

# CHARTER TOWNSHIP OF CHOCOLAY PLANNING COMMISSION MINUTES

Monday, May 15, 2017

**I. MEETING CALLED TO ORDER BY:** Tom Mahaney at 7:00 p.m.

**ROLL CALL**

*Members Present:* Tom Mahaney (Chair), Eric Meister (Vice Chair), Donna Mullen-Campbell (Secretary), Andy Smith (Vice Secretary), Jon Kangas, Judy White (Board)

*Members Absent:* Kendell Milton (excused)

*Staff Present:* Dale Throenle (Planning Director/Zoning Administrator), Richard Bohjanen (Township Supervisor), Suzanne Sundell (Community Development Coordinator)

**II. ADDITIONAL AGENDA ITEMS / APPROVAL OF AGENDA**

*Motion by White and seconded by Kangas to approve the agenda as written.*

*Vote: Ayes: 6 Nays: 0 MOTION CARRIED*

**III. MINUTES**

**April 17, 2017**

*Motion by Meister, and seconded by Mullen-Campbell, to approve the minutes as corrected (Page 3, under Applicant Discussion, second line should read, "...anything stored there would not be a groundwater **issue** ...). The tape was reviewed for the correct word.*

*Vote: Ayes: 6 Nays: 0 MOTION CARRIED*

**IV. PUBLIC COMMENT**

Janet Amundsen – 2029 State Highway M-28 East – she had some things she would like to have cleared up. Who makes up the agenda for the Planning Commission meeting (**Throenle indicated he did with input from the Planning Commission**), who makes up the agenda for the Township Board (**Township Manager, with input from the Board of Trustees**), when are packets received (**Thursday prior to meeting**), how soon are minutes posted (**approved within 3 working days of meeting, draft within 8 working days of meeting**), who started the Casino parking lot rezoning (**KBIC requested the rezoning**). Amundsen thanked the Township for giving her a copy of the US Geological Survey, but questioned the year the report was made. She feels there were not as many houses and other properties that would be drawing down the wells. Amundsen questioned the Commission on if they had read the whole report. Amundsen also has concerns about the increase in highway speed – she feels that this is very dangerous. She wondered if the Board plans to represent the homes on M-28 on this matter. Mahaney stated that the Township has no control over this, as it is a state designated highway. White suggested that Amundsen contact MDOT.

Matt Blondeau – owns the apartment building at 125 Kawbawgam – he would like to address some zoning issues that he is facing. Blondeau's property is zoned Multi-

Family Residential, while the apartment building across the street is zoned Commercial. This has created some setback issues for him, as he only has 2 acres – not able to rebuild in case of fire or to expand. He felt that his property should have been zoned Commercial. He would like the Planning Commission to look into this issue further and try to correct the zoning discrepancies. This property was used as a motel for forty years before the zoning ordinance was adopted, so he felt it should have been commercial from the start. Blondeau felt it should align with building codes. Mahaney asked Throenle if this is something that should go to the ZBA. Throenle indicated that he would be addressing this in his Director's Comments later, as this is not the only property out there with issues such as this. Throenle has gone through records and can find nothing indicating why things got changed in 2008. Meister pointed out that the Commercial district does not allow multi-family, so this would create a new problem.

John Wilson, 1987 M-28 East – he is a year round resident. He is for short term rentals, if regulated properly. He has used them himself when visiting other cities. Prior to buying their home, they had a long term lease at 1963 M-28 East, which had a short term rental next door, with its own driveway. There were no problems while living there. Now that they live at 1987 M-28 East, they have had multiple issues with a short term rental next door, as they have a shared driveway – the renters park on their property, ring their doorbell trying to get in, take their firewood – the renters seem to think that both properties are the rental. He has called the police. On the other side, there is a family camp with their own driveway – there are people coming and going all the time, but there are never any problems. He feels there needs to be some sort of compromise, possibly with permits, regulating the number of short term rental in the area, not having permits issued to owners with shared driveways, limits on the number of overnight guests, limit on number of vehicles that can be parked there. There needs to be a mechanism to revoke the permit if there are too many complaints. He would like to volunteer his time, and would like to be more involved as this goes forward.

Deborah Mulcahey, 633 Lakewood Lane – she is totally opposed to short term rentals. Mulcahey does not feel that Chocolay Township should follow the City of Marquette. She feels there is no impact to local economy in Harvey – very few businesses. Enforcement is a very difficult thing – how does the Township determine there are more than four unrelated people? Historically, our present Township attorney has stated that it will be difficult to enforce. Our prior Township attorney, Mr. Summers, in writing talked about rental properties and calls them a commercial operation. In 2011, Jennifer Thum, previous Planning Director / Zoning Administrator had also addressed short term rentals. Mulcahey would like to know what the economic benefit to the community is. She sees a big negative. The Township is losing people – the rental properties don't bring census numbers. She feels we need to remember that we are a rural township for zoning. The legislation proposed for short term rentals moves slowly. People are dealing with short term rentals worldwide. Mulcahey stated she lives in a residential community and wants to stay in a residential community.

Linda Rossberg, 1975 M-28 East – commended the Planning Commission for wanting to

serve when issues such as these come up. Rossberg provided a handout, which was included in the packet under correspondence. She had provided this information, as she had the sense that there was not a lot of history out there, so she went back and gathered information – minutes, letters to the editor, and things related to the casino. For over 30 years there have been concerns about the water in that area. It doesn't matter what type of commercial business it is – the concern is the homeowners and the wells going dry. At one of the meetings she attended, a spokesperson from KBIC stated that their intent was not to take away the water from the people out there. She has been a homeowner on M-28 for over 28 years – there have always been problems – it not only is undrinkable, but the tannins stain clothes. They have water – just not good water. She went through the Master Plan to see where the Township is getting their information – it stated that the majority of people get their information by word of mouth and the newspaper. She felt that one of the major goals of the Master Plan was to protect water resources. She felt the way the questions were asked in the survey were kind of misleading, which may have led people to believe that there was a need for commercial development. She has talked to several experts that indicate they would not build in that area. She is not opposed to the Casino – she is opposed to development. She previously worked for MSU Extension, and she sincerely hopes that the Planning Commission will gather information before making a decision.

Tony Harry, 6369 U.S. 41 South – he started an ATV / ORV club in Marquette County. He would like the Planning Commission to look at the ordinance to allow ATVs and ORVs to ride far right on Marquette County roads and connected trails. He worked with the Planning Commission in Marquette Township, and was able to get approval from them, and to seek approval from the Marquette Township Board. They have changed their ordinance to allow ATV / ORV to use County roads from 7:00 AM to 10:00 PM. They are looking for a connection to get through Chocolay Township, and to be able to get gas and lodging. They have a trail by the Casino, but they are not able to connect to it.

Public comments closed.

**V. PUBLIC HEARINGS**

None

**VI. PRESENTATIONS**

None

**VII. NEW BUSINESS**

**A. Zoning Ordinance Rewrite**

**Staff Introduction**

Mahaney read the background portion of the memo presented to the Planning Commission. There are changes that have occurred since the ordinance was written in 2008. Considerations were not included for some of the issues the Planning Commission is facing (short term rentals, extended growing season structures,

temporary structures, and alternative energy possibilities). In some zoning districts, there are large numbers of non-conforming parcels. Some sections are very lengthy and difficult for citizens to comprehend and comply.

Mahaney also read the staff recommendations that Throenle had presented as to the possible ways for the rewrite to occur. Three possible solutions are: (1) Planning Commission and staff take on the task, (2) budget in the next cycle for a firm or organization to complete the rewrite, or (3) retain the current ordinance and continue to make changes to the language.

### **Commission Discussion**

Meister indicated that if a complete rewrite were going to be done, he would suggest having professionals do it. He would like to have some dollar amounts associated with this. Meister indicated that option 3 is like filling potholes, but the second option would be preferable.

Throenle indicated that the 2008 rewrite cost approximately \$16,000. His estimate for the 2018 rewrite would be around \$25,000. White asked who had written the 2008 ordinance – Throenle indicated he thought that CUPPAD had. Throenle indicated that he has no historical documents on this. He feels that there is a lot of ambiguity, zoning maps that need to be cleaned up, and language that needs to be cleaned up.

Throenle would need to put out a Request for Proposal (RFP) and specify the criteria such as number of town hall meetings, surveys, and the timeframe to accomplish. There would also be constant updates to the Planning Commission and Township Board. With everything else that is going on, Throenle does not see the Planning Commission being able to take on the rewrite of the Zoning Ordinance.

Mahaney feels that some of the challenges for the Planning Commission is that they do not always understand the language of the ordinance – this makes it very time consuming.

Mullen-Campbell feels that you would understand the ordinance better by doing it themselves.

Throenle feels there needs to also be some type of statement in our ordinance that allows the Planning Commission more flexibility.

Mahaney questioned the information that would be given to someone rewriting the ordinance. Throenle indicated we could survey people to see how we can balance all the inconsistencies in the Township.

Throenle indicated that now is the time, as we are going into budget planning for next year.

Meister feels that it is a good idea to have professionals rewrite the zoning ordinance. Smith agreed with Meister. Smith also indicated that the rewrite that Marquette Township did provided much more clarity. Mullen-Campbell also agrees

that a rewrite by professionals is a good idea. Kangas felt it was monumental, and he is in support of hiring professionals to do the rewrite. White (as a Township Board member) stated she has gone through the ordinance a number of times, and she feels that the ordinance needs to be simplified and clarified for easier use, and if a professional can do that, she is all for it.

*White moved, Mullen-Campbell seconded, to recommend to the Board that monies be made available during the next budget cycle to fund a search for a firm or organization to complete the rewrite of the Zoning Ordinance by the end of 2018, with a requirement that the Planning Commission direct the process and input for the revised ordinance.*

Vote: Ayes: 6 Nays: 0

MOTION CARRIED

## **B. Review of Existing Ordinances – Ordinance 47 and 57**

### **Staff Introduction**

Throenle indicated that the purpose of bringing these two ordinances to the Planning Commission was based on a recommendation by the Board at the joint meeting in March. Ordinance 47 and Ordinance 57 were selected as they were one page ordinances.

### **Commission Discussion**

On Ordinance 47 (Watercraft Speed), Kangas questioned if Throenle knew if Act 303, Public Acts of 1967 was still applicable. Throenle indicated that he would have to check into that. Kangas indicated that everything else in the ordinance made sense – his concern was referencing Acts that are that old.

Smith stated on Ordinance 57 (Bicycle and Snowmobile) that he believes to allow snowmobiles on a bike path there had to be an ordinance written in order to achieve funding to have a bike path with snowmobile access (with MDOT input).

Throenle indicated all he was looking for is Planning Commission input on if the language needed changing.

Mahaney wondered if Ordinance 57 was even necessary. Smith indicated that his understanding is that anytime you have a bike path over an MDOT right-of-way, there is a need for an Ordinance.

Kangas brought up the formatting on the different ordinances. Throenle indicated that in order to change the formatting, the ordinance would need to have a Public Hearing.

*Meister moved, Kangas seconded, to table Ordinance 47 Water Craft Speed for review of reference to Act 303, Public Acts of 1967.*

Vote: Ayes: 6 Nays: 0

MOTION CARRIED

*Meister moved, Kangas seconded, to accept Ordinance 57 Bicycle and Snowmobile as written and to hold the recommended ordinance for a public hearing that will be scheduled in the future.*

*Vote: Ayes: 6 Nays: 0*

*MOTION CARRIED*

**C. Conditional Use Checklist**

**Staff Introduction**

Throenle stated that at the last meeting, Smith had requested a checklist for reviewing conditional use permit requests. Throenle has attached a proposed checklist which incorporates the information the applicant must provide and the information outlined in Section XVI of the Zoning Ordinance regarding conditional use permits. This checklist would be used as part of the hearing process.

**Commission Discussion**

Mahaney asked about the 500' notification condition – Throenle indicated that is part of the checklist that is on the application.

Meister asked about guidelines for conditional use such as number of vehicles, etc. so the Planning Commission can be consistent. Throenle will work on guidelines for this.

Throenle asked that the Planning Commission accept this checklist, and be aware that as things come up, they can be added to this.

*Kangas moved, Meister seconded, to adopt the Conditional Use Permit checklist as presented.*

*Vote: Ayes: 6 Nays: 0*

*MOTION CARRIED*

**VIII. UNFINISHED BUSINESS**

**A. Planning Commission Priorities – 2017-2018**

Throenle indicated that this was a minor change, but for ease of printing the agenda he would like to remove the priorities to a separate sheet, which will be included in the packet.

Kangas indicated he felt that having priorities on the agenda does not seem like the right place, but having them available as a separate sheet is a good idea.

*Kangas moved, Mullen-Campbell seconded, to remove the priorities from the agenda and provide a list of priorities in the packet material, as referenced in VIII.A.1.*

*Vote: Ayes: 6 Nays: 0*

*MOTION CARRIED*

**B. Mixed Use Corridor**

**Staff Introduction**

Throenle indicated that he is looking for direction on the mixed use corridor. He is looking to see how he can condense the material.

### **Commission Discussion**

Meister feels that some of the information can be combined.

Throenle indicated that he will plan on starting with the language at the meeting to go forward on this project.

Smith questioned the rezoning of St. James the Less Episcopal Church – who is responsible for the rezoning? Throenle indicated that property owners are retaining the right of refusal (even on the intended use). Meister indicated that this is the responsibility of the buyer / seller – either apply for a rezoning or wait until the mixed-use district goes into effect. It could become a condition of purchase when making an offer.

Smith feels that the rezoning that was done in 2008 is unfortunate, and it was not well publicized. Most people did not even know it was happening until it was done – not only in Chocoday Township, but most of Marquette County. Now residents are notified in writing if there is going to be changes.

### **C. Short Term Rentals**

#### **Staff Introduction**

Throenle indicated that last month the Commission went through definitions of short term rentals, and these are presented in the packet. Throenle indicated that there are two bills that have been introduced into the House and Senate, with the same language, which are addressing short term rentals specifically. The goal of the bill is to make a blanket application which states that a short term rental is not a commercial use of property, but is a residential home, and should not be subjected to a special use or conditional use permit, or any different procedure from anyone else that lives in that same zone. If these bills were to go into effect, they would supersede anything we may have in place. Throenle is looking for direction from the Planning Commission on how to move forward.

#### **Commission Discussion**

Meister asked if this would take away any of the restrictions that the Planning Commission may put on short term rentals. Throenle indicated it would. Kangas stated it would take away any local control. Throenle stated that both bills were introduced at the same time from different areas of the state.

Mahaney felt it was prudent to wait and see what the State does.

White asked Supervisor Bohjanen (in the audience), if there was anything provided to him at the Michigan Township Association conference that he attended when he went to a session on short term rentals. Bohjanen indicated there was not anything provided, except for the fact that you need to have it spelled out in your definition and conditions. He feels that conditions are necessary. Bohjanen also indicated that the Township could still have restrictions when it comes to the health and safety of the residents.

*Mahaney moved, Meister seconded, to table short term rental definitions until next meeting when more information may be available on the proposed House Bill (4503) and Senate Bill (329).*

Vote: Ayes: 6 Nays: 0

MOTION CARRIED

**IX. PUBLIC COMMENT**

Deborah Mulcahey, 633 Lakewood Lane – casinos, short term rentals, and now ORVs. She remembers the meeting three to four years ago and there was not much support at that time. She is also upset that the Commission did not deal with the short term rentals. The concept of short term rentals is already here – hotels, resorts. She is not opposed to short term rentals, she is opposed to short term rentals in Waterfront Residential. She is concerned about fences – would like the Commission to think about requiring surveys when people are doing buildings. When they bought their property, there was an issue of encroachment on one side which was not a problem, but on the other side the neighbor kept moving the survey stakes, along with mowing their grass to his satisfaction. Now they came home this past spring, and there is a generator adjacent to their house (electric with a gas line). An air conditioning unit has setback requirements, but not generators. This could become a safety issue if they would decide to put their driveway right on the property line (which is legal). She feels that people should be required to obtain a survey before they build, and asks that the Planning Commission discuss this.

John Wilson, 1987 M-28 East – was wondering if it is possible to offer to pay for his neighbor’s driveway in order to alleviate the problem of a shared driveway. Would he need a permit? Throenle indicated Wilson would need to speak with MDOT first. Once again, he offered assistance with short term rentals. Smith indicated that Wilson would also need to take a look at any easements that may be associated with doing this, and go through an attorney to make sure things are done properly.

Tony Harry, 6369 US 41 South – just wanted to let the Planning Commission know that he has a been a resident of Chocolay Township for 35 years, and has worked in the Marquette Public Schools for 33 years. He is a DNR recreational instructor. The education is getting out there, and he has taught many classes across the UP. He is trying to get a UP wide trail – he is trying to get a safe way to get in and out of Chocolay Township. He feels this would be a boost to the community with money being spent at local businesses. He is very familiar with the ORV program – grants and other things. He offered his assistance in making this happen.

**X. COMMISSIONER’S COMMENTS**

White - None

Mullen-Campbell – None

Kangas – None

Meister – None



Smith – None

Mahaney – Great meeting again. Thanked everyone for attending. Mahaney brought up that fact that during discussion on agenda issues, the discussion is for the Commissioners. The public has their time to speak on any of the issue during the two Public Comment periods.

The Commissioners asked about when they would be receiving tablets.

**XI. DIRECTOR’S COMMENTS**

Throenle updated the Commissioners on changes in staff – Sam Gerber has been hired as the new Assessor, starting on June 1, 2017. Kristin Cannoot is our new Administrative Assistant in the Clerk’s office who started May 15, 2017 – she will be involved with packet preparation, along with her other responsibilities.

The tablets have been purchased, but are not working as expected. As the new Community Development Coordinator, Suzanne will also be taking over responsibility for technology. We are working with Lasco to come up with some suggestions, and then will be looking at getting the necessary funding.

Next month there will be a Site Plan review on the agenda.

The Casino project is moving forward – they are now looking at connecting to the Township’s sewer service. There are still some issues to be resolved before they come to the Planning Commission for Site Plan review. There is still not a defined project plan.

Throenle would like to resolve the issues regarding some of the zoning issues that are happening in the Township. He would like to take this by quadrants. This would be in keeping with the Master Plan. The Planning Commission felt this would be a good idea.

Supervisor Bohjanen commented that in discussion with KBIC, it sounds like the speed limit change will start east of Kawbawgam.

**XII. INFORMATIONAL ITEMS AND CORRESPONDENCE**

- A. Minutes – 04.04.17 Marquette City Planning Commission
- B. Minutes – 04.18.17 Marquette City Planning Commission
- C. Minutes – 05/01/17 Township Board Minutes
- D. Correspondence – Linda Rossberg 04.17.17

**XIII. ADJOURNMENT**

Mahaney adjourned the meeting at 8:55 pm.

Submitted by:

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Planning Commission Secretary  
Donna Mullen-Campbell