

CHARTER TOWNSHIP OF CHOCOLAY PLANNING COMMISSION MINUTES

Monday, January 15, 2018

I. MEETING CALLED TO ORDER BY: Tom Mahaney at 7:01 p.m.

ROLL CALL

Members Present: Tom Mahaney (Chair), Eric Meister (Vice Chair), Donna Mullen-Campbell (Secretary), Andy Smith (Vice Secretary), Kendell Milton, Don Rhein (Board)

Members Absent: Jon Kangas (due to accepting employment as Township Manager)

Staff Present: Dale Throenle (Planning Director/Zoning Administrator), Richard Bohjanen (Township Supervisor), Jon Kangas (Township Manager), and Lisa Perry (Administrative Assistant)

II. ADDITIONAL AGENDA ITEMS / APPROVAL OF AGENDA

Motion by Milton and seconded by Rhein to approve the agenda as written.

Vote: Ayes: 6 Nays: 0 MOTION CARRIED

III. MINUTES

December 18, 2017

Motion by Meister, and seconded by Milton, to approve the minutes as written.

Vote: Ayes: 6 Nays: 0 MOTION CARRIED

IV. PUBLIC COMMENT

Scott Emerson, 119 Lakewood Lane – Is a physician involved in the community for 40 years. He has heard of many complaints regarding fireworks. Feels an increase in the number of days that fireworks are allowed will lead to more complaints. Also feels it will lead to more potential fires, danger, and liability to the Township. Also referred to the adverse effects that impulse noise has on a person's health. Should follow the Police chief recommendation and follow the State law.

Tom Noren, 169 W. Main – Has been an UP doctor since the mid 70's. Stated his concerns regarding the negative effect fireworks have on the birds and other wildlife in Chocolay Township. Also applauded Chocolay Township on the continued efforts to enhance the natural splendor around us, such as the Bayou Nature Preserve.

Joe Holman III (and Anthem), 210 Riverside – has a service dog and the fireworks have a negative effect on pets and vets. Should follow the State law as when it is planned, it is easier for them to adjust to. Should respect pets and vets.

Marla Buckmaster, 519 Lakewood Lane – read the letter in the Planning Commission packet from Bill and Marsha Karas, 195 Lakewood Lane. Also agrees with them.

Tim Hunt, 2361 US 41 S – is a veterinarian in Chocoday Township and stated that dogs don't get rid of the fear of fireworks and with the increased number of days, it would have a negative effect on them.

Ruth Ziel, 734 Lakewood Lane – has lived in Chocoday since 1990, feels the fireworks already are more than the allowed thirty days. Can't always tell where they are coming from to report them to the authorities. Also fears the fireworks would have a negative effect on the land values.

Dr. Daniel Arnold, 111 Lakewood Lane – has lived in Chocoday since 1979, Chocoday is a bedroom community, people live here for the peace and quiet. Don't make fireworks easier and for more days, stick to the State law. He would restrict it more than the State law if he could.

Mary Pat Linck, 367 Lakewood Lane – has lived here since 1972, the state ordinance is more than enough time. Fireworks go off most of July. Looks forward to the end of July as it is a relief when they die down. Asking for problems we don't need, adhering to State law is the best way to go.

Jude Catallo, 119 Lakewood Lane – according to the Chocoday procedures and bylaws, Article 4, Section 6, everyone on Planning Commission shall vote unless a financial conflict causes it to be unethical. Urged Mr. Mahaney not to contribute discussion or vote regarding fireworks, as they have been sold at a business his family owns.

Cindy Baker, 123 Ridgewood Drive – can't add more than what has already been said, emailed, or phoned in. Obvious that somebody that stands to gain financially can or try to pass this through.

Public comment was closed at 7:30 pm

V. PUBLIC HEARINGS

- A. Proposed Noise Ordinance (deferred to Item VIII.A)
- B. Proposed Mixed Use Corridor (deferred to Item VIII.B)

VI. PRESENTATIONS

None

VII. NEW BUSINESS

A. Election of Planning Commission Officers

Staff Introduction

Throenle stated that each year the Planning Commission must elect new officers as directed by Section VI in the *Planning Commission Procedures and Bylaws*. There will be a Chair, Vice-Chair, Secretary, and Vice-Secretary elected. Don Rhein, who is the Board appointed representative, is eligible to be elected for all officer positions except the Chair.

Commission Election

Motion Number 1

Milton moved, Meister seconded, to elect Mahaney as the Chair of the Planning Commission.

Votes: Ayes: 6 Nays: 0 MOTION CARRIED

Motion Number 2

Milton moved, Rhein seconded, to elect Meister as the Vice-Chair of the Planning Commission.

Votes: Ayes: 6 Nays: 0 MOTION CARRIED

Motion Number 3

Smith moved, Mahaney seconded, to elect Mullen-Campbell as the Secretary of the Planning Commission.

Votes: Ayes: 6 Nays: 0 MOTION CARRIED

Motion Number 4

Rhein moved, Milton seconded, to elect Smith as the Vice-Secretary of the Planning Commission.

Votes: Ayes: 6 Nays: 0 MOTION CARRIED

B. Planning Commission Bylaws

Staff Introduction

Staff has reviewed the current Planning Commission bylaws and noted some items need to be revisited, added, or updated for clarification and consistency. See the following for the *Procedures and Bylaws* section:

Article IV Township Planning Commission Meetings

Section 6.

Voting – Every member who shall be present when a question is last stated by the Chair shall vote for or against the motion unless (1) excused by unanimous consent of the Planning Commission members present or (2) the member ~~is financially interested~~ **has a financial interest** in the question. (Amended ~~2-87-01-18~~)

Article V - Duties of the Executive Committee

Section 1. The Executive Committee, **or their designee**, shall prepare agendas for monthly meetings and make necessary arrangements for special and monthly meetings. (Amended, **01-18**)

Article VIII - Fiscal

The fiscal year of the Chocolay Township Planning Commission shall be January 1 to December 31 of each year.

The Chair, **or their designee**, shall prepare an annual budget to be presented to the Chocolay Township Board for their approval. (Amended ~~7-97~~, **01-18**)

Article XI Rules of Order

For meetings of the Township Planning Commission, the rules of parliamentary practice comprised in ~~“Roberts Rules of Parliamentary Procedure”~~ **“Robert’s Rules of Order Newly Revised”** shall govern in all cases in which they are not inconsistent with the standing rules and orders of the Chocolay Township Planning Commission and not contrary to any laws of the State of Michigan. (Amended ~~8-02~~, **01-18**)

Article XIII Agenda and Packet

Materials to be included on the agenda or in the packet for Planning Commission consideration will be accepted from the public **until 12 p.m. on the Tuesday preceding the regular or special meeting of the Commission.**

Correspondence will be accepted from the public **until 12 p.m. on the Tuesday preceding the regular or special meeting of the Commission.** Submitted correspondence must contain the name and address of the submitter to be included in the packet. (Amended **01-18**)

Staff also noted some changes be clarified in the *Public Participation Policy* as well. The following were presented:

II. Public Comment

Public comment is an opportunity for citizens and organization representatives to voice their opinions to the Planning Commission.

1. Individuals wishing to speak must be recognized by the Chairman prior to speaking. Individuals not following this rule are subject to dismissal from the meeting.

2. Individuals must state their name and address for the record. Individuals representing an organization must state their name and the organization they represent for the record.
3. All speakers will be limited to three (3) minutes per person. No person can grant his or her time to another speaker.
4. The Commission Secretary, or designated representative, will be responsible to keep time on speakers and inform the Chairperson when time limits have expired.
5. At the close of public comment, Commission members may address issues raised by speakers during public comment.

Commission Discussion

The commission discussed the proposed changes, including the definition of the Executive Committee and changes to the Public Participation Policy. Commission felt the changes were pretty much straight forward and agreed to make the above changes.

Commission Decision

Meister moved, Rhein seconded, to revise the *Planning Commission Procedures and Bylaws* as revised.

Votes: Ayes: 6 Nays: 0 MOTION CARRIED

Milton moved, Rhein seconded, to revise the *Planning Commission Public Participation Policy* as written.

Votes: Ayes: 6 Nays: 0 MOTION CARRIED

VIII. UNFINISHED BUSINESS
A. Proposed Noise Ordinance #66

Staff Introduction

Throenle stated the language was approved last month to move this ordinance forward to a public hearing. There was one memo from the Police Chief added and one item of correspondence, from Dr. Emerson that was given to the Commissioners after a misunderstanding about including the document in the packet.

Also discussed with Supervisor Bohjanen a change in the following definition:

Section 3 Definitions

Horn	A device in good working order that is capable of emitting sound audible under normal conditions from a distance of not less than 200 feet greater than 50 feet.
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Consider the following change to the following Ordinance as well:

Section 5 Prohibited Noises and Act

(I) Business Operations and Related Activities

i. The carrying on of any business operations, or any related activities in such a manner so as to create any excessive, unnecessary, or unusually loud noise, which disturbs, injures, or endangers the comfort, rest, health, peace or safety of others from the edge of the business property

Public Hearing

Scott Emerson, 119 Lakewood Lane – his understanding that he can't present items to the Commission for Public Hearing? Throenle responded he can but it won't be included in the public minutes. Emerson has read through the ordinance and looks good, and he gave the Commissioners two documents for consideration.

Perry Laing, 625 Lakewood Lane – is going off of the old ordinance and asking for two changes. One being that contractors don't have to get the ok from the Commission to work out of the designated time as they Commission only meets once a month. The second change is allowing an individual, who wants to do their own repairs to their property, to be able to work on their property on the weekend. As it stands, they can only work from 7 a.m. to 9 p.m. weekdays.

Public hearing closed at 8:00 p.m.

Commission Discussion

While the Commission was preparing to discuss Throenle stated that the two issues presented by Laing in the public comment had been covered in a previous Noise Ordinance discussion and are listed in the proposed Ordinance under Section 5, G, i and ii. (These were the public comments regarding Construction time and days allowed)

Mahaney questioned if the language reviewed presented in the proposed Ordinances tonight will go to the Township Board. Throenle stated yes, language determined tonight will to the Board for consideration of adoption as an ordinance.

Meister questioned the 50 feet rule, what is someone owns more than the 50 feet, say 300 feet. Also felt this dealt with mostly commercial properties, not residential.

Milton felt traffic is loud so some noises have to be louder to be considered a problem.

Smith questioned the difference from the existing ordinance and what Dr. Emerson is proposing. Mahaney replied the distance it's allowed to carry if it's a business/commercial property. Throenle also commented that if it's residential, once it crosses the property line it would be a violation.

Throenle also asked to address the public, in doing so he pointed out that whatever

is passed here tonight, does not become law. This is a recommendation from the Planning Commission to the Township Board for the recognized language. The Board has three options:

1. Accept the language as written
2. Modify the language as they see fit
3. Reject the language and send it back to the Planning Commission to modify

The Commission also decided to change the Ordinance language as shown:

(I) Business Operations and ~~Other Premises Related~~ Activities

i. The carrying on of any business operations, or any ~~other related~~ activities ~~upon any premises~~ in such a manner ~~so~~ as to create any excessive, unnecessary, or unusually loud noise, which disturbs, injures, or endangers the comfort, rest, health, peace or safety of others ~~from at a distance of fifty feet or more from~~ the edge of the business property

Commission Decision

Rhein moved, Milton seconded, to send the Noise Ordinance to the Board with the changes we made tonight.

Votes: Ayes: 6 Nays: 0 MOTION CARRIED

B. Proposed Mixed Use Corridor

Staff Introduction

Last month, the Commissioners reviewed and revised the proposed Zoning Ordinance language for the Mixed Use Overlay District and approved adding the proposed language to the January 2018 meeting for public hearing.

369 notifications were sent to property owners that were located within 800 feet of the center line of the proposed district. This was to accommodate the proposed 300 feet identified for the district on either side of the center line and the required 500 feet for property owner notification. Five notifications were returned as undeliverable due to address issues. Also one call for expansion of the map that would have to go before the board if the Commission decided to go ahead with that.

Throenle indicated there were two responses from residents; both were positive. One wanted to extend the corridor to be included and the other was happy regarding some changes they want to make to their existing business.

Also, the Public Hearing was listed in the Mining Journal within the time frame in December.

Public Hearing

Mark Maki, 370 Karen Rd – feels the map doesn't go far enough to include the Welcome Center and the Jehovah Witness Hall. They were never designed to be commercial, the Jehovah Witness Hall is currently residential. Maybe they should be removed from the district. This could be a chance for rezoning. He asked when looking at a map online, how can you tell what the overlay district would it be.

Richard Bohjanen, 140 Edgewood Drive – if you choose to add the extra property to the Overlay District, do you have to extend the notifications? Throenle said he would have to take a look at the notification map that was used but doesn't feel it is an issue. It would have to go to the board and notifications could be sent out then.

Public hearing closed at 8:38 p.m.

Commission Discussion

Mahaney and Meister both asked to participate in the discussion but to be recused from the vote due to conflict of interest with both owning property within the corridor. This was voted on and granted by the remaining Commissioners.

Milton moved, and Smith seconded to allow Mahaney to participate in the discussion but be exempt from voting on Public Hearing for *Proposed Mixed Use Corridor*.

Votes: Ayes: 4 Nays: 0 MOTION CARRIED

Milton moved, and Rhein seconded to allow Meister to participate in the discussion but be exempt from voting on Public Hearing for *Proposed Mixed Use Corridor*.

Votes: Ayes: 4 Nays: 0 MOTION CARRIED

Throenle stated that in following the process here tonight, the Planning Commission could approve the map as presented and send to the Township Board for consideration of adding the additional parcels. Mahaney asked if they would have to hold another public hearing and Throenle stated the language does not affect the map. The language does not identify the individual parcels.

Meister questioned why the one resident wanted to be included in the Overlay District and Throenle stated is was from the stand point he may want to use his property for commercial use in the future and thought now would be the time to address this now versus the future.

Mahaney was wondering why the property was not included and Smith was thinking the same, he thought was included. Throenle stated there were some properties that weren't considered usable during previous discussions. Commission discussed the area being a swampy area, smaller lot sizes and the quantity of commercial driveways this would create on M-28. After discussion they felt comfortable leaving the new proposed area out.

Rhein questioned what would happen if the Jehovah Witness were to ever sell their property. What about potential runoff in the swampy area. Mahaney felt that would be a DEQ issue.

Smith wanted to address Mr. Maki's issue regarding finding the Overlay district online. Throenle said they would be able to select a certain parcel and it would tell you the underlying zoning and would also show that it is in the Overlay and would show you what you can do with the property.

Mahaney questioned the tax bills, if this would put you in a different zone. Throenle stated his understanding is if you were in the Overlay and are currently a R1 you can select to stay in that zone or be commercial. You would revert to the underlying designation in that zone.

Commission Decision

Milton moved, and Rhein seconded that after providing required notification to the public, holding a public hearing and considering public input, the Planning Commission recommends that the Township Board approve the *Zoning Ordinance* language for the proposed Mixed Use Corridor as written to provide the capability of expanding the business presence in the Township business corridor, and to attract additional prospective business owners into the Township.

Votes: Ayes: 4 Nays: 0 MOTION CARRIED
(Mahaney and Meister abstained from voting)

Rhein moved, and Milton seconded that after providing required notification to the public, holding a public hearing and considering public input, the Planning Commission recommends that the Township Board approve location of the proposed overlay district as shown on the Township map as presented.

Votes: Ayes: 4 Nays: 0 MOTION CARRIED
(Mahaney and Meister abstained from voting)

C. Proposed Fireworks Ordinance #65

Staff Introduction

Throenle addressed the audience and asked before they call his office regarding an issue in the Planning Commission packet to please read/research through the material being presented prior to calling. Some of the calls are due to being misinformed regarding the subject at hand.

At the December meeting the Commissioners reviewed language for the proposed *Ordinance 65 Fireworks* and decided to table it for January, as there was a tie vote.

The main discussion was for Section 4, item 2 in the proposed section. There is a memo from the Police Chief and one correspondence item that was received and they are included in the packet.

One call came from a resident in the agricultural forestry district asking if fireworks could be allowed in the larger parcels without permit as they don't disturb anyone.

For Smith, who was absent last month, and the audience, there was one definition added regarding the sky lanterns. Also, language was added in Section 4 Prohibition pertaining to this.

Sky lantern	An unmanned device with a combustible fuel source that incorporates an open flame in order to make the device airborne
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Section 4 Prohibition

No person shall release or cause to be released an untethered sky lantern.

Commission Discussion

Mahaney inquired if the sky lantern was similar to a kite. Throenle answered yes, a heated kite. They can go wherever they want and come down anywhere, not necessarily in the Township. They may still be hot when they come down.

Mahaney stated the intention of the permit was for special occasions but with the letter from the Police Chief they should consider striking it. Meister agreed. Meister also asked if it was removed would it be in line with the State law? Throenle stated yes, it would be except the definition added regarding sky lanterns.

Mullen-Campbell asked how is the public informed regarding this. Throenle stated it would be a combination of the ways including the news, and it will be published in the Mining Journal if it does become ordinance.

Throenle also stated to the audience that they do have the right to call law enforcement regarding fireworks. There were folks who called him regarding this that were unaware of this. We also need a public education process and it is up to him to figure this out. Comments regarding how to make this happen can be sent to him.

Throenle also reminded the public that this does not prohibit all fireworks. This doesn't include the low impact fireworks such as sparklers.

Commission Decision

Milton moved, Rhein seconded, that proposed *Ordinance 65 Fireworks* be presented for public hearing as changed at the February 2018 meeting.

Votes: Ayes: 6

Nays: 0

MOTION CARRIED

Mahaney asked about tabling the rest of the Agenda for next month. Meister asked to just get it done. The rest of the Commission agreed to get them done.

D. Zoning Ordinance Updates (formerly Short Term Rentals)

Staff Introduction

From now on these will be known as *Zoning Ordinance Updates*. This change was made to accommodate additional changes, and there are many, that will occur as a result of adding to the *Zoning Ordinance*.

Tonight we are looking to wrap up the discussion related to short term rentals, definitions need to be finalized so the correct language can be added to the *Zoning Ordinance*.

First change proposed is to the Dwelling, Rental section of the ordinance.

Dwelling, Rental

Current

None

Proposed

A dwelling unit providing temporary accommodations for periods of one day or more for a fee.

~~Does not include bed and breakfast, group homes, hospitals, hotels, nursing homes or resorts.~~

This definition does not include bed and breakfasts, group day care facilities, group day care homes, hospitals, hotels, nursing homes or resorts.

The second one is under the Resort section.

Resort

Current

Means any parcel or tract of land under the control of any person wherein buildings or building space are offered for the use of the public or members of an organization, either free of charge or for a fee, for temporary living quarters incident to recreational use for any period less than one month.

Proposed

A tract of land under the control of an owner or owner designee where one or more structures are offered for use of the public or members of an organization either free of charge or for a fee, for the establishment of temporary living quarters for any period less than one month.

A resort ~~has~~ generally offers other amenities that may also be offered to the public (such as restaurants, pools, meeting rooms, and retail stores).

The last one is under the Structure section.

Structure

Means any constructed, erected, or placed material or combination of materials in or upon the ground, including, but not by way or limitation, buildings, mobile homes,

radio towers, sheds, signs, and storage bins, but excluding fences, sidewalks, and paving on streets, driveways, parking areas, and patios excluding uncovered open porches not to exceed four feet above grade and not to encroach into the front yard setback by more than six feet in front of the single family dwelling.

Proposed

Placement of constructed, erected, or placed material or combination of materials in or upon the ground, including, but not by way of limitation – buildings, garages, mobile homes, pole barns, sheds, signs, and towers that will be in use more than six consecutive months.

This definition does not include fences, sidewalks, paving on streets, driveways, and parking areas.

This definition does not include patios and uncovered open porches or decks that do not exceed four feet above grade and do not encroach into the front yard setback by more than six feet in front of the dwelling unit.

Commission Discussion

Milton questioned if Section 6.3 of the Zoning Ordinance regarding the definition of a structure, building codes, occupancy, and habitation needed modification. Throenle stated that there is no language in 6.3 that needs modifying, it outlines the standards for housing. Throenle also stated that 6.3 identifies and clarifies what is a dwelling.

Milton also stated a tent would be above ground but you wouldn't want to live in one for very long. Throenle stated that 6.3 covers key elements, it deals with the square footage of a structure. The square footage has to be 800 square feet and one side has to be at least 20 feet, this prevents single-wide mobile homes from being brought in on properties. And it also has to meet county, federal and state respects of building and fire codes. Milton stated this is what he was wondering.

Meister asked if this would be the end of the definitions Throenle stated yes, once these are approved, they language will be inserted and will come back to the Commissioners for approval. They will then have one more chance to look them over for approval in February and then come for public hearing in March.

Commission Decision

Meister moved, Milton seconded, that the proposed definitions for the *Zoning Ordinance* be accepted as changed.

Votes: Ayes: 6 Nays: 0 MOTION CARRIED

E. Planning Commission Priorities

Staff Introduction

At the December meeting the Commissioners established their list of priorities for

2018. Throenle asked for Commissioners to review the list to see if there are any changes that the Commissioners might want to make.

Commission Discussion

Smith had concerns regarding a resident wanting some 600-800 properties that were rezoned in 2008 from R2 to AF district to be relooked at as they are not in compliance. Would really like to see this get looked at as it could lead to potential problems in the AF district.

Meister felt instead of doing a new zoning map, could look at them by acreage size.

Mahaney asked how it would be decided the order these priorities are handled, and who decides this. Throenle stated the list will be sent to the Board and they may decide to get rid of some or all of them. Throenle suggested the Commissioners wait and see, as they can be ranked at a later time.

Mahaney also questioned the fact that there is a priority concerning the corridor and asked if there is more than the Mixed Use that we just decided on. Throenle stated to leave that on there in the event it would come back from the Board for consideration. He stated it could always be checked off later.

Commission Decision

Add a priority to the Priority 1 section to relook at the zoning ordinance structure for property increase.

Milton moved, Meister seconded, to send the Revised 2018 Priorities with the changes, to the Board for recommendations.

Votes: Ayes: 6 Nays: 0 MOTION CARRIED

IX. PUBLIC COMMENT

Perry Laing, 625 Lakewood Lane – couple questions and observations. In regards to the Noise ordinance, as having worked as an audio engineer in broadcasting for several years, is fascinated how you think you will stop noise at 20-100 feet, it's impossible. What are the restricted noises and are they allowed during the allotted times of 7 a.m. and 10 p.m? Weekends? Suggest the fireworks follows the State ordinance. Does the fireworks ordinance cover sparkly fountains and sparklers? Can those be set off any time? Will this new ordinance you discussed here tonight take care of the short term rental concerns? If you put a tether on a sky lantern, it's ok?

Mahaney answered they are currently working on the definitions for the short term rentals, they start with them and they go into the ordinance.

Public comment closed 9:29.

X. COMMISSIONER'S COMMENTS

Rhein – None

Milton – None

Kangas – None (due to employment in Township)

Smith – None

Meister – None

Mullen-Campbell – None

Mahaney – Thanked Throenle for the help during the meeting. He offered congratulations to Jon Kangas, the new Township manager, and said he will be missed on the Planning Commission. He also thanked the public for all the input tonight.

XI. DIRECTOR'S REPORT

Throenle – Planning Director's report from now on will contain the Board update that we send monthly to the Boards so what was in the packet tonight was sent to the Board. Also something buried in the Bylaws that we missed the last couple of years, there is a section stating the Commissioners need an annual Commissioner report, so it will be put together for the next meeting.

XII. INFORMATIONAL ITEMS AND CORRESPONDENCE

A. Minutes – Township Board minutes, 12.11.17

B. Minutes – Township Board minutes, 12.18.17

C. Minutes -- Marquette City Planning Commission, 11.21.17

D. Minutes – Marquette City Planning Commission, 12.05.17

E. Minutes – Marquette City Planning Commission, 12.19.17

F. Correspondence -- Karas

G. Correspondence – Mulcahey # 1

H. Correspondence – Mulcahey # 2

XIII. ADJOURNMENT

Mahaney adjourned the meeting at 9:31 pm.

Submitted by:

Planning Commission Secretary
Donna Mullen-Campbell