

CHARTER TOWNSHIP OF CHOCOLAY PLANNING COMMISSION MINUTES

Monday, November 27, 2017

I. MEETING CALLED TO ORDER BY: Tom Mahaney at 7:03 p.m.

ROLL CALL

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

Members Absent: None

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

II. ADDITIONAL AGENDA ITEMS / APPROVAL OF AGENDA

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

Vote: Ayes: 7 Nays: 0 MOTION CARRIED

III. MINUTES

October 16, 2017

Motion by Rhein, and seconded by Kangas, to approve the minutes as written.

Vote: Ayes: 7 Nays: 0 MOTION CARRIED

IV. PUBLIC COMMENT

Perry Laing, 625 Lakewood Lane – In favor of short term rentals, he has a cottage on the same property as his home that he wants to rent out. He is taxed as a second residence on this property therefore paying additional taxes. He likes short term rentals as he feels the owner has the ability to kick someone out after a few days vs. a longer rental term. Also thinks that the owner should have residency in at least the county of their property and have rules that are enforced. Would like to see a policy put in place to have the Police fine the renter for the first violation and if there is a second one, the owner should be fined. Also, if short term rentals are terminated from the Township, will there be any compensation for those that want to rent their properties.

Stephanie Gencheff, 597 Lakewood Lane – There are more issues than fireworks and noise involved with short term rentals. There are trespassing and parking issues as well that need to be addressed.

Public comment was closed at 7:10 pm

V. PUBLIC HEARINGS

None

VI. PRESENTATIONS

None

VII. NEW BUSINESS

A. Noise Ordinance Rewrite

Staff Introduction

Throenle stated in reference to the short term rentals, noise and fireworks are the most common complaints but there others such as trespassing and parking. In reviewing the ordinances related to these complaints he found that they need to be reviewed and revised. There are no signs in Chocolay Township determining “quiet zones” for hospitals or schools, and there was a section in the noise ordinance that prohibited construction on weekends.

Additional language was needed to bring the noise ordinance up-to-date. For example, noise from motorized lawn care equipment was not covered.

Commission Discussion

Mullen-Campbell asked about a decibel meter, Throenle stated some places have them but they are expensive and users have to be trained to use them properly.

Meister asked how to determine what is “excessive” as some people have a lower/higher tolerance of noise. Police could visit but is it hard to enforce?

Mahaney asked if Chocolay Township has had any noise issues that Throenle was aware of?

Throenle commented that this would be found in police records, but it was not reported to his office. This can be documented but is hard to enforce due to the fact that most times the source of the noise is hard to prove by the time law enforcement shows up.

The Commission had several questions and concerns pertaining to the existing ordinance and agreed it needed to be changed. Some of the concerns were: all construction, snow and trash removal, lawnmowers, signal devices, ice cream trucks, ski and snowmobile trails and emergency situations. After much discussion, the following revisions to the proposed ordinance were the decision of the Commissioners:

Ordinance 64 Noise

Section 4 Prohibition

(C) Snow removal, snow trail grooming, and commercial trash removal are exempt activities that can be performed any time.

Section 5 Prohibited Noises and Acts

(G) Construction or Repairing of Buildings and Roads

Except in the event of an emergency:

- i. *The demolition, excavation, alteration, construction or repair of any building or structure other than between the hours of 7 a.m. and 10 p.m., where such activity results in the creation of unusually loud noise or noise which annoys, disturbs, injures, or endangers the comfort, rest, health, peace or safety of others.*

ii. Road and general construction is exempt with prior approval from the Township Board.

(I) Business Operations and Other Premises Activities

- i. *The carrying on of any business operations, or any other 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 at a distance of fifty feet or more from the edge of the business ~~operation~~ property*

Section 6 Violations

A violation of this Ordinance shall be deemed to be a civil infraction, and any person, firm, or entity found responsible therefore shall be subject to a fine of not to exceed ~~three~~ five hundred dollars (\$~~300~~ 500.00) for each offense.

Section 8 Effective Date

This Ordinance shall take effect thirty calendar days from February 12, 2017 ~~2018~~.

Kangas moved, Rhein seconded that proposed Ordinance 64 Noise to be presented for public hearing as changed at the January 2018 meeting.

Votes: Ayes: 7 Nays: 0 MOTION CARRIED

B. Proposed Fireworks Ordinance

Staff Introduction

Currently fireworks are not included in Chocolay Township's ordinance. Throenle has researched many ordinances, and found one from the city of St. Ignace. He spoke with the St. Ignace staff; they told him there were disturbances at all times with fireworks and since they have set their own guidelines and enforced them, they have not had many problems with them. Throenle is proposing that Chocolay Township do the same in setting a new ordinance.

Commission Discussion

The Commission had concerns and questions such as: were there any complaints? Does the noise ordinance have anything set for fireworks? Fireworks aren't always used in the designated days, should allow extended times for the 4th of July. In discussing this, the Commission has decided on the following:

Ordinance 65 Fireworks

Section 4 Prohibition

No person shall ignite, discharge or use consumer fireworks within the Chocolay Township, except during the following times:

1. On the day preceding, the day of or the day after a national holiday as defined herein, except the Fourth of July, as defined herein between the hours of 8 AM and 1 AM consistent with Section 7 (2) (b) of Michigan Public Act 65 of 2013.
2. Between the hours of 6 PM and 11 PM on Fridays and Saturdays with a permit issued from the Township.
- 1.3. Three days preceding, the day of, or three days after the Fourth of July, between the hours of 8 AM and 1 AM consistent with Section 7 (2) (b) of Michigan Public Act 65 of 2013.

Meister moved, Mullen-Campbell seconded to make the changes to the proposed Ordinance 65 Fireworks and to present the ordinance for public hearing at the January 2018 meeting.

Votes: Ayes: 7 Nays: 0 MOTION CARRIED

VIII. UNFINISHED BUSINESS

A. US41/M-28 Business Overlay District

Throenle recommended the Commissioners review the revised definitions to ensure the revisions have been made to their satisfaction, and to determine if additional revisions need to be made prior to the public hearing.

Throenle stated that Steve Lawry, Township Manager also recommended the public hearing date be moved to the January 2018 meeting to accommodate citizens that may not be able to attend or provide comment for the December 2017 meeting due to the holidays.

Kangas moved, Rhein seconded, that the language for the proposed US 41 / M-28 Business Overlay District be accepted as written and the proposed US 41 / M-28 Business Overlay District public hearing be moved from December 17, 2017 to the January 2018 meeting.

Votes: Ayes: 7 Nays: 0 MOTION CARRIED

B. Short Term Rentals

Staff Introduction

Throenle pointed out for several months the Planning Commission has been working on a plan concerning several aspects of short term rentals, and the Commissioners developed a plan for the issue. Throenle presented this plan to the Board as part of the Board's November agenda and they informally accepted the plan with a June 1, 2018 date for the Planning Commission to have a draft version of recommendations ready for the Board.

Throenle has been conducting surveys from other Planners in the central UP area to see different variations concerning short term rentals. He has been concentrating on areas with waterfront. He asked the Commission to finish the definitions tonight.

Commission Discussion

Mahaney asked how many areas Throenle was checking into. Throenle replied twenty to twenty-five townships, to get as many with waterfront as possible. Some are hard to find contacts for, and he will continue to gather that information.

Smith commented it is good to look at others so we don't reinvent the wheel. He would like to see the ordinances to check for pros and cons, so that the language can be written correctly.

Meister would like to see links from the web to reference the ordinance.

As short and long term rentals have been allowed in the Township since at least 1980, Throenle stated the language for short term rentals should apply to long term rentals as well.

Smith felt there could be problems with short term rentals as the time frame is shorter, help eliminate problems for opposing people. Smith also feels long term rentals haven't been an issue. Kangas replied that short term rentals may not be a problem but could become one.

Mahaney asked if it should be a *Rental Ordinance*, not just a Short Term Rental Ordinance. This would combine the short and long term rentals with terms special to short term rentals if needed. He felt they should follow the same ordinance as they have the same issues....noise, fireworks, parking, garbage, etc. Rhein felt they should be combined as well.

Throenle asked if the landlord should be held responsible. Rhein thought they could be fined. Smith talked about having it in the ordinance, and asked if it is violated would they lose the rental rights, and questioned if that was legal.

Mullen-Campbell also asked if there has been any progress on the bills in the House and Senate pertaining to short term rentals. Throenle answered there has not been any and if they do not come out of committee they are finished for the year.

Rhein and Mullen-Campbell suggested twenty-eight days or less be classified as a short term rental, anything twenty-nine days or more would be a long term rental.

Throenle pointed out that after fourteen days property owners that rent would lose their principal residence exemption for tax purposes.

Throenle asked if the Rural Character definition should be removed as a definition and moved to the introduction of the Zoning Ordinance. Smith asked where the definition was currently located, and Throenle stated it was in the definition section in the official Zoning Ordinance. Milton stated that rural character was all part of the Master Plan. Throenle recommended rural character be taken off the definition list as a definition and leave it out until the Commissioners decided where to put it.

Rhein interrupted the discussion and asked to be excused at 9:05 for a work commitment. He was excused.

Mullen-Campbell would like time to read the Rural Character definition over, as she was concerned about man-made improvements in the statement. Smith sees it as a statement, more of a definition for the Master Plan. Meister doesn't see it as a definition, it's in the Master Plan, so it should be a general goal. Kangas would like to see it left alone, as it creates confusion, and is not part of the short term rental discussion. Mahaney sees it as a definition as well.

Throenle suggested it be brought back to the December meeting for additional discussion with the review of the proposed definitions.

Commission Decision

After much discussion, the following changes were proposed:

Long Term Rental

Proposed

A dwelling unit providing temporary accommodations for periods of twenty-nine successive days or more.

Such rentals must meet the established regulations for Property Rentals (section to be defined).

Such rentals are not permitted in any zoning district if restricted by deeds or covenants.

Short Term Rental

Proposed

A dwelling unit providing temporary accommodations for periods of twenty-eight days or less.

Such rentals must meet the established regulations for Property Rentals (section to be defined).

Such rentals are not permitted in any zoning district if restricted by deeds or covenants.

IX. PUBLIC COMMENT

Stephanie Gencheff, 597 Lakewood Lane – Short term rentals and single family homes are different, they should not be held to the same laws. Have listened to many people at the podium complain about short term rentals. Do the police document the complaints to the property owners? Had a long term rental next to her and are still friends after they moved. Thinks it's a mistake to combine the rules for short and long term rentals

Laurie Krzysmoski, 741 Lakewood Lane – Has been both a short and long term renter. Short term renters are different, they don't treat property the same. Long term renters are members of the community, they act like a homeowner. There are different boundaries from a short to long term renter, exercise different levels of caution, have different set of rules regarding this.

Perry Laing, 625 Lakewood Lane – Address the noise ordinance, modify it. Agree that people should be able to do what they want with their property, but if they are going to be a short term renter the property owner should set rules and post them on the property. If they violate the rules the renter should be asked to leave. Also, maybe ask for a significant fee to be refunded if there are no issues, people would think twice.

The noise exceptions discussed sound good but contracting work doesn't always go as scheduled, how does a contractor get Board approval when they only meet once a month?

X. COMMISSIONER'S COMMENTS

Rhein – No comment, excused early for a work commitment.

Milton – None

Kangas –None

Smith – Would like to see a list of the complaints from the Zoning department put in the packets. Does not have to include their names.

Meister – None

Mahaney – Appreciates the comments from the public, their input is important. Wants them to know that the Commission appreciates it.

XI. DIRECTOR'S REPORT

Throenle – Tablets will be ordered soon, and staff will try to have them operational for the January meeting.

XII. INFORMATIONAL ITEMS AND CORRESPONDENCE

A. Minutes – Marquette City Planning Commission, 10.03.17

B. Minutes – Marquette City Planning Commission, 10.17.17

C. Minutes – Township Board minutes--draft, 10.09.17

D. Minutes – Township Board minutes--draft, 11.13.17

E. Correspondence – Mulcahey # 1

F. Correspondence – Mulcahey # 2

XIII. ADJOURNMENT

Mahaney adjourned the meeting at 9:26 pm.

Submitted by:

Planning Commission Secretary
Donna Mullen-Campbell