, 2015 for fiscal year 2016, and Whereas, as a result of receipt of unanticipated revenue it is necessary to modify the aforesaid budget, Now Therefore, Be It Hereby Resolved, that the aforesaid budget be modified as follows:

ACCOUNT	PREVIOUS BUDGET	CHANGE	AMENDED BUDGET
<b>CAP. IMP. FUND REVENUE</b>			
KBIC 2% Gaming Money			
401.000.582	\$ 0.00	+\$ 40,000.00	\$ 40,000.00
<b>CAP. IMP. FUND EXPENDITURE</b>			
Elections Equipment			
401.190.977	\$ 23,952.43	+\$ 5,500.00	\$ 29,452.43
Police Vehicles			
401.305.981	\$ 48,744.24	+\$ 11,500.00	\$ 60,244.24
Fire Dept. Land Impr.			
401.340.972	\$ 32,570.00	+\$ 4,000.00	\$ 36,570.00
Fire Dept. Vehicles			
401.340.981	\$ 57,507.61	+\$ 10,000.00	\$ 67,507.61
Recreation & Grants			
Silver Creek Tennis Court			
401.708.003.972	\$ 18,500.00	+\$ 9,000.00	\$ 27,500.00

ACCOUNT	PREVIOUS BUDGET	CHANGE	AMENDED BUDGET
<b>GENERAL FUND REVENUE</b>			
KBIC 2% Gaming Money			
101.000.582	\$ 0.00	+\$ 5,000.00	\$ 5,000.00

**GENERAL FUND EXPENDITURE**  
Recreation & Properties

Grounds & Equip. Maint.

101.756.790                      \$ 8,000.00                      +\$ 5,000.00                      \$ 13,000.00

ROLL CALL.

AYES: Maki, Bohjanen, White, Lynch, Zyburt, Engle, Walker.

NAYS: None.

MOTION CARRIED.

LETTER OF AGREEMENT WITH LAKESTATE INDUSTRIES FOR PARK MAINTENANCE.

Lynch moved, supported by Zyburt to authorize the Township Supervisor and Clerk to execute a Letter of Agreement with Lakestate Industries for the performance of specified maintenance services at Lions Field Recreation Area in exchange for \$5,000.00 and to authorize payment of the specified amount upon execution of the agreement by all parties.

MOTION CARRIED.

RESOLUTION DESIGNATING DEPOSITORIES FOR TOWNSHIP FUNDS.

Lynch moved White seconded that "BE IT RESOLVED, that those Banks or Credit Unions licensed to do business in the State of Michigan, insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund, and instruments of the Federal Government and meeting all criteria as a depository of public funds contained in State law are hereby approved by the Board of Trustees and designated as legal depositories of moneys belonging to the Township of Chocolay, County of Marquette, and State of Michigan and deposit accounts and certificates maintained, in the name of **Chocolay Township**, subject to the rules and regulations established from time to time by said Bank or Credit Union."

"FURTHER BE IT RESOLVED, that any one of the following, to wit:

Bennett J. Zyburt, Township Treasurer, Patricia A. Beck, Deputy Treasurer

is authorized, on behalf of the Charter Township of Chocolay, and in its name, to transfer funds from bank to bank for investing money in certificates of deposit for the Charter Township of Chocolay in the said Bank or Credit Union and that said Bank or Credit Union is hereby authorized and directed to honor transferring of such certificates of deposit for said Township when so signed or otherwise authorized by the Treasurer or Deputy Treasurer, listed above."

"FURTHER BE IT RESOLVED, that the foregoing resolution shall remain in full force and effect until written notice of its amendment or recession shall have been received by said Bank or Financial Institution and that receipt of such notice shall not affect any action taken by the Bank or Financial Institution prior thereto."

I further certify that there is no provision in the articles or by-laws of said Township limiting the power to pass the foregoing resolutions and that the same are in conformity with the provisions of said articles and/or by-laws.

MOTION CARRIED.

RESOLUTION DESIGNATING TOWNSHIP SIGNATORIES FOR FUND TRANSFERS.

White moved Bohjanen seconded that

“BE IT RESOLVED, that any combination of two (2) of the following consisting of one representative of the Township Treasurer’s Office and one representative of the Township Clerk’s Office, to wit:

Bennet J. Zyburt, Township Treasurer, Patricia A. Beck, Deputy Treasurer

Max Engle, Township Clerk, Mary Sanders, Deputy Clerk

are authorized, on behalf of the Charter Township of Chocolay, and in its name, to open new deposit accounts, to transfer money into existing deposit accounts, and to co-sign checks drawing against deposit accounts for the Charter Township of Chocolay in a Bank, Credit Union or instrument of the Federal Government authorized by Township Board resolution and that said Bank or Credit Union is hereby authorized and directed to honor transactions for said Township when so signed or otherwise authorized by the Treasurer or Deputy Treasurer and the Clerk or Deputy Clerk, listed above.”

“FURTHER BE IT RESOLVED, that the foregoing resolution shall remain in full force and effect until written notice of its amendment or recession shall have been received by said Bank or Credit Union and that receipt of such notice shall not affect any action taken by the Bank or Credit Union prior thereto.”

I further certify that there is no provision in the articles or by-laws of said Township limiting the power to pass the foregoing resolutions and that the same are in conformity with the provisions of said articles and/or by-laws.

MOTION CARRIED.

SCHEDULING A JOINT MEETING WITH THE TOWNSHIP PLANNING COMMISSION.

Maki moved Lynch seconded to schedule a joint meeting with the Chocolay Township Board and Chocolay Township Planning Commission on Monday July 18, 2016 at 7:00 pm.

MOTION CARRIED.

AUTHORIZATION TO EXPEND CAPITAL IMPROVEMENT FUND DOLLARS FOR ELECTION PRECINCT EQUIPMENT.

Lynch moved White seconded that the Clerk be allowed to expend up to \$2,500 from Election Equipment in the Capital Improvement Fund 401.190.977 to purchase 2 – (4 station) voting booths and 12 stanchions.

ROLL CALL.

AYES: Maki, Bohjanen, White, Lynch, Zyburt, Engle, Walker.

NAYS: None.

MOTION CARRIED.

AUTHORIZATION TO EXPEND CAPITAL IMPROVEMENT FUND DOLLARS FOR PRINTER FOR THE ELECTION DEPARTMENT.

White moved Zybert seconded that the Clerk be allowed to expend up to \$743.00 from Election Equipment in the Capital Improvement Fund 401.190.977 to purchase a HP LaserJet Enterprise M604dn printer and repurpose the HP4015n to another department.

ROLL CALL.

AYES: Maki, Bohjanen, White, Lynch, Zybert, Engle, Walker.

NAYS: None.

MOTION CARRIED.

AUTHORIZATION TO EXPEND CAPITAL IMPROVEMENT FUND DOLLARS FOR A PORTABLE DOCK FOR THE MARINA.

Maki moved Engle seconded that the Chocolay Township Board approve the expenditure of \$4,785.00 out of the Marina Capital Improvement Funds 401.544.977 for the purchase of a new Feighner dock for the Chocolay Marina.

ROLL CALL.

AYES: Maki, Bohjanen, White, Lynch, Zybert, Engle, Walker.

NAYS: None.

MOTION CARRIED.

PROPOSAL FROM AMERICAN TOWER CORPORATION FOR AMENDMENT OF TOWER SITE LEASE.

White moved Engle seconded that the Board authorize staff to notify the Lyle Company that Chocolay Township is not presently interested in pursuing conversion of the existing lease to an easement; as such a change is not deemed in the best long term interests of the Township.

MOTION CARRIED.

CORRESPONDENCE – D. MULCAHEY RE: FREEDOM OF INFORMATION POLICY.

Engle moved Zybert seconded that the Chocolay Township Board release the Roger Zappa opinion on short term rentals dated March 5, 2015 to Deborah Mulcahey.

MOTION CARRIED.

PUBLIC COMMENT.

Shelby Bischoff from Lakestate Industries thanked the Board for their support of Lakestate Industries.

Deborah Mulcahey, 633 Lakewood Lane – Commented that the Township redacts individual signatures and emails on information placed for public view; the Township did not do that for her or Peter Ollila. She would like the Township to reevaluate fees charged to commercial customers not utilizing their property. Everything is FOIA-able, there are exceptions but there are facts in the letter to the Township attorney that should be released.

Jason Schneider invited the Board to an informal meeting of the Marquette Chamber of Commerce at 5:30pm tomorrow night at Border Grill on Third Street.

INFORMATIONAL REPORTS AND COMMUNICATIONS.

- A. Minutes – Township Planning Commission, May 16<sup>th</sup>, 2016.
- B. Minutes – Marquette Area Wastewater Treatment Authority, Regular Meeting of May 19<sup>th</sup>, 2016.
- C. Minutes – Marquette County Solid Waste Management Authority, Regular Meeting of June 15<sup>th</sup>, 2016, Draft.
- D. Minutes – US 41 Corridor Advisory Group, Regular Meeting of May 10<sup>th</sup>, 2016.

Supervisor Walker adjourned the meeting at 6:30 p.m.

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Max Engle, Clerk

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Gary Walker, Supervisor