

# CHARTER TOWNSHIP OF CHOCOLAY PLANNING COMMISSION MINUTES

Monday, November 21, 2016

**I. MEETING CALLED TO ORDER BY:** Andy Sikkema at 7:00 p.m.

**ROLL CALL**

*Members Present:* Andy Sikkema (Chair), Andy Smith (Vice Chair), Eric Meister (Secretary), Richard Bohjanen (Board), Bruce Ventura, Tom Mahaney, Kendell Milton (arrived at 7:05 PM)

*Members Absent:* None

*Staff Present:* Dale Throenle (Planning Director/Zoning Administrator), Suzanne Sundell (Administrative Assistant)

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

*Motion by Ventura, and seconded by Mahaney, to approve the agenda as written.*

*At this time, Bohjanen indicated that he has now taken on his role as Township Supervisor, and his term as Board appointee for the Planning Commission had ended, so he would be abstaining from voting.*

*Vote: Ayes: 5 Nays: 0            MOTION CARRIED*

**III. MINUTES**

**October 17, 2016**

*Motion by Ventura, and seconded by Meister, to approve the minutes as corrected. (Page 2 of 10, V. Public Hearings, "differed" should be "deferred".) Ventura commented that the minutes were very well written.*

*Vote: Ayes: 5 Nays: 0            MOTION CARRIED*

**IV. PUBLIC COMMENT**

None

**V. PUBLIC HEARINGS**

None

**VI. PRESENTATIONS**

None

**VII. NEW BUSINESS**

**A. Proposed 2017 Meeting Dates**

Sikkema indicated that he had received one phone call on this item, and the request was to not make the meetings too early, in order to allow for the public to attend. There was discussion among the Planning Commission on meeting time. Throenle also stated that if the Township Board would decide to change their meeting date, it may become necessary to choose a different day.

*Mahaney moved, and Smith seconded the dates for the 2017 Planning Commission meetings be approved as written. The starting time for the 2017 meetings will be 7:00 PM EST.*

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

## **VIII. UNFINISHED BUSINESS**

### **A. Ordinance 62 – Animal Control**

Throenle introduced the ordinance by referring to the Public Comment that was received and is “XI.D Correspondence – Place” in the Commissioner’s packets. The public comment was asking the Commission for consideration of initiating a leash law in Chocolay Township. Throenle indicated that the changes discussed at the last meeting have been incorporated into the ordinance under VIII.A, and the document is currently up to date with those changes. Throenle also pointed out that there were a couple errors in last month’s discussion – the first being the discussion on Section 8 (A) and Section 10 (A) duplication, and the fact that a paragraph was inadvertently deleted from the document (see page VIII.A.3), which reads:

*“Section 10 Killing and / or Seizing of Animals*

*(A) Any animal that enters an enclosure which is owned or leased by a person raising livestock or poultry that is unaccompanied by the owner shall be in violation of this Ordinance. The Owner or lease of such enclosure or his or her agent may apprehend or kill such animal while it is in the enclosure without liability for killing such animal.”*

Throenle indicated that if this paragraph was put back into the document, there would be a need to have another Public Hearing.

The second item is in reference to licensing of dogs and retaining of their license when they come from another state. After researching this, Throenle discovered any animal brought in from another state must be licensed within 30 days in the state of Michigan. The only license that would be valid in Chocolay Township would only be licenses issued in the State of Michigan.

The third item up for discussion was the request for information from Center for Disease Control (CDC) on the issue of chickens. Throenle indicated that the primary direction from the CDC on that issue is hygiene and the washing of hands after handling of chickens.

The fourth item is clarification of the survey data from 2013. It has been mentioned several times in public comment that the residents in the waterfront district did not want chickens, but the survey data shows that this statement is in error and that 57% of the residents in WFR are in agreement that chickens should be allowed. The only two districts that do not wish to have chickens are the “Corridor Cluster Mixed Use” and the “Village Residential”. Throenle feels that the Village Residential can be addressed by the setback requirements.

## Commission Discussion

Sikkema opened discussion on the item regarding the deletion of the paragraph on killing and / or seizing of animals.

Meister questioned if this would already be covered by the State of Michigan under state statute. Throenle indicated that he had not researched this, so he was not sure.

Sikkema indicated that if the animal is in the act of hunting, it would not be considered an “uncontrolled” dog. This seems to be in conflict with this paragraph.

Mahaney indicated if a person had chickens, and a domesticated animal crosses over into their property, they are probably not going to call the Township, but instead will react to what is happening.

Sikkema indicated that this would also be true with a dog crossing over into a herd of cattle – even if the dog is not harassing the cattle.

Bohjanen wondered how this interacts with or contradicts the Firearms Ordinance.

Ventura questioned whether the presence of a dog in a livestock enclosure warrants violence against the dog. If the dog is about to kill or attack in some way, then it would be considered self-defense or defense of your property. But if the dog is just present, it does not constitute a danger. Ventura feels the wording is pretty wide open for interpretation.

Smith asked if originally this language was written into the ordinance twice. Throenle indicated that it was originally in Section 10 (A), and 8 (A) had been copied to Section 10 (A) in error. The language being discussed would be reinserted into Section 10 (A) if approved.

Meister wondered if the Township even had the authority to include this in the ordinance, and does not feel that this should be in the ordinance.

Ventura also pointed out that the obeying of the ordinance is placed on the animal, not the owner.

The consensus of the Planning Commission was to leave Section 10 (A) out.

Throenle referred the Commission to Section 5 (A) of the Ordinance, which states:

*“(A) ... Current dog licenses issued by other jurisdictions prior to residence in the Township shall be honored and valid for the remainder of the calendar year in which they were issued.”*

Throenle requested it be changed to:

*“(A) ... Current dog licenses issued by other jurisdictions **within the State of Michigan** prior to residence ...”*

The Planning Commission agreed with this change.

Throenle directed the Planning Commission to the correspondence from Irene Place concerning leash laws.

Bohjanen stated this could be handled by the posting of signs stating “Dogs must be on leash”.

Mahaney indicated that there is a problem with dogs on the bike path. Ventura stated he feels most of the owners are responsible. Mahaney felt that if the dog is on a leash, there is less of a chance of an incident happening.

Throenle wondered about the enforcement of leash laws.

Sikkema stated it would probably be based on complaints. Consensus of the Planning Commission was to leave a leash law out of the ordinance.

The Planning Commission then moved on to discuss the information regarding the CDC view on chickens and salmonella.

Ventura stated that by looking at what the CDC furnished, salmonella is a “direct contact” disease, and you would have to have contact with the animals. This would not be an airborne disease. He doesn’t feel that chickens in the backyard would increase the likelihood of contacting salmonella.

Meister stated that people could be educated when filling out the application to have chickens.

Bohjanen stated that even though the article was dated October of 2016, there was no new information concerning salmonella. He also stated that salmonella from chickens is not a problem in domestic well water. When a well is properly placed, having chickens on your land would not contaminate the well.

Sikkema stated that livestock and other forms of poultry would be restricted to the AF district, and chickens would be allowed in all districts.

*Mahaney moved, and Ventura seconded, that after holding a public hearing and considering public input, the Planning Commission recommends that the Township Board approve the draft version of Ordinance #62 Animal Control as **changed** for the following reasons:*

- 1) *To align the Township regulations with those of Marquette County and the State of Michigan;*
- 2) *To permit and regulate chickens in the non-agricultural zoning districts within the Township;*
- 3) *To make editing changes to the ordinance text; and*
- 4) *To repeal Ordinance #41 and replace it with Ordinance #62.*

Vote: Ayes: 5

Nays: 1 (Sikkema)

MOTION CARRIED

**B. US 41 and M 28 Business Corridor Overlay District**

Throenle introduced this for review to make sure all documents are ready to forward

to the Township Board for direction. The review will consist of going through the changes that have been made to the matrix and discussion on Home Occupations – differences between Tier 1 and Tier 2. Throenle has also included a new overlay map which includes 171 parcels that were identified as part of the overlay district.

### **Commission Discussion**

Discussion began with Item 243 in the matrix, which involves home occupation.

Sikkema started the discussion – Mixed Use Development, Accessory Use. The question would be if the Township should allow accessory use for Home Occupation. Tier 1 would refer to home occupations that you would not be able to tell there was a business there, such as telephone answering and solicitation, home crafts, computer programming and desktop publishing, typing or secretarial service, fine arts and writing, consulting service, mail order business, or home office. He felt that this should be a Permitted use. The commissioners agreed.

Home Occupation – Tier 2 would include carpentry and cabinet maker, catering or food preparation, dressmaking, sewing, or tailoring, pet grooming service, barber or beauty service, nail or personal care salon, electronic or equipment repair, or assembly operations. These would be Conditional Use Home Occupations in the Residential districts.

Meister stated that if you are in the Mixed Use Corridor, you are already in the Commercial district, so there should be no need to have additional restrictions or restrictions greater than anywhere else.

Sikkema stated that some of the properties in the Mixed Use are zoned as R1 and R2, which would make Mixed Use harder to accept, but that doesn't mean you can't change to boundaries of the overlay zone. In looking at the map, Sikkema thought that West Fairbanks should not be included as it is currently all residential. Smith also questioned West Main, since they are currently residential.

Throenle indicated that in reference to West Main, there is only one non-residential parcel there, and that would be the Bayou. In reference to West Fairbanks, all the parcels are R2.

Sikkema asked the Commissioners if Tier 1 – Home Occupations should be set to permitted in the matrix if the West Fairbanks properties were removed. All agreed that it should.

Bohjanen questioned why the Bayou was not included. Throenle indicated that the 300 foot boundary established as the base criteria for the corridor did not include the Bayou, as it was outside the 300 foot boundary.

Meister questioned the overlay district - the last time the Planning Commission talked it was not decided if it should be an overlay or not. He was wondering why they are not including all commercial in this, such as Beaver Grove. Throenle indicated that the original discussion concentrated on the US 41 area in Harvey. Meister recalled

the discussion about Beaver Grove being that they did not want to expand the commercial area there, but that they would allow the new uses. Sikkema indicated that the Planning Commission was going to be looking at other commercial areas, once the corridor area was done.

Smith asked Meister if he was suggesting that anything commercial fall under the Mixed Use. Meister suggested that instead of an overlay, that the commercial district be changed to allow for the new uses, such as residential above or behind the business. This would include expanding the commercial district.

Mahaney wanted to clarify that they would just be changing the ordinance regarding commercial. Meister indicated that instead of doing an overlay just for Harvey, to make changes regarding commercial in other areas.

Throenle indicated they were looking at the corridor first to get everything cleaned up, and then to expand out to other areas of the Township.

Sikkema stated that one of the original goals was to revitalize the village of Harvey, and encourage people to develop here.

Throenle would like to have the Township Board give the Planning Commission direction. Smith asked if this had not already gone before the Board. Throenle indicated that they had not given a direction on how to proceed with this. Sikkema stated that what the Planning Commission is trying to do with this overlay district used to be the norm. For some reason, communities moved away from this. Now it seems we are moving back in the other direction. Milton indicated that with the Building Code there is a fire separation between residential and commercial, so those types of building details may control how residential areas can expand. Sikkema stated that when the discussion starts in Beaver Grove, the residents should be asked if they feel they live in a residential area or a commercial area, since most of Beaver Grove is residential. Bohjanen indicated that the residential in Beaver Grove is spotty.

Throenle feels there needs to be more detail before it goes to the Board, so he would like to let the Planning Commission have one more shot going street by street within the proposed corridor. He stated that there are three possibilities on how to approach this – overlay district, form-based code, or underlay district.

Sikkema requested the discussion return to the Tier 2 – Home Occupation decision. The Planning Commission decided that Home Occupation – Tier 2 would be a Permitted Use in the Mixed Use Development.

Ventura would like a definition of overlay versus rezoning, as rezoning would create lots of problems.

Sikkema felt that by spring, there should be a public meeting to bring the public in to let them know what is planned.

Mahaney asked if this fits into the Master Plan. Throenle stated that it does.

**IX. PUBLIC COMMENT**

None

**X. COMMISSIONER'S COMMENTS**

Mahaney – none

Meister - none

Smith – would like to get a copy of the complaints that are being received.

Bohjanen – is in the process of appointing new members to the Planning Commission. He would be happy to take any input. There are six applications he is looking at.

Milton – none

Ventura – has submitted his letter of resignation, effective December 31, 2016. He has spent 11 years as a Planning Commissioner, but feels it is time to move on. He stated he has enjoyed working with the group.

Sikkema – thanked Ventura for his words of wisdom and expertise that he has brought to the Planning Commission.

**DIRECTOR'S COMMENTS**

Throenle indicated he has two things the Planning Commission will be looking at. The sign ordinance will be on the agenda soon, as he cannot legally enforce the signs based on content. They will also need to address structures which have writing on them.

Throenle presented what is being proposed at the Silver Creek Recreation Area. Throenle presented the concept drawing to the Commissioners. The intent would be for the Marquette Little League to add four smaller fields where the soccer field is currently located. A grant is in progress for the tennis courts, and we should hear from the DNR within the next couple of months. The project would also include new playground equipment, expanded parking, and a pavilion. The cell tower money will be going into a special recreation fund and some of that may be channeled into this project.

Throenle also indicated that there is consideration for a Soccer Complex. There are some state owned parcels in Beaver Grove that are being looked at. Superiorland Soccer Association has approached the Township about developing a 23-acre complex there.

Throenle will also be including the "Township Insights" along with the "Planning News" in the Commissioner's packets.

A quote had been requested from Pride Printing on pricing for the printing and mailing of some type of brochure or postcards. Pricing was given to the Planning Commission for their information.

**INFORMATIONAL ITEMS AND CORRESPONDENCE**

**A.** Minutes – 10/04/16 Marquette City Planning Commission

**B.** Minutes – 10/18/16 Marquette City Planning Commission

**C.** Minutes – 11/02/16 Township Board minutes draft

**D.** Correspondence - Place

**XI. ADJOURNMENT**

Sikkema adjourned the meeting at 8:45 pm.

Submitted by:

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Planning Commission Secretary  
Eric Meister