

**Charter Township of Chocolay  
Planning Commission Minutes  
Monday, January 9, 2012**

**I. Meeting called to order at 7:30P.M./ Roll Call**

**Members present:** Kendell Milton (Chairperson), Andy Smith (Vice Chairperson), Tom Mahaney, Eric Meister, Dr. Ken Tabor  
Andy Sikkema, and Gary Heinzelman.

**Members absent:** None

**Staff present:** Jennifer B. Thum, Township Planner/Zoning Administrator

**II. Approval of December 5, 2011**

Mr. Sikkema moved, and Mr. Heinzelman seconded, to approve the minutes as written.

Ayes: 7      Nays: 0      Motion Carried

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

Dr. Tabor moved and Mr. Sikkema seconded, to accept the agenda as written.

Ayes: 7      Nays: 0      Motion Carried

**IV. PUBLIC HEARINGS**

A. None

**V. PUBLIC COMMENT**

Mr. Pete Mackin, a Chocolay Township resident spoke about his appointment to the Marquette County Planning Commission. He would like to serve as a liaison between the County and the Township. Mr. Mackin gave a brief history of his professional background.

**VI. PRESENTATIONS**

A. None

**VII. NEW BUSINESS**

A. Consideration - Township Master Plan

Mrs. Thum spoke about the completed draft and indicated that a presentation will be done on the plan at our February 6, 2012 meeting, so the Commissioners should look over the document in order to discuss it at our next meeting. Mrs. Thum also indicated that the recreation plan has been completed and it will be sent to the members.

B. Consideration - Building lights

Mrs. Thum stated that this came up after our last month's meeting discussion about a particular business blue LED canopy lights.

The Commissioners felt that the lights are not used for safety purposes, but rather for advertisement. The zoning ordinance does prohibit some exterior lights, but it's not specific to the LED canopy rope lights.

Dr. Tabor talked about the Dark Sky language and the difference between the lights at Founders Landing, street lights and parking lot lights.

Mr. Meister talked about the different types of lighting that are used advertisement purpose, and for architecture features.

Mr. Sikkema moved, and Dr. Tabor seconded, to table this item until we received more information on dark sky regulations and clarification on the wording in the Township zoning ordinance.

Ayes: 7      Nays: 0      Motion Carried

C. Consideration – 2012 Top Priorities

Mrs. Thum stated that this it just to keep items on track and it's good to have the commissioner's set goals for 2012. Mrs. Thum discussed her thoughts and goals for this year. The Planning Commission and staff developed the following list, in no particular order.

1. Transportation Center/ Shelter/Bike Rack near the US 41S/M-28
2. Sign Ordinance
3. Junk Car Ordinance
4. Rural Recreation Zoning District
5. Review Fire Arms Ordinance
6. Explore the possibility of underground utilities along US-41S (Business District)
7. New playground equipment
8. Waterfront Residential – Rental Properties
9. Review of private roads and addressing of residential homes

**VIII. OLD BUSINESS**

A. Consideration - Proposed Text Amendment #34-11- 06 (Rural Residential)

The Commissioners felt that this should serve as a transitional district between the R-1 and the AF District. The Commission looked at this item and felt that commercial farming should be a conditional use. There was further discussion on contractor yards and shops in this district, due to the minimum lot size. Mr. Smith stated that the current language states that a contractor's yard shall be on a minimum of 20 acres, and it's a conditional use. Mr. Sikkema discussed different uses of contactors yards and where it would be acceptable. Mr. Mahaney, felt that residential areas should stay residential, and a commercial type of business is not compatible.

The Commission wanted to look at removing some of the Section toward the southern end of our Township and that are larger lots. The Commission talked about limiting the

growth towards the road, but limiting the AF-2 to the smaller lots, and not the 20 acre parcels.

Mr. Meister thought we should omit contractor yards as a conditional use and permit commercial farming as a conditional use in the Rural Residential District. The rest of the Commissioners felt that this was a good idea. Mr. Sikkema went over the current list of permitted and conditional uses in the current Agricultural/Forestry and compared those to what one would expect in the Rural Residential District.

Mr. Sikkema moved, and Dr. Tabor seconded, to direct staff to look at the proposed language and locate any non-conforming undeveloped parcels in the southern half of our Township, and to draft a revised ordinance amendment for review at our February 6, 2012 meeting.

Ayes: 7      Nays: 0      Motion Carried

**B. Consideration - ORV Community Survey**

Mrs. Thum explained that since there was little to no response from our residents about the potentials sub-committee for ORV's she worked with CUPPAD on developing a questionnaire that could be mailed to our residents.

There was question about any interest from other residents beside Mr. Tony Harry. Mrs. Thum stated that was a survey at the Grove Restaurant that did produce some input, but no other residents have written a letter or come to the Township Hall. If this item gets more support and the Township decides to do a survey, Mr. Heinzelman stated that the survey should go to our entire population.

Mr. Mahaney moved, and Dr. Tabor second, to drop the issue, unless we get more residents interested in the idea.

Ayes: 7      Nays: 0      Motion Carried

**C. 2011 Text Amendment Update**

Mrs. Thum stated that this was informational only, and the list will be continued to be updated as we go. Mr. Sikkema wanted this item in the packets from here on out. Mrs. Thum indicated that this will be done.

**IX. PUBLIC COMMENT**

Mr. Dick Arnold, 312 West Branch Rd, wanted to know if the Planning Commission is going to finish up the junk car/RV ordinance. (This item is on our 2012 top priority list)

**X. COMMISSIONER'S COMMENT**

Mr. Sikkema discussed the upcoming MDOT project.

**XI. DIRECTOR'S REPORT**

A. Zoning Ordinance Review

Mrs. Thum stated that she has been going through the zoning ordinance to review what the current issues are and what items might need to be changed. The Commissioners would like to see a monthly list.

B. Road Frontage Text Amendment

Mrs. Thum stated that the Township Board wanted the Planning Commission to look at the safety issue of private roads and the addressing of them. Mr. Heinzelman stated that staff should review Ordinance #29, address requirement. Mrs. Thum stated that this will be added to the 2012 top priority list.

**XII. INFORMATIONAL ITEMS AND CORRESPONDENCE**

- A. City of Marquette, Planning Commission Minutes, November 1, 2011 and November 15, 2011
- B. Planning and Zoning News, November 2011

**XII. ADJOURNMENT**

Mr. Kendell Milton adjourned the meeting at 9:30 pm

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Mr. Andy Sikkema  
Secretary

**Charter Township of Chocolay  
Planning Commission Minutes  
Monday, February 6, 2012**

**I. Meeting called to order at 7:30P.M./ Roll Call**

**Members present:** Kendell Milton (Chairperson), Dr. Ken Tabor, Andy Sikkema, and Gary Heinzelman.

**Members absent:** Andy Smith (Vice Chairperson), Tom Mahaney, and Eric Meister

**Staff present:** Jennifer B. Thum, Township Planner/Zoning Administrator

**II. Approval of January 9, 2012**

Dr. Tabor moved, and Mr. Sikkema seconded, to approve the minutes as written.

Ayes: 4 Nays: 0 Motion Carried

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

Mrs. Thum informed the commission that Mrs. Deborah Mulcahey's written comments are on the desk in front of them for review.

Dr. Tabor moved and Mr. Heinzelman seconded, to accept the agenda as written.

Ayes: 4 Nays: 0 Motion Carried

**IV. PUBLIC HEARINGS**

**Proposed Text Amendment #34-12-05 (home occupation)**

Mrs. Thum read Mrs. Deborah Mulcahey's written comment in its entirety, which was emailed to Mrs. Thum on February 5, 2012. Mrs. Thum stated that Mr. Wayne Dees supplied public comment as well, which was placed in their packet materials.

Mr. Dick Arnold, 312 West Branch Road, stated that he is concerned with allowing home businesses in residential areas. Mr. Arnold felt that there should be an annual review process.

**V. PUBLIC COMMENT**

Mr. Dick Arnold, 312 West Branch Road, stated that he is disappointed that only a few people were in attendance. Mr. Arnold felt that the Township should send out a survey to the residents and see what they would like the Planning Commission to work on. He also felt that the conditional use permit fee should be set at \$75.00 and an annual fee, versus a onetime fee.

**VI. PRESENTATIONS**

A. None

**VII. OLD BUSINESS**

**A. Consideration - Proposed Text Amendment #34-12-05 (home occupation)**

Mr. Heinzelman stated upon further review, he feels that home occupations, which permit an employee, should not be permitted in residential areas. Mr. Heinzelman discussed the research that he did on this subject and stated the majority of municipalities don't allow

home occupations to have non-resident employees in their residential areas. Mr. Sikkema stated that the reason that home occupations came before the Commission, is because a resident was being honest about her home knitting business, but she did not make enough profit to justify the \$250 fee.

Mr. Sikkema stated that the proposed amendment does need to be cleaned up. There are a couple of options, we could move it along, don't do anything, take the public comment and make the changes to remove the allowance of an employee or leave the current language as is.

Mr. Sikkema moved and Dr. Tabor seconded to have staff draft a new text amendment that mirrors our existing language in Section 6.9, but change home occupations to a permitted use and include a statement that they shall register with the Township. This item is to be brought back before the Planning Commission for review at our March 5, 2012 meeting.

Ayes: 4          Nays: 0          Motion carried

B. Consideration - Proposed text amendment #34-12-06 (rural residential)

Mr. Sikkema stated that he was concerned with #3 under the permitted uses, instead of listing the rabbits, chickens, geese and other small agricultural animals, maybe it should say "animals" or fowl for the private uses of residents. There was further discussion on what would constitute an animal and would exotic animals fit into that category. Staff was asked to review the federal and state laws on keeping of exotic animals to see if we can just put the word "animals" instead of listing each animal.

Mrs. Thum stated that there are 162 vacant non-conforming parcels in the Agricultural/Forestry District.

The commission discussed whether we should regulate the number of animals that can be on a lot. The consensus was that this is something that could be reviewed on a case by case basis, as it's listed as a conditional use.

Mr. Sikkema moved and Dr. Tabor seconded to direct staff to finalize the text amendment and prepare a map for review at our March 5, 2012 meeting.

Ayes: 4          Nays: 0          Motion carried

C. Consideration – Dark Skies- Outdoor building lights

Mrs. Thum informed the commission of the discussion she had with the City of Marquette and the lights that are located at Founders Landing. Mrs. Thum stated that she will follow up with the BLP to see when lights along US 41S and in the subdivision are to be replaced.

The Commissioners discussed the sample light ordinance from the Village of Lloyd Harbor. There was also discussion on the sample language from Pittsfield Charter Township.

Staff will look into finding similar language with municipalities that regulate outdoor advertising lights. The Commission will review the Pittsfield Charter Township ordinance and mark it up for next's months meeting.

**VII. NEW BUSINESS**

A. Consideration - Township Master Plan

Mrs. Thum spoke about the completed draft. Mr. Sikkema suggested that we review Chapters 1 and 2 for next month's meeting.

**IX. PUBLIC COMMENT**

Mr. Wayne Dees, 512 Woodvale, discussed an administrative issue with the Planning Commission. Mr. Dees stated that there is a statement in the Planning Directors job description, which states that the Director is to make recommendations to the various boards on items of interest. Mr. Dees stated that he felt that, this was to guide the Commission and not to make actual recommendations. Mr. Dees stated that it's Mr. Maki's interpretation that the statements means that the Director is to make an actual recommendation to the Commission on whether an item should be approve or denied, and their reason for such.

The Commission stated that the Planning Director has the background in planning and they don't always listen to staff, but like to see things from their perspective and get different thoughts on the issue.

The Commission discussed this issue with Mr. Wayne Dees.

Mr. Sikkema stated that the Commission looks to the zoning/planning director for guidance on all issues, and to determine if any issue could arise from an enforcement standpoint. The rest of the Planning Commission agreed with this statement.

**X. COMMISSIONER'S COMMENT**

Mr. Sikkema discussed the upcoming MDOT project.

**XI. DIRECTOR'S REPORT**

Mrs. Thum gave a general update.

**XII. INFORMATIONAL ITEMS AND CORRESPONDENCE**

- A. City of Marquette, Planning Commission Minutes, December 6, 2011, December 20, 2011 and January 3, 2012.
- B. Planning and Zoning News, December 2011
- C. Fire Arms Ordinance #35
- D. Street Address Ordinance #29A
- E. Proposed Vehicle parking and storage ordinance
- F. Conducting effective meeting (handout from planning presentation)

**XII. ADJOURNMENT**

**Respectfully Submitted by**

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**Andy Sikkema**  
**Chocolay Township Planning Commission Secretary**

# CHARTER TOWNSHIP OF CHOCOLAY PLANNING COMMISSION MINUTES

Monday, March 5, 2012

**I. MEETING CALLED TO ORDER BY: Kendell Milton at 7:30 p.m.**

**ROLL CALL**

Present- Mr. Kendell Milton (Chairperson) - Mr. Andy Smith (Vice Chair) - Mr. Andy Sikkema (Secretary) - Dr. Ken Tabor - Mr. Eric Meister - Mr. Gary Heinzelman - Mr. Tom Mahaney

**II. MINUTES**

A. February 6, 2012

Motion to approve the minutes as corrected by: Heinzelman

Second by: Sikkema

Vote: All Ayes MOTION CARRIED

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

Motion to approve the agenda as written by: Tabor

Second by: Sikkema

Vote: All Ayes MOTION CARRIED

**IV. PUBLIC HEARINGS**

None

**V. PUBLIC COMMENT**

Mr. James Dunn- 3120 M-28 E, MQT- Discussed the issue of the AF setback requirements and the impact on his property located in Section 12. His lot was created in in the early 1900's and had an existing foundation built on the site in 1975 10 ft. from the lot lines. He would like the board to consider the possibility of changing the zoning along that part of M-28 to Residential 1 so the set backs would be that same as the buildings already there and they would not have to come before a board to request a variance.

**IV. PRESENTATIONS**

None

**VII. OLD BUSINESS**

A. Consideration - Proposed Text Amendment #34-12-05 (home occupation)

Sikkema reviewed the background information and the discussion to put home occupations as a permitted use in the R1, R2, MFR, WFR and AF districts.

Smith question what if for instance a beautician would cause more traffic during a day than would someone working on motor parts, why would one be permitted and the other not if they met all other conditions.

Tabor commented the permitted use was to make it easier for home business owners.

Heinzelman discussed the issue of why wouldn't more than one home occupation be



allowed. Residents of a home should be able to each have a home occupation if they meet the conditions for approval.

Motion to amend the proposed text amendment as indicated by: Smith:

1. Uses Allowed: remove (No more than one home occupation is permitted per parcel as written;
3. Prohibited uses: remove (B. Any type of repair, assembly or storage, sale or manufacture of vehicles, or any other work related to motor vehicles and their parts)

Add (9. Conditional uses: Any type of repair, assembly or storage, sale or manufacture of vehicles, or any other work related to motor vehicles and their parts)

Second by: Tabor

Vote: All Ayes MOTION CARRIED

Motion to approve proposed text amendment #34-11-05 as written and forward it to the Township Attorney and County Planning Commission for review and then the Township Board for approval by: Smith

Second by Tabor

Vote: All Ayes MOTION CARRIED

### **Final Proposed Text #34-11-05**

Home occupations are a permitted use in R1, R2, MFR, WFR and AF districts when in conformance with the following requirements:

1. **Uses Allowed:** Uses that comply with all of the standards of this subsection and those provided for under conditional uses, unless specifically prohibited elsewhere in the zoning ordinance.
2. **Size:** A home occupation may not occupy more than twenty-five percent of the gross area of any one story, structure, or dwelling used for the home occupation.
3. **Prohibited Uses:** The following uses are prohibited as home occupations in the R1, R2, MFR and WFR districts:
  - a. Restaurants are prohibited as home occupation in all zoning districts.
  - b. Animal boarding facilities including kennels, commercial stables and all other similar uses.
4. **Location:** All work areas and activities associated with home occupation must be conducted either inside the principal dwelling unit, or in accessory building or garage.
5. **Exterior Appearance:** There shall be no evidence of the conduct of a home occupation when viewed from the street right-of-way or from an adjacent lot. There may be no change in the exterior appearance of the dwelling unit that houses a home occupation.
6. **Operational Impacts:** No home occupation or equipment used in conjunction with a home occupation may cause odor, vibration, noise,

electrical interference or fluctuation in voltage or the use of hazardous substances or materials.

**7. Traffic:** No traffic shall be generated by any home occupation in greater volume that would normally be accepted in a residential neighborhood.

**8. Registration:** Any person conducting a home occupation shall notify and register with the Zoning Administrator, within thirty days of the beginning use, or within sixty days of the effective date of this Ordinance, whichever is later. (34-08-01)

**9. Conditional Uses:** Any type of repair, assembly or storage, sale or manufacture of vehicles, or any other work related to motor vehicles and their parts.

**B. Consideration - Proposed Text Amendment #34-12-06 (rural residential)**

Motion to postpone this item until staff can contact the township attorney for an opinion and/or interpretation of *“VI General provisions; 6.1 (A) {Lots of less than 20 acres but not less than 5 acres within the AF district prior to the adoption of this ordinance are legal nonconforming}*

*and 6.1 (B) In Districts R1, R2, MFR, WFR and AF, the minimum lot size and lot width regulations do not apply to any nonconforming parcel of land shown as a lot in a recorded plat, or described in a deed or land contract executed and delivered prior to the effective date of this Ordinance by Sikkema*

Second by: Tabor

Vote: All Ayes            MOTION CARRIED

**C. Consideration - Dark Skies- Outdoor building lights**

Motion to postpone this item until staff can work with MBLP and Alger Delta to get an inventory of the type of street lights that are used in our Township and to inventory the lights that are used at the commercial businesses: by Heinzelman

Second by: Tabor

Vote: All Ayes            MOTION CARRIED

**D. Consideration and Review - Township Master Plan, Chapters 1 & 2**

Board will continue to review the Township Master Plan with Chapters 3 & 4 at the April meeting.

**VIII. NEW BUSINESS**

A. Consideration – Zoning Board of Appeals request to extend R1 Single Family District in Section 17 to include the NE 1/4 North of US Hwy 41 S.

No Action Taken

**IX. PUBLIC COMMENT**

None

**X. COMMISSIONER'S COMMENT**

None

**XI. DIRECTOR'S REPORT**

None

**XII. INFORMATIONAL ITEMS AND CORRESPONDENCE**

Planning and Zoning News

**XII. ADJOURNMENT**

Motion to adjourn the meeting by: Milton

Second by: Sikkema

Vote: All Ayes      MOTION CARRIED

Submitted by:

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Planning Commission Secretary  
Andy Sikkema

# CHARTER TOWNSHIP OF CHOCOLAY PLANNING COMMISSION MINUTES

Monday, April 2, 2012

## I. MEETING CALLED TO ORDER BY: Kendell Milton at 7:30 p.m.

### ROLL CALL

*Members Present:* Mr. Kendell Milton (Chairperson) - Mr. Andy Sikkema (Secretary) - Dr. Ken Tabor - Mr. Eric Meister - Mr. Tom Mahaney

*Members Absent:* Mr. Andy Smith (Vice Chair) - Mr. Gary Heinzelman

*Staff Present:* Kelly Drake Woodward (Planning Director/Zoning Administrator), Tina Fuller (Assessor/Interim Zoning Administrator)

## II. MINUTES

A. March 5, 2012

*Motion* to approve the minutes as written by: Tabor

Second by: Meister

Vote: Ayes: 4      Nays: 0      MOTION CARRIED

## III. ADDITIONAL AGENDA ITEMS / APPROVAL OF AGENDA

*Motion* to approve the agenda as written by: Tabor

Second by: Milton

Vote: Ayes: 4      Nays: 0      MOTION CARRIED

## IV. PUBLIC HEARINGS

None

## V. PUBLIC COMMENT

Mr. Tony Harry- 6369 US-41 S, MQT- Mr. Harry discussed the possibility of allowing ORV's to utilize the shoulder of county roads in the Township. He requested an update on the progress/results of the ORV survey. Mr. Harry also submitted a petition signed by 51 individuals who would like the Township to open county roads for ORV use on the far right at speeds no greater than 25 mph. The purpose is to allow people to get to the main ORV trails. He mentioned that other ORV groups have been successful in obtaining grants to help with trail development and safety monitoring.

Planning Commission members informed Mr. Harry that only a couple of people expressed interest in participating on the ORV subcommittee, and therefore it was decided in a previous session that the issue (including the proposed Township-wide survey) would be dropped until more interest was expressed by residents.

\*\*Note, Mr. Sikkema joined the meeting at 7:40 p.m.

## IV. PRESENTATIONS

None

## VII. OLD BUSINESS

A. Consideration - Proposed Text Amendment #34-12-06 (rural residential)

Fuller summarized the opinion by Township Attorney Mike Summers concerning an apparent conflict with respect to three subsections regulating legal nonconforming uses and lots of record. This was pertinent to the discussion of the proposed rural residential zoning district. There was some discussion regarding clarification of what was to be accomplished. The consensus was that Commissioners want to ensure that property owners will be allowed the opportunity to build on currently vacant lots that were conforming lots at the time the original Ordinance was adopted in 1977 even though they don't meet the current requirements for minimum lot area. The Commission also considered the public intent to maintain rural character; how to balance this with increasing the number of developable lots; and how to reduce the number of nonconformities that necessitate action by the Zoning Board of Appeals (usually difficulty in meeting current setbacks). Commissioners discussed what "rural character" means (looks like). They also discussed the logic behind increasing density, such as following primary roads or developing contiguous areas.

A citizen asked the Commission to explain the benefit of 20 acre lots. Tabor explained that the 2008 Board sought to curb urban sprawl and preserve areas for farming and open space per the Master Plan. The impact of the larger lot size on tax base (potential reduction) was discussed in comparison to the value of rural character as a property amenity (attract residents). The Commission had questions regarding current real estate demand. It is difficult to determine whether current regulations curb demand for development or if there are other considerations such as consumer preference or the economy. It was suggested it would be beneficial to research the demand for 5 acre lots and an appropriate location. At the same time, a goal should be consistency with the Master Plan and former decisions.

*Motion* to postpone consideration of the RR District until there is a demonstrated need, or as identified as a goal in the updated Master Plan by: Tabor  
Second by: Meister

Vote: Ayes: 5      Nays: 0      MOTION CARRIED

*Action Items:* Staff was directed to work with the Township attorney to correct the inconsistent language regarding nonconforming lots in the current Ordinance. Fuller will provide a map at the next meeting that illustrates areas with lots less than 5 acres and also 5 acres or more (and less than 20 acres) in existence after 1977.

Consideration – Attorney Mike Summers opinion with regard to the current Chocoday Township Zoning Ordinance provisions as to Home Occupations.

Commissioners clarified their decision from a previous meeting to make Home Occupations a permitted use. They also reviewed citizen correspondence relating to this issue that will be presented to the Board at their next meeting. The Commission decided to move on without further action.

B. Consideration - Dark Skies- Outdoor building lights

The meeting packet included information on new street lighting fixtures being used by the BLP and the 2011 Joint IDA-IES Model Lighting Ordinance. The

Commission discussed their reasoning in pursuing dark skies lighting principles. Reasons include reducing glare and maintaining safety for road traffic, and limiting light pollution.

*Motion* for Staff to review the lighting ordinance as applicable to the commercial district and to ensure that lighting can be controlled in an acceptable manner by: Sikkema  
Second by: Milton

Vote: Ayes: 5          Nays: 0          MOTION CARRIED

*Action Items:* Staff will review the current zoning ordinance and the model ordinance and prepare recommend language for the next meeting.

C. Consideration and Review - Township Master Plan, Chapters 3 & 4

The Commission discussed considerations for the Housing section of the Master Plan. They include:

- Accommodation of elderly accessory housing, perhaps in apartments above the garage. This item should be considered also in terms of enforceability.
- Accommodating diverse housing needs no matter the life cycle of the resident to ensure that existing residents don't have to leave the Township as they age.
- The perceived opportunity vs. demand for rental housing. It was suggested that Staff obtain information on current housing demand from area realtors.
- Strategies include matching zoning regulations to the housing diversity goal and also marketing or actively pursuing opportunities to attract needed housing development to the Township. This item is also tied to the availability and funding of suitable infrastructure, such as through special assessments. Adams Township in the copper country was mentioned as an example of water infrastructure improvements.
- There is a question on percentage of the aging population that wants to age in place vs. percentage who plan to move to Florida or other regions.
- The economy impacts the desire for smaller lots and homes, or for development types that don't require individual maintenance. Commissioners expressed a desire to create places for new solutions and options and to maintain flexibility in addressing needs.
- It was suggested we should consider also the needs of the people who don't attend public meetings, such as the elderly, poor, infirm, etc. Commissioner Sikkema charged others with thinking of their parents' needs.
- Options such as low rise apartments with the availability of public transit were discussed.

*Motion* to postpone the final review of Chapters 1-4 until the June meeting to allow time for new planning Staff to review and comment unless there is a compelling deadline for this to be done sooner by: Meister  
Second by: Tabor

Vote: Ayes: 5          Nays: 0          MOTION CARRIED

*Action Items:* Staff will review Chapters 1-4 and prepare modifications to present at the June meeting. Staff will research regional demand for housing types and acreage.

**VIII. NEW BUSINESS**

None

**IX. PUBLIC COMMENT**

None

**X. COMMISSIONER'S COMMENT**

Sikkema gave an update of the upcoming US-41/M-28 road project. There will be off-roadway blasting of rock on the south side of the highway past the Welcome Center on April 9. There will be short-term road closures. Starting April 23 there will be closure of the outside travel lanes for approximately 30 to 45 days. Other lane closures will continue through fall. The Harvey area will receive only resurfacing in mid to late June through August. The new bike path will be paved before the old one is removed.

**XI. DIRECTOR'S REPORT**

No report was prepared by the newly hired Planning Director. The Commission requested future reports to include enforcement actions, highlights and points of interest from the department, and the spreadsheet on the progress of zoning amendments.

**XII. INFORMATIONAL ITEMS AND CORRESPONDENCE**

Citizen Correspondence on Home Occupations – 3/19/2012

Planning and Zoning News

Marquette City Planning Commission February Meeting Minutes

**XII. ADJOURNMENT**

Mr. Milton adjourned the meeting at 9:18 p.m.

Submitted by:

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Planning Commission Secretary  
Andy Sikkema

# CHARTER TOWNSHIP OF CHOCOLAY PLANNING COMMISSION MINUTES

Monday, May 7, 2012

**I. MEETING CALLED TO ORDER BY: Kendell Milton at 7:30 p.m.**

**ROLL CALL**

*Members Present:* Mr. Kendell Milton (Chairperson) - Mr. Andy Smith (Vice Chair) - Dr. Ken Tabor - Mr. Gary Heinzelman - Mr. Eric Meister - Mr. Tom Mahaney

*Members Absent:* Mr. Andy Sikkema (Secretary)

*Staff Present:* Kelly Drake Woodward (Planning Director/Zoning Administrator)

**II. MINUTES**

A. April 2, 2012

*Motion* to approve the minutes as written by: Tabor

Second by: Heinzelman

Vote: Ayes: 5      Nays: 0      MOTION CARRIED

\*\*Note, Mr. Mahaney joined the meeting at 7:35 p.m.

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

*Motion* to approve the agenda as written by: Tabor

Second by: Heinzelman

Vote: Ayes: 6      Nays: 0      MOTION CARRIED

**IV. PUBLIC HEARINGS**

None

**V. PUBLIC COMMENT**

Mr. Tony Harry- 6369 US-41 S, MQT- Mr. Harry still wants the Planning Commission to consider opening up some County Roads to ORV/ATV use. He is starting an ORV/ATV Club for Region 5 in Marquette County. The first meeting will be 6 p.m., May 16 at the Bayou Inn Restaurant in Harvey.

**VI. PRESENTATIONS**

None

**VII. OLD BUSINESS**

A. Consideration - Proposed Text Amendment #34-12-06 (rural residential)

Staff has provided maps of all nonconforming properties less than 20 acres within the AF District, highlighting those that are 5 acres or less. Structures can still be built on nonconforming lots in the AF District as long as all setbacks can be met.



These maps illustrate the spatial pattern of non-conforming parcels in the District.

There are many parcels less than 5 acres, and they are widely scattered. This may necessitate a different strategy in addressing the inability to meet setbacks, rather than a rezoning. Those that are located adjacent to the R-1 District could be rezoned.

The Commission wants a strategy to allow people to be able to build or rebuild on these nonconforming parcels. The property owners have recourse to the ZBA if they can't meet the setbacks. This includes additional staff time, and applicant expense and time.

The ZBA requested the Planning Commission to consider rezoning some parcels (Section 17) to R-1. The decision was too preliminary at the time, and the Commission wanted a more comprehensive process for considering the rezoning, not just spot consideration.

*Motion* to postpone consideration of the RR District until there is a demonstrated need, or as identified as a goal in the updated Master Plan by: Tabor

Second by: Meister

Vote: Ayes: 6      Nays: 0      MOTION CARRIED

*Action Items:* Staff will continue to determine whether there is a current demand for more 5 acre parcels. This feedback will be obtained from realtors and through the neighborhood planning sessions.

B. Consideration - Dark Skies- Outdoor building lights

The meeting packet included a first draft of Dark Sky lighting provisions and a bulletin explaining the BUG classification system.

There was a question about the new bright blue Holiday lighting that is showing up in other areas of the U.P., and whether it would be allowed under the current ordinance. It was previously thought that this would not be allowed because that particular lighting would relate to sign lighting (advertising), where there is a provision that does not allow similar high intensity light such as strobes, lasers, etc. It was current staff opinion that our ordinance is not very clear in addressing this issue. But the purpose of the Dark Sky provisions is broader – it is meant to address energy conservation and protecting dark skies in rural areas from stray lighting. It ensures that the lighting is more focused in the area where it is needed. It also has the effect of reducing wattage and producing energy savings as property owners strategize ways to provide effective lighting while meeting the total lumen limit.

Commissioners discussed the effect of Dark Sky provisions on current businesses.

These standards would only take effect with new lighting situations, or commencement of a new or changed use requiring a zoning compliance permit.

We cannot know which current businesses would meet the standards since we don't have their lighting information.

Commissioners would like to see examples of existing businesses with lighting that meets these standards, and to see case studies from other communities that have implemented these standards to make sure there were no problems in implementation. They would like to see a test case with a local business to see if they currently meet the standards, or what they would have to do to meet the standards. They would also like to see particular fixtures in operation that meet these BUG ratings, so they can experience the visibility.

There could be a provision that if current lighting was expanded more than 25%, these provisions would apply.

*Motion* for this item to be postponed until we have more case study information, examples of compliant sites/fixtures, and to give Commissioners more time for study:

Mahaney

Second by: Tabor

Vote: Ayes: 6      Nays: 0      MOTION CARRIED

*Action Items:* Staff will try to identify a couple of local businesses with BUG compliant lighting, and identify a local business that is willing to be a case study for the calculations. Staff will also research case studies from other communities that have implemented these standards.

## **VIII. NEW BUSINESS**

### **A. Consideration - Proposed Text Amendment #34-12-01 (sign ordinance)**

Staff was directed to produce a comparison of standards in the current and proposed sign ordinances. During this process, staff identified some concerns regarding conflicting and unclear provisions that would lead to enforcement difficulties. Staff wished to make the Planning Commission aware of these findings before they were presented, as requested, to the Township Board.

The Township Board will address this existing proposed Ordinance at their next meeting, and will have the choice of approving it or sending it back to the Planning Commission for revision.

The Commission agreed to go through the conflicts/concerns as summarized and make recommendations for necessary revisions. They completed the most pressing concerns on pages 1-3 of the sign ordinance comparison. The Planning Commission wanted to alert the Township Board that they found some irregularities.

The Planning Commission had not seen the side-by-side comparison of sign ordinance standards that Tina Fuller prepared for the Township Board. They want to see this at the next meeting where this is addressed. Throughout the process, they kept getting copies of new versions of the Ordinance, but without changes tracked. They feel that some of the changes they discussed may not have been incorporated along the way.

*Motion* for this agenda item to be postponed until the next meeting when the Commissioners have the side-by-side comparison to assist with the revision process:

Mahaney

Second by: Meister

Vote: Ayes: 6

Nays: 0

MOTION CARRIED

*Action Items:* For the next meeting, distribute the previous side-by-side comparison, and incorporate the changes from this meeting by tracking changes to the 3/19/12 draft.

- B. Consideration – Implementation of neighborhood planning initiatives to assist Master Plan and Zoning Ordinance updates.

Staff wants to initiate some neighborhood planning sessions, and wants Planning Commission input on how to best accomplish this. There was agreement that the more people we can get involved, the better. Commissioners asked for an update on the success of the community open house which was held April 12. Twenty-one people were in attendance with short notice. Staff will identify neighborhood champions to help organize the efforts. Ideally, sessions will be held in the neighborhood. Residents will be asked for their opinions on regulations and issues of concern in their neighborhood, and they will be able to meet some of their neighbors. Timing, location, and advertising methods were discussed. We can send letters to property owners based on location, and we can advertise in the Mining Journal. It would be beneficial to hold the meetings in the neighborhoods, because some people are more comfortable with this. We may start with the Silver Creek neighborhood to introduce the community garden and encourage participation. We need help in breaking determining the neighborhood divisions. There was a suggestion that we check with the PD for typical divisions.

**IX. PUBLIC COMMENT**

None

**X. COMMISSIONER'S COMMENT**

Smith heard a rumor about a potential bike path on Lakewood Lane. There was a question about whether there is enough right-of-way to create a path.

There is a new business at Timbercrest – the Rock Shop – and a new physical therapist in the shopping mall.

Mahaney had concerns about safety in the bike tunnel where it exits east and there is a sharp north turn. When people are coming south down the hill to turn west into the tunnel, they have close calls with people coming out through the tunnel because there is no mirror to help with the blind spot. Mahaney asked if the Township can mount a mirror there so people from different directions can see each other. Or can the Township paint a striped line temporarily at this location to divide the path to help alleviate conflicts?

**XI. DIRECTOR'S REPORT**

Highlights from the April Board report, addressing the public open house, community garden, CABA meeting, 70+ customer calls including 25% neighbor complaints, 3 chicken inquiries, concerns with dumping of inert materials from highway construction or removal of sand, and attendance at the MTA legal update session.

**XII. INFORMATIONAL ITEMS AND CORRESPONDENCE**

Planning and Zoning News  
Marquette City Planning Commission March and April Meeting Minutes

**XIII. ADJOURNMENT**

Mr. Milton adjourned the meeting at 10 p.m.

Submitted by:

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Planning Commission Secretary  
Andy Sikkema

# CHARTER TOWNSHIP OF CHOCOLAY PLANNING COMMISSION MINUTES

Monday, June 4, 2012

**I. MEETING CALLED TO ORDER BY:** Kendell Milton at 7:30 p.m.

**ROLL CALL**

*Members Present:* Mr. Kendell Milton (Chairperson) - Mr. Andy Smith (Vice Chair) - Mr. Andy Sikkema (Secretary) - Mr. Gary Heinzelman - Mr. Tom Mahaney - Mr. Eric Meister

*Members Absent:* Dr. Ken Tabor

*Staff Present:* Kelly Drake Woodward (Planning Director/Zoning Administrator)

**II. MINUTES**

A. May 7, 2012

*Motion* to approve the minutes as written by: Milton

Second by: Meister

Vote: Ayes: 6      Nays: 0      MOTION CARRIED

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

*Motion* to approve the agenda as written by: Heinzelman

Second by: Sikkema

Vote: Ayes: 6      Nays: 0      MOTION CARRIED

**IV. PUBLIC HEARINGS**

None

**V. PUBLIC COMMENT**

Peter Ollila of 633 Lakewood Lane had concerns regarding the home occupation ordinance. He feels the current language is very open-ended and unenforceable, and lets people do most anything at their home. He thinks the notification requirements should be expanded from notifying residents within 300 feet of the proposed home occupation (per State requirements) to notifying residents within 2,000-3,000 feet or half a mile because of the size of some Township lots. He also noted there have been significant changes to the ordinance language, and feels another public hearing is needed on the current language.

Dick Arnold, 312 County Road 545, spoke about the need to revisit the junk vehicle ordinance because it allows parking for an unlimited time of three unlicensed vehicles in the front yard if screened. They don't have to belong to the owner. Also, the ordinance puts no limit on the number or size of trailers. This means a licensed non-commercial semi-trailer or two or three could be parked in someone's yard. Commissioner Milton noted that the Planning Commission plans to review this ordinance this year.

## VI. PRESENTATIONS

None

## VII. OLD BUSINESS

### A. Consideration - Proposed Text Amendment #34-12-04 (Home Occupations)

Staff provided copies of the March 5 ordinance provisions as sent to the County Planning Commission, and copies of their response. Staff also provided a Memo detailing the changes that were made to the proposed text amendment after the February 6 public hearing. The Marquette County Planning Commission reviewed the language that was amended on March 5. They noted that the proposed amendment expands the opportunity for residents to earn income through one or more home occupation(s) without having to pay a conditional use permit fee, and results in reduced staff processing time. They also noted that requiring a conditional use permit for particular uses with potential negative impacts secures an opportunity for public comment and review. The Commission voted unanimously in support of the proposed text amendment as amended by the Chocolay Township Planning Commission on March 5, 2012, pending a public hearing on the proposed language. They requested the opportunity to review the language again if it is further amended.

For reference purposes, staff provided a review of home occupation standards from surrounding jurisdictions, and created suggested language including a purpose and intent statement and tiered system of review based on activity and potential impacts.

There was a discussion on the proposed amendment. Commissioners wanted more specific information regarding Board concerns and the level of agreement on specific concerns. Commissioners did not remember approving the “sale and manufacture of vehicles” as a conditional use as noted in item #9. The intent is that uses resulting in exterior evidence be permitted only as a conditional use. A decision was made to permit repair and assembly and work related to motor vehicles and their parts as a conditional use, but to prohibit the sale, storage, or manufacture of motor vehicles as a home occupation. Commissioners discussed the potential conduct of a home occupation in a portable or mobile structure, but made no modification to address this possibility under the provisions for “location”. Commissioners agreed to add a purpose statement clarifying that home occupations are for “residents” as a way of addressing (not permitting) “employees”. Commissioners also discussed adding a provision for periodic inspection with reasonable notice to ensure compliance of home occupations that are approved by conditional use permit or that receive a complaint. There was a question about quantifying “reasonable” notice for inspection, and a suggestion was made

to consult the Township attorney on this issue.

*Motion* to revise the home occupation ordinance as discussed and to bring it to the next meeting for final review by: Mahaney  
Second by: Meister

Vote: Ayes: 6      Nays: 0      MOTION CARRIED

*Action Items:* Staff will submit the text to the Township attorney for review and comment regarding the inspection provision. A public hearing will be planned for the August meeting pending final review at the July meeting.

B. Consideration - Proposed Text Amendment #34-12-01 (Signs)

The meeting packet included the suggested revisions of the ordinance language put together by the Planning Director (with a companion document referencing changes) and reference materials (former version with tracked changes, revisions from the May planning commission meeting, and the comparison table of current, proposed, and model provisions). It was noted that no substantive changes were made to numbers relating to area, dimensions, etc. Changes were noted to definitions, measurement standards, formatting, and the resolution of conflicting or inconsistent provisions. There were also some new provisions for consideration.

Commissioners discussed the definition of flashing (a provision which was noted as important to the Board). The idea was that when someone looked down the road they should not see items changing more often than every 20 seconds; therefore Commissioners agreed to define “flashing” as something with less than 20 seconds between changes.

The commissioners then discussed the definition of “mural”, and agreed this would be a sign only if related by language or logo (deleted pictorial depiction) to the advertising of any product or service or identification of any business. Another similar new provision addresses one-way vision decals and their measurement. It was decided that only the portion of the window decal related by language or logo to the identification of the business is counted toward total permitted sign area. The commission’s intent is not to count the decorative portion of the sign.

Measurement of monument signs was discussed due to a proposed change in measurement standards. The change in measurement was approved as allowing for more consistency, but the maximum permitted height of ground signs was increased to reduce nonconformities with existing signs.

The commission discussed the administration of temporary signs, and whether a fee or permit is really necessary. The commissioners do not

want the process to be complicated or time consuming or cost prohibitive. They considered that banners are usually meant to promote seasonal products or services, and that they are not meant to be permanent. Previously they considered charging no fee for banners unless they were displayed longer than 30 days. However, the Supervisor was concerned that this would be hard to monitor if no permit is required, so he felt that even if no fee is charged, there should be a registration process. The Commission changed the provision to require no permit or fee unless the temporary sign is displayed longer than 90 days. The justification for the 90 days is to accommodate seasonal promotions. There was a lengthy discussion on real estate signs and portable signs. The intent is for portable signs to be used as a valuable tool to allow some timely promotion of special events, but a requirement was added that the signs be removed from the public space during non-business or non-event hours.

The Commission reviewed the changes through page 13 of the proposed document, ending their review at the provisions for wall signs. There was a question about the provisions of Table 2 computing wall sign area. Issues to be resolved include measuring distance of the sign from the road or from the adjacent property line (right-of-way), and whether the allowed percentage of the wall sign should be based on the building façade measurement or the building frontage measurement. The table will have to be revised – using percentages as proposed, permitted area should be based on the area of the building façade; percentages will have to be revised if the permitted area is based on the length of the building frontage. The Commission considered a maximum sign size limit as well, while noting that it is reasonable to allow larger signs on buildings with larger setbacks from the road.

*Motion* to end the discussion and continue on page 13 of the document at the next meeting by: Smith

Second by: Meister

Vote: Ayes: 6      Nays: 0      MOTION CARRIED

*Action Items:* Staff will document the discussed changes and create revisions to the section on wall signs to prepare the document for review at the next meeting.

#### **VIII. NEW BUSINESS**

None

#### **IX. PUBLIC COMMENT**

None



**X. COMMISSIONER'S COMMENT**

None

**XI. DIRECTOR'S REPORT**

The Director asked about next items of importance. Signs will be revisited first at the next meeting, along with the revised Home Occupation provisions. Smith suggested we further discuss the AF District in relation to chicken permitting in residential areas, and Meister mentioned consideration of the Right-to-Farm Act, etc. Commissioners stressed the importance of protecting residential neighborhoods from nuisances. They would like to be made aware when there are a number of citizen complaints or concerns on a particular topic that may need to be addressed.

There will be further consideration of the Dark Sky provisions at some future meeting. Commissioners would like to put the junk car ordinance as a top priority. They also mentioned being tasked with the identification of other areas for industrial uses.

Commissioners inquired about the status of the Silver Creek Recreation Area property purchase (for access) and Lowe's grant for a playground. Planning Director will check on this.

Commissioners discussed the status of the ORV/ATV issue and asked about the proper procedures for the item to be placed before the commission. The Planning Director said that she encouraged Mr. Harry to create a detailed plan for consideration and public input. Commissioners said they could envision the interest group pursuing a survey of adjacent landowners (although it is important the language should be clear and unbiased), and providing information on what surrounding Townships and Counties are doing on this issue. Commissioners were unclear about whether the interest group was asking them to opt into the County ordinance or to create a separate ordinance. There were questions about where and on what kinds of roads this activity is appropriate. Mr. Harry's group is just getting organized now but he plans to revisit the issue with the Commission.

**XII. INFORMATIONAL ITEMS AND CORRESPONDENCE**

None

**XIII. ADJOURNMENT**

Mr. Milton adjourned the meeting at 10:27 p.m.

Submitted by:

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Planning Commission Secretary  
Andy Sikkema

# CHARTER TOWNSHIP OF CHOCOLAY PLANNING COMMISSION MINUTES

Monday, July 2, 2012

**I. MEETING CALLED TO ORDER BY: Andy Smith at 7:34 p.m.**

**ROLL CALL**

*Members Present:* Mr. Andy Smith (Vice Chair), Mr. Andy Sikkema (Secretary), Mr. Gary Heinzelman, Mr. Eric Meister, Dr. Ken Tabor

*Members Absent:* Mr. Kendell Milton (Chairperson), Mr. Tom Mahaney

*Staff Present:* Kelly Drake Woodward (Planning Director/Zoning Administrator)

**II. MINUTES**

A. June 4, 2012

*Motion* to approve the minutes as written by: Meister

Second by: Heinzelman

Vote: Ayes: 5      Nays: 0      MOTION CARRIED

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

*Motion* to approve the agenda as written by: Tabor

Second by: Heinzelman

Vote: Ayes: 5      Nays: 0      MOTION CARRIED

**IV. PUBLIC HEARINGS**

None

**V. PUBLIC COMMENT**

Mark Maki, 370 Karen Road, spoke about concerns regarding the sign ordinance amendments. He feels it is difficult to follow the changes. He is concerned that it seems the amendments allow greater sign area (about 2.5 times larger in commercial districts and 4 times larger in industrial districts). He wants an explanation for the maximum sign area proposed because he thinks it's a drastic change from what is currently permitted. He wonders what happened to the provision that said no sign could be larger than 100 square feet. What is the maximum sign area permitted for one sign? He thinks some signs could be larger, but this may be too much.

Cheryl Sherony, 1781 M-28 East, is troubled by various conflicts with her neighbor including free ranging dogs, no trespassing signs placed on posts and trees visible from her windows, and regulations regarding fences. She doesn't want the neighbors to plant evergreen trees to obstruct her property and her view of the lake, so she wants more information on the vegetative fences provisions of the ordinance relating to height limit and view obstruction. She

wants a proposed amendment so that “No Trespassing” signs can’t be posted in view of residential windows. She thinks regulations should address the location, height, and size of “No Trespassing” signs. She would like her concerns addressed in writing. Woodward discussed current and proposed sign standards for “No Trespassing” signs and the requirements of the Recreational Trespass Act.

Mark Maki, 370 Karen Road, spoke again, and addressed the size of “No Trespassing” signs. He said they are not usually larger than 2 square feet, so he is concerned about the proposed amendment allowing a maximum area of 6 square feet for Security and Warning Signs.

Debra Mulcahey, 633 Lakewood Lane, pointed out that the regulations of the Recreational Trespass Act are not applicable in residential areas. Of greater concern to her is the Barbieri property near the Welcome Center that has posted large yellow placards (4’ x 6’) saying “police enforced”, along with other 18” x 2.5’ signs trying to keep people off the public beach which is not allowed per a Michigan Supreme Court decision. She says that is also a violation of the zoning ordinance because there are signs everywhere. Mulcahey is mainly concerned with the changes to the Home Occupations amendment. To stay abreast of the matter, she has had conversations with zoning staff, citizens, County planners, and Planning Commission members. She cannot comment on the most recent change because there was no link on the website. She feels the proposed language will bring about a devaluation of her property and maybe constitute a “Taking”. She asked, “if we allow commercial business activity in residential areas, why don’t we allow residential activity in business areas?” She is opposed to the proposed changes because she thinks they are contradictory, open-ended, and unenforceable. She thinks the 300 foot notification (per State requirement) fails to let people know what’s going on because of the 150 foot lot sizes in the area. She thinks the notification area should be increased to allow more property owners to know what is going on. She claimed that the Marquette County Planning Commission said the proposed language needed to come back to them for review because of the notice issues (*\*note that Marquette County Planning Commission approved the proposed language pending the need for a public hearing on revised language*). She thinks the Planning Commission should review the December 2008 Circuit Court decision involving Chocolay Township, and also look at Anderson’s American Law of Zoning regarding commercial uses in residential areas. She wants to know why the Home Occupation amendment is a priority when the blight and junk car issues are more important.

Mark Maki, 370 Karen Road, spoke again and said he wants to see the application for text amendment for the home occupation and sign amendments. He thinks the process would be more precise if it started with an application detailing what is proposed to change and why.

## VI. PRESENTATIONS

None

## VII. OLD BUSINESS

### A. Consideration - Proposed Text Amendment #34-12-04 (Home Occupations)

Staff provided a memo detailing the progress of the proposed amendment. The packet included the current version of the amendment with changes made at the June 4 meeting, the March 5 version which went to the County Planning Commission for review, and the current ordinance standards. In May, the County Planning Commission voted unanimously in support of the proposed text amendment as proposed by the Chocolay Township Planning Commission on March 5, 2012, pending a public hearing on the proposed language. They requested the opportunity to review the language again if it is further amended.

There was a discussion on the proposed amendment. Sikkema suggested there is a need to use consistent terms in the Ordinance, so changes were made in referring to “dwellings” and “accessory buildings”. Discussion ensued to clarify the size of home occupations.

Smith was concerned that the enforcement provisions of the Zoning Ordinance need to be clear to ensure due process. He said Marquette Township has a very thorough process. Woodward said the Ordinance needs a more thorough administrative section. Sikkema said it's important to ensure consistency in enforcement. Staff was asked to review enforcement provisions of other local jurisdictions and suggest ideas so the Planning Commission can determine whether an amendment to the administrative section of the Ordinance is needed.

Sikkema wants to clarify that a conditional use permit is permitted only after review by the Planning Commission and issuance of the permit by the Township Board (\*note that the approval process as detailed in the definition of Conditional Use on page 11 is not the same as the approval process detailed in Section 16 page 111). He doesn't like to restate provisions in the Ordinance, but he thinks the operational impacts are what most people are concerned with, and he wants people to understand the vision behind the conditional use approval provisions in Section 16. Meister suggested a revision which is a clarification that the conditional use approval process includes a public hearing.

The members feel that the home occupation provisions are written well and will protect the public interest, but they noted that no Ordinance will prevent people from violating its provisions. They feel it is not fair to

allow repairs on a lawn mower at a residence, but not an alternator – the operational impacts are what are important, and this amendment is written to address this. A problem with one resident’s operations should not prejudice against all similar operations. It is an enforcement issue. Meister pointed out that home occupations are not new, they have been allowed all along. The intent is to allow people to register with no cost on things that are low impact.

*Motion* to hold a public hearing on the revised language of the proposed home occupation amendment #34-12-04 at the next meeting: Tabor  
Second by: Heinzelman

Vote: Ayes: 5      Nays: 0      MOTION CARRIED

*Action Items:* Staff will review enforcement provisions of other local jurisdictions and suggest ideas for more clear guidelines and procedures so the Planning Commission can determine if another amendment is needed.

B. Consideration - Proposed Text Amendment #34-12-01 (Signs)

The meeting packet included the Planning Commission’s revisions of the ordinance language from the June 4 meeting, Planning Director’s suggested revisions for consideration, and reference materials.

Woodward’s suggested changes were noted and discussed as follows.

The permitting of off-premise signs was discussed, including whether to keep the current language permitting off-premise signs in the Commercial district, provided that the off-premise sign area is counted toward the total sign area permitted on the premises. The Highway Advertising Act and other legal issues involving billboards that become nonconforming due to regulation were considered. It was concluded that the intent is to permit no new billboards other than those already approved by MDOT. So billboards should be prohibited except for those with current permits at the time of the amendment. Provisions will have to allow for the off-premise tourist directional signs as permitted elsewhere in the Ordinance.

There was considerable discussion on Church or School Changeable Information signs and electronic message signs in residential neighborhoods. It was supposed that it would be undesirable to have signs that frequently change in these areas. It was decided that manual changeable copy signs for schools/churches would not require a permit provided they met the requirements, but electronic changeable copy signs would require a permit.

The Planning Commission also discussed signage for Home Occupations and other primary permitted uses such as home day care. Two options that were considered include posting the business name on the residential name/address signs that are exempt from permits, and permitting wall signs on residences. It was concluded that home occupation signs should not be permitted so as to protect the residential character of the neighborhood against the proliferation of signs.

The Planning Commission discussed Security and Warning sign standards in relation to public comment.

The Planning Commission noted a clarification of the standards for banners to limit the total area for all banners on a premise. The size limit for portable signs was discussed.

Signs permitted in the AF district (including electronic message signs) were discussed, and in particular, those for farms.

The Planning Commission felt that it would be helpful to have a joint meeting with the Township Board on the Home Occupation and Sign amendments to explain the discussion, history, and rationale behind the chosen provisions. This could be either a special meeting or agenda item at a Board meeting.

*Motion* to end the discussion and continue on page 13 of the document at the next meeting by: Smith

Second by: Meister

Vote: Ayes: 5      Nays: 0      MOTION CARRIED

*Action Items:* Staff will document the discussed changes and prepare the document for (hopefully) final revisions at the next meeting.

#### **VIII. NEW BUSINESS**

Postponed at this time. There was a recommendation that staff propose an amendment to address the biggest problems in the zoning ordinance (things that currently create problems). A zoning ordinance re-draft may be upcoming.

#### **IX. PUBLIC COMMENT**

None

#### **X. COMMISSIONER'S COMMENT**

The Planning Commission needs to develop a list of priority action to address. Board input would be helpful. Smith wants an update of the Lowe's playground grant application. Responsibility for mowing the US-41/M-28 right-of-way was discussed due to aesthetic concerns about the lack of mowing.

**XI. DIRECTOR'S REPORT**

None

**XII. INFORMATIONAL ITEMS AND CORRESPONDENCE**

None

**XIII. ADJOURNMENT**

Smith adjourned the meeting at 10:44 p.m.

Submitted by:

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Planning Commission Secretary  
Andy Sikkema

# CHARTER TOWNSHIP OF CHOCOLAY PLANNING COMMISSION MINUTES

Monday, August 6, 2012

**I. MEETING CALLED TO ORDER BY: Kendell Milton at 7:30 p.m.**

**ROLL CALL**

*Members Present:* Mr. Kendell Milton (Chair), Mr. Andy Smith (Vice Chair), Mr. Andy Sikkema (Secretary), Mr. Gary Heinzelman, Mr. Tom Mahaney, Mr. Eric Meister

*Members Absent:* Dr. Ken Tabor

*Staff Present:* Kelly Drake Woodward (Planning Director/Zoning Administrator)

**II. MINUTES**

A. July 2, 2012

*Motion* to approve the minutes as written by: Heinzelman

Second by: Sikkema

Vote: Ayes: 6      Nays: 0      MOTION CARRIED

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

*Motion* to approve the agenda as written by: Sikkema

Second by: Heinzelman

Vote: Ayes: 6      Nays: 0      MOTION CARRIED

**IV. PUBLIC HEARINGS**

None

**V. PUBLIC COMMENT**

\*Note, the tape recorder was not started until partway through the public comment. A portion of the following comments are transcribed from notes submitted electronically by Deborah Mulcahey upon Woodward's request.

Deborah Mulcahey, 633 Lakewood Lane, presented comments in regard to the proposed Home Occupation text amendment. Her comments of July 2, 2012, to this Board stand. Her comments this evening are based on her review of the draft proposed text to amend the ordinance pertaining to home occupations as posted on the Chocolay Township website, and as sent to her late Friday afternoon by Woodward. They do not address the administrative changes proposed in the meeting packet.

Her comments relate to promoting public health, safety, and welfare. Mulcahey feels the majority of the comments she has shared with this Board since February 2012 have fallen on deaf ears. Per Andy Smith's comments from the



previous meeting, she is glad to see that the Board finally appears to understand the need for consistent administrative provisions and enforcement.

She does not feel that enforcement should involve inspections via notices to the property owner. Inspection should be accomplished by a “knock and talk” method employed pursuant to the *Administrative Procedures Act*. Also, the Planning Commission did not address the issue of improved notice to the community through an increase in the required notification distance, which currently requires notification of property owners and occupants within 300’ of the proposed home occupation.

She does not agree that the recent alteration in size provisions represents a slight revision. She gave an example of a single story home of 1,200 square feet with a 24’ x 24’ garage of 576 square feet. The existing provisions limit the home occupation to 25% of the gross area of any one story, structure, or dwelling used for the home occupation. Per the current provisions, a home occupation located in a garage of 576 square feet would be permitted a maximum size of 144 square feet. Last month’s revision reads, “A home occupation shall not occupy more than 25% of the floor area of the dwelling, or 25% of the total floor area of all dwellings and accessory buildings on the parcel”. So a home occupation in the garage could now be 25% of 1,776 square feet, or 444 square feet. This is a 208% increase over present standards. This is especially a concern in that the current ordinance does not prohibit property owners from adding multiple accessory structures to their parcel. In some districts, the only restriction is that the perimeter of each accessory building cannot exceed the perimeter of the principal structure, and height is limited. This would enable a property owner to add additional accessory buildings to accommodate additional square footage for the home occupation.

Mulcahey feels it is good that the planning commission has included operational impacts dealing with hazardous substances and materials since the majority of the residents in Chocolay Township use ground water for their drinking water. But she feels the proposed home occupation provisions are actually contrary to this goal by allowing “any type of repair, assembly, or any other work related to motor vehicles and their parts” by conditional use permit involving a public hearing. This work requires the use of hazardous substances in greater quantities than a typical residence. The storage and disposal of the products associated with such businesses necessitates compliance with federal statutes and rules as administered by the Environmental Protection Agency. These materials could include antifreeze, mineral spirits, de-greasers, and carburetor or brake cleaners. It is one thing for a residential property owner to have these waste products in their home and another for businesses to be storing and disposing of these waste products within our residential community. Mulcahey says that according to EPA investigator Hare, any property where a business is being conducted that has a floor drain will now be regulated as an

underground disposal injection facility. She feels that a classification of underground disposal injection sites throughout Chocolay Township would have a negative impact on the entire community.

Also, the State of Michigan regulates mechanics and facilities per the *Motor Vehicle Service and Repair Act 300 of 1974* that requires that any licensed mechanic repair vehicles in a licensed regulated facility. It appears that the Planning Commission is suggesting that the citizens of Chocolay Township who want to work on motor vehicles either do so in violation of the State of Michigan statutes or be unlicensed mechanics, which is also a violation of State law.

Finally, to simplify the process for all who might be involved, including Chocolay Township staff, a home owner, or a neighbor, Chocolay Township should require a license and not a permit, and have home occupations apply prior to commencing the business. Mulcahey says the permitting process requires proceeding according to the *Administrative Procedures Act*. A license can be given and taken away, it's not the same process as getting a driver's license, it's much simpler than that. They should get a license before they open the business, instead of asking forgiveness later.

There were no further comments so public comment was closed.

## **VI. PRESENTATIONS**

A. Presentation – The Commission reviewed the draft presentation for the joint August 22 Township Board and Planning Commission meeting on the proposed home occupation and sign amendments. Commissioners agreed a presentation would be helpful. They submitted comments, additions, and changes as follows.

Sikkema wants to add references to the national standards that were used as a basis for the proposed provisions. Mahaney asked if comments were obtained from the business owners as noted in the timeline. Meister noted some comments were received from Holiday's corporate office. The previous planner, Thum, was thought to have discussed the provisions with CABA and Cook Sign. Woodward will search through the files for previously submitted comments. There have been no recent comments received. A public educational meeting may be needed before the public hearing. Education may also be needed for new members of the Township Board if the amendments are approved after November.

Sikkema noted that the Board of Trustees was also involved in initiating the text amendment for signs, noting concerns over nonconforming signs and lack of enforcement (Holiday EMS, Lankeneland, NMU Golf Course). Particularly, they discussed signs that seemed to be nonconforming to current standards, perhaps indicating difficulty in interpretation. Also there were changes in the sign industry that were not addressed by current

standards (projecting signs, electronic message signs).

Challenges with the current sign provisions were discussed, including difficulty in calculating permitted sign area based on property frontage which is not always easily determined. This also does not relate permitted area to the scale of the building, and is thus more arbitrary and sometimes not equitable. Smith noted that several signs were approved through the variance process (Family Dollar, Shaw's, Citgo, McDonalds), and therefore noncompliant with the current ordinance. He felt that a business should not have to go through the variance process to get a sign that was reasonable. Meister agreed that the standards should reflect what is reasonable so that a variance is not necessary. Mahaney and Sikkema said that standards should be based on scientific research, and should reference national standards and reflect common sense.

Woodward noted current provisions that are hard to administer or to enforce, such as those for multi-tenant buildings, vehicle signs, political signs, and interior signs. She also noted concerns that billboard standards are not in accord with State standards, and nonconforming standards may lead to court challenges. Current nonconforming standards also encourage lack of maintenance to retain nonconforming status. The current standards also do not address electronic message signs, projecting signs, and other customary sign types. There is a lack of detail in applicability, permitting, maintenance, appeals, and enforcement provisions.

In addressing goals for the new provisions, the commission noted they should be organized, more clear, and user-friendly. To make the standards more clear, the Planning Commission decided to base them on national standards that are backed by research to support more informed and less arbitrary decisions. Improvements were also based on input from sign companies who identified difficulties with current ordinance provisions (engineering requirements) and provided guidance in the national standards. Sikkema hopes to create a more professional sign appearance with modernized and up-to-date standards. It was noted that new standards should improve corridor safety by promoting signs of the appropriate size for motorist readability, clearly denoting driveways for safety in locating businesses, and permitting less distractions such as flashing or animated signs. One example is the combined sign for the shopping center across the street, which is larger than current ordinance standards would permit but still is not readable by motorists at that highway speed. The commission wants the ordinance to also reflect what is enforceable.

The new standards reflect changes to sign measurement and permitted area. Current standards allocate a total sign area (for all sign types) based on length of property frontage. The new proposed sign standards separately allocate area for freestanding signs based on highway speed and

setback, and area for wall signs based on façade area and setback. Woodward presented a revised chart for freestanding sign area, which simplifies the former chart based on national standards by consolidating some speed zones (to reflect conditions in Chocoy) and reducing the permitted area. It was clarified that applicants would not be allowed to transfer unused sign area from the permitted freestanding sign calculation to permitted wall sign area. These allocations are separate. Woodward also suggested an increase in sign area for freestanding signs that are setback more than 40 feet. The Commission noted that setback measurement should be from the edge of the travel lane as marked, not the road edge (edge of the pavement). They want it noted in the presentation that the proposed sign area is less than the suggested national standard. They added a provision to limit the additional sign area granted for freestanding signs with greater setbacks to a maximum increase of 40%.

Smith noted corrections to the sign inventory findings based on his physical measurements. He measured Citgo at approximately 100 sq ft (5 ft x 20 ft), Shaw's 135 sq ft (7.5 ft x 18 ft), Family Dollar 120 sq ft (10 ft x 12 ft), Mr. Movies 120 sq ft with the roof, Holiday 117 sq ft (75 ft from the white line), and Marquette Meats 144 sq ft (8 ft x 18 ft – 90 ft setback from the white line). Almost every existing monument sign was found to be above 12 ft in height which is the limit in the current sign ordinance.

Woodward presented three business case studies comparing permitted sign area per both current and proposed standards. Under the current ordinance, Family Dollar would be permitted a total sign area (all sign types) of 263 sq ft plus 12 ft additional wall sign area per the enlargement factor, for a total sign allowance of 275 sq ft. Per the new provisions, they would be permitted a freestanding sign of 120 sq ft, and walls signs of 210 sq ft, or a total of 330 sq ft. This is an increase of 20% over current standards.

Citgo would be permitted a total sign area (all sign types) of 124 sq ft, which they currently exceed by at least 110 sq ft (total sign area recorded as 234 sq ft). Per the new provisions, they would be allocated 120 sq ft for the freestanding sign and 151 sq ft for the wall sign, making both existing signs conforming. This would be a total permitted area of 271 sq ft, compared to their current approved nonconforming allocation of 234 sq ft, an increase of 16%.

Under the current ordinance, Snyder's would be permitted a total sign area (all sign types) of 150 sq ft plus an enlargement factor of 30% or 22.5 sq ft for the wall sign, for a total sign allowance of 172.5 sq ft. Per the new provisions, they would be permitted a freestanding sign of 120 sq ft, and wall signs of 339 sq ft, or a total of 459 sq ft. This is an increase of 166% over current standards.

Smith estimated that at least 80% of all Township signs would be nonconforming to current standards in some way.

Meister wondered if there should be a maximum limit on the area of wall signs. We could reduce potential sign area by increasing the setback range for the first category of wall signs (15% of façade area), for example, “zero to 100 ft” could be changed to “zero to 200 ft”, meaning more signs would be allocated at the 15% level. The purpose of this method is that the sign area be in scale with the building. The maximum proposed allocation is 25% of the area of the building façade for buildings setback over 301 feet. The sign area will also be limited by economic factors (what they can afford to spend on signage).

The presentation also highlights temporary signs that are meant to accommodate seasonal promotions. The new standards would not require temporary signs to be included in total permitted sign area, but a maximum size is stated. Woodward noted the Supervisor’s concern that if permits are not required for temporary signs, the Zoning Administrator would not know how long the signs were on display (enforcement difficulty). The commission did not feel it was necessary for businesses to take the time to get a permit for a temporary promotion, they feel this could be on the honor system. Also promotions would be over and signs removed in many cases before enforcement action would make a difference. The need for enforcement would become evident when the sign topic becomes unseasonable. The goal is to address temporary banners that are displayed too long and become deteriorated. The goal is not to generate additional income for the Township.

Woodward added a provision to electronic message signs so that the sign change must be accomplished in one second or less to avoid animation effects. Sikkema wondered if we used national standards for the brightness, and Woodward answered “yes”.

Woodward explained the provisions for nonconforming signs. Smith noted that in a previous draft, all nonconforming signs had to be removed with initiation of the site plan review process. This is a trigger in the newly proposed provisions.

The Commission also reviewed the presentation for Home Occupation revisions. Sikkema said the project was initiated because the lady wanting to make potholders in her home could not afford the \$250 home occupation fee, and the Planning Commission wanted to make the process less costly and time consuming for home businesses with minor impacts. There was a text amendment application for home occupations detailing the reason for the proposed change. The fee is meant to mitigate the costs of the public process.

The Commission wanted to be forwarded a copy of Deborah Mulcahey's comments.

## VII. OLD BUSINESS

### A. Consideration – Proposed Text Amendment #34-12-01 Signs

The meeting packet included a memo detailing discussion items, complete up-to-date draft provisions, some comparison tables of proposed sign area chart changes, and current sign provisions.

New provisions include measurement standards for illuminance. It was noted the definition of "nit" might need to be removed if we are using only footcandles. Meister asked if the Holiday sign would pass the proposed footcandle standard. Woodward said she couldn't determine that without either testing or being provided with the appropriate information. Woodward noted that she changed the standard to be based on footcandles because the nit gun was much more expensive than a footcandle meter and less readily available. Sikkema said that MDOT has a footcandle meter we might be able to borrow. Woodward based the proposed illuminance standards on a study report to the International Sign Association (ISA) by the Illuminating Engineering Society of North America (IESNA). This study provides formulas relating sign luminance (as measured by Nits or Candelas), sign area, viewer distance, and illuminance (as measured by footcandles) produced at a viewer's eyes. The standards were also in agreement with a publication by the ISA called "Electronic Message Display Brightness Guide". The ISA commissioned Dr. Ian Lewin of Lighting Sciences, Inc. to develop brightness criteria for on-premise electronic displays, and he based his recommendations on the IESNA's well-established standards pertaining to light trespass, IES Publication TM-11-00. The suggested standard controls the level of illuminance over ambient light level (programmed to vary according to ambient light levels). The current ordinance does not have illuminance or luminance standards for electronic message signs. Woodward picked a level consistent with the lighting zone chosen by the former Planning Director Jennifer Thum. These standards are proposed to apply only to electronic message signs. Other sign illumination is designed to be controlled by shielded fixtures, lighting angle, and minimal wattage. Bright colored lighting would be prohibited on all signs except as regulated as part of an electronic message sign. Smith will get Holiday's input on their current sign brightness levels and how this ordinance would impact their current practices. Woodward clarified that canopy lights would be controlled by the dark sky provisions. Woodward said she will send the provisions to Cook Sign, the attorney, and the County for input.

Draft page 9, "Church or School Manual Changeable Copy Signs",

Woodward noted the Highway Advertising Act's standards permitting new off-premise signs for service clubs and nonprofits provided the signs do not exceed 8 square feet. Page 11 has a note that off-premise signs are prohibited except those lawfully erected per the Highway Advertising Act or other sections of this Ordinance. Sikkema noted that MDOT will permit new billboards in the future, because applicants will either buy one from someone else or the legislature may uncap the limitation. The commission decided to ban any new off-premise signs with the following exceptions:

1. New off-premise signs falling under the exemption for service clubs and religious organizations as permitted by the Highway Advertising Act of 1972; and
2. Those off-premise signs lawfully erected and maintained under the Highway Advertising Act at the time of the adoption of this provision (date); and
3. Off-premise signs as otherwise permitted by this Ordinance.

Abandoned signs are also prohibited. Page 14, Meister had a question about municipal properties signs. The recreation park sign provision is still relevant to private parks such as Lankeneland, but the heading should delete mention of signs permitted in the "Municipal Properties District" because they are covered by the exemption for municipal signs. Sikkema reviewed the definition of "Park" in the Ordinance, and doesn't think it is consistent with the one he worked on and thought was approved. He thinks this is the old definition that was amended. Woodward said she will research this (2009). Sikkema said typically people think of parks as being publicly controlled. Lankeneland was approved as a park by conditional use permit, and thus they were permitted a sign 60 sq ft in area, consistent with proposed sign provisions (H.1.d). Since parks are listed as a conditional use in the AF district (and H.1.d applies), we should eliminate provision H.2.a, and move H.2.b up to H.1.e. The Lankeneland sign was permitted an area over 60 sq ft initially due to the enlargement factor for setback. This sign might possibly be made nonconforming with the new provisions for the AF district, but the sign would be able to be maintained subject to the nonconforming provisions. Woodward will research the text amendment for parks and Lankeneland's conditional use permit.

The commission discussed signs for the residential districts and made no changes to what was proposed. Smith wanted to know the area of the sign for the mobile home park on Silver Creek and for Ewing Pines Subdivision, because they are nice and appropriate signs. Woodward said she will measure them as a reference point. The current ordinance permits an area of 20 sq ft, and the commission debated whether this size was appropriate going forward. There was a question about whether the Vista View sign was nonconforming (too large).

The commission reiterated the proposed changes to sign area calculations for freestanding signs as discussed during the presentation (maximum sign area increase in relation to setback is not to exceed 40%). There was a note that the signs could get large if you don't count the structural supports and base in sign area. Woodward noted she needed a definition for travel lane (defined as the white line on the edge of the road). Signs for shopping centers and properties with multiple entrances were discussed for clarification. "Shopping Center" may need to be defined as a multi-tenant property.

The commission discussed the provisions for wall signs. It was noted that if the building fronts two roads, they would be permitted wall sign area for each façade.

Meister had a question about the need to limit the distance a sign can project over a sidewalk or walkway. This is more applicable in a downtown situation. It was decided to leave the provision unchanged.

It was clarified that canopy signs as defined in the amendment are regulated separately from gas station canopy signs, and are limited to a maximum area which is counted toward the total permitted area for wall signs.

Woodward recommended not including luminance standards for all sign types because of the enforcement difficulty. Sikkema prefers regulation of electronic message signs by luminance or nits, because this is related to actual sign brightness, not perceived brightness. He suggests the applicant be required to provide the information on the brightness level which is related to safety (and we have to accept their provided information). Smith noted Holiday had their sign brightness level measured in Nits. Smith suggested we ask Holiday and Cook Sign about their opinion on luminance vs illuminance standards before the joint meeting. Woodward noted you can convert footcandle measurements to candelas/nits per a formula in the referenced study.

No changes were made to the proposed nonconforming standards that are based on the model sign provisions. This concluded discussion of the proposed sign amendment.

*Action Items:*

Woodward will solicit the comments on illuminance vs luminance from the suggested parties, will research the amendment for parks and the Lankenland conditional use permit, will measure the referenced signs, and make the proposed changes to the sign amendment.



B. Consideration - Proposed Text Amendment #34-12-04 Home Occupations

The packet included the current and proposed home occupation provisions.

There was a discussion on the proposed amendment. The Commission discussed the proposed change in permitted size for a home occupation. It was initially 25% of the area of the dwelling, but was then changed to permit 25% of the dwelling or 25% of the area of all dwellings and accessory buildings. With the clarification, some commissioners were concerned that total permitted area for home occupations could become excessive. In proposing the change, Sikkema had wanted to accommodate some home occupations that require space for bulky items or tools, such as cabinet makers or potters. However, this could be a concern when multiple accessory structures are permitted. Mahaney was concerned about protecting the character of residential areas, and keeping the size to a minimum. Others were more concerned with operational impacts and not with the size, especially when it's all contained indoors. But they didn't want to encourage people to build extra buildings to accommodate a business. The purpose is not to allow structures that are solely for a business use and not for residential use. Dick Arnold interjected comments about keeping residential areas in character and having businesses in the commercial areas. He noted that planers are very noisy, for example, and would disturb residents. He also felt that the conditional use designation was essential to permit public input. Meister countered that the noise impacts are covered under the operational impact provisions. He doesn't want to keep someone from making a living out of their home if they aren't bothering anyone. He also noted that the Township has permitted home occupations for years, and this is not a new idea. The Commission decided that **all** home occupations on a parcel shall not occupy more than 25% of the area of **any one structure**. They discussed potential issues with enforcement. The applicant would state in their application how much space would be dedicated to the home occupation, but there may be no follow-up inspection to ensure compliance unless there was a complaint, or it was a home occupation approved through a conditional use permit. Then the Zoning Administrator could perform periodic inspection as specified in the proposed amendment. Sikkema noted that if you clamp down enforcement too much, people will just do the home occupation without telling you or going through the process to get a permit. Some people will be using the same space in their home that they use for everyday living, such as their kitchen. The goal is to make it so people do register by keeping the provisions to what is reasonable and fair. These provisions will at least make it hard for the extreme cases that could have occupational impacts or change the character of the

neighborhood.

The commissioners discussed the notification distance mentioned by Mulcahey. Heinzelman suggested that an increase in the notification distance would be reasonable considering the size of the properties in the Township. Sikkema noted that this provision doesn't limit the ability for anyone to give comment, it just changes who gets notified directly. Woodward noted it would increase the number of letters that are sent out. Sikkema noted this had been discussed before, but never changed above the minimum required. Smith thought the County had modified their requirements for notice of rezoning. The commissioners felt that a text amendment for notification requirements would require a separate application and review/approval process.

*Motion* to submit an application for a text amendment to increase the notification distance for public hearings (as contained in Section 1.6):

Meister

Second by: Mahaney

Vote: Ayes: 6      Nays: 0      MOTION CARRIED

The commissioners then discussed licensing vs permitting. Sikkema noted that people cannot suppose that the granting of a zoning compliance permit exempts them from getting other required permits or licenses that are outside the scope of land use regulation. Woodward noted that per Section 1.5 of the zoning ordinance, "Whenever regulations or restrictions imposed by this Ordinance are either more or less restrictive than regulations or restrictions imposed by any governmental authority through legislation, rule, or regulation, the regulations, rules, or restrictions which are more restrictive or which impose higher standards or requirements shall govern. Regardless of any other provision of this Ordinance, no land shall be used and no structure erected or maintained in violation of any state or federal pollution control or environmental protection law or regulation." This was felt to settle this question.

This concludes discussion of the home occupation text amendment.

*Action Items:* Staff will complete the text amendment application per the motion above. Staff will make the discussed changes to the home occupation amendment to bring to the joint meeting on August 22. The above referenced Section 1.5 will be noted in the presentation.

## VIII. NEW BUSINESS

- A. Consideration – The commission considered Woodward's draft of more comprehensive and enforceable administrative provisions. It is her opinion we could greatly improve administrative provisions in the zoning ordinance. Specially noted provisions relating to conditional uses include

8.2.B (type of permits), 8.3.B.3 (submission requirements), 8.4.B (notice procedures), 8.5.E (Tier 2 Review), 8.7.I (conditional and special use permit details), and 8.11 (violations and penalties). She felt there is not much of a controversial nature in administrative provisions that would delay adoption.

Smith related his experience with clear and fair provisions in Marquette Township. Sikkema wondered about the extent of planned revisions, and whether an entire ordinance rewrite is needed even though the ordinance was rewritten 5 years ago. He is concerned about their other commitments and priorities and the length of the meetings. Meister agreed they can't do everything at once, and they need to proceed in a step-by-step manner and finish each thing before adding more things. Sikkema noted that no one seems to like the ordinance they have which has pieced changes. He said it is not common to rewrite ordinances one piece at a time. Woodward noted her ability and experience in writing a complete, high-quality ordinance. Sikkema noted that if Woodward spends time writing the ordinance, then enforcement would suffer, and there are complaints about enforcement. Sikkema noted that if they want to rewrite the Ordinance, then the Township may want to go through the process of hiring someone. The commission wants an update on complaints. Woodward noted that this information is included in the monthly Board updates, and she will transmit it to the Planning Commission. She noted that enforcement is not being neglected. Sikkema noted they are working like crazy but not getting anything complete. Woodward noted this is not the norm to spend this much time on an amendment, and less time would be spent on enforcement if the ordinance was written more clearly and comprehensively. Smith wants to have one agenda item per meeting if possible, because he thinks that's one reason the sign amendment has taken so long. Sikkema wants consistency in the ordinance changes. He feels this is basically a 1977 Ordinance that has been changed in a piecemeal manner and it may make more sense to start over with a new ordinance. Woodward noted all the work on sign provisions would not be wasted because the provisions would be worked into a new ordinance. Sikkema noted that if Woodward was directed to write a new ordinance, then she would need assistance with other duties, or alternately, someone could be chosen to write a new ordinance under her direction.

**IX. PUBLIC COMMENT**

None

**X. COMMISSIONER'S COMMENT**

None

**XI. DIRECTOR'S REPORT**

None

**XII. INFORMATIONAL ITEMS AND CORRESPONDENCE**

None

**XIII. ADJOURNMENT**

Smith adjourned the meeting at 11:15 p.m.

Submitted by:

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Planning Commission Secretary  
Andy Sikkema

August 22, 2012

A Special meeting of the Chocolay Township Board and Chocolay Township Planning Commission was held on Wednesday, August 22, 2012 at the Chocolay Township Office, 5010 U S. 41 South, Marquette, MI. Township Clerk Engle called the Township Board meeting to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE

ROLL CALL

TOWNSHIP BOARD

PRESENT: John Greenberg, Max Engle, Mark Maki, Susan Carlson, John Trudeau, Ken Tabor.

ABSENT: Greg Seppanen.

PLANNING COMMISSION

PRESENT: Kendell Milton, Andy Smith, Andy Sikkema, Eric Meister, Tom Mahaney, Ken Tabor.

ABSENT: Gary Heinzelman.

STAFF PRESENT: Steve Lawry, Kelly Drake Woodward.

Planning Commission Chair Milton called the Planning Commission meeting to order at 7:01 p.m.

ELECTION OF CHAIR

Maki moved Greenburg seconded to elect Engle as Chair for the meeting.

AYES: 6

NAYS: 0

MOTION CARRIED.

AGENDA ADDITIONS/DELETIONS.

Maki recommended two additions to the agenda, including accommodating Don Britton if he arrives, regarding the route of the Iron Ore Heritage Trail, and consolidating all agenda items dealing with Home Occupations and Signs separately. Woodward said she thought the Iron Ore Heritage Trail item was to be included on the next Planning Commission agenda, and agreed she would like to separate the two presentations to be shown in New Business along with their respective topic. The Agenda would first include public comment on non-agenda items, then (having no public hearings or unfinished business) proceed to New Business of Home Occupations Amendment (presentation, public comment, discussion) and then to New Business Sign Amendment (presentation, public comment, discussion), and then to Upcoming Priorities (public comment and discussion), and finally public comment and adjournment. Greenberg also proposed a one hour time limit on the Home Occupation discussion to leave time for other agenda items.

Maki moved Greenberg seconded to accept the agenda as corrected.

AYES: 6

NAYS: 0

MOTION CARRIED.

PUBLIC COMMENT

None. Public comment closed.

PUBLIC HEARINGS

None.

UNFINISHED BUSINESS

None.

## NEW BUSINESS

### A. Home Occupation Amendment #34-12-04

#### Presentation

Woodward gave a brief presentation about the initiation and progress of the Home Occupation amendment, and a summary of the proposed regulatory change. The project began with a concern that the conditional use process and fee would discourage some home occupations, or at least the Township's knowledge of some home occupations. The goal is to create a two-tiered system that makes it easier for low impact home occupations. The current provisions require a conditional use permit for all home occupations, and prohibit the repair, assembly, or any other work related to motor vehicles and their parts among other uses. Only one home occupation is allowed per parcel. The proposed amendment has a two-tier system that permits some home occupations as permitted uses, and requires a conditional use permit for others (such as the repair, assembly, or any other work related to motor vehicles and their parts). The proposed provisions allow more than one home occupation per parcel (but still limit permitted area). The new provisions are supported by periodic inspections and ordinance provisions that elevate other governmental laws, rules, and restrictions.

#### Public Comment

Deborah Mulcahey of 633 Lakewood Lane said she has been dealing with the issue of home occupations since 2008 and feels the proposed ordinance does not protect the public or the public water supply. She cited the March 2012 attorney comments regarding the "substantial liberalization" of home occupation provisions that could weaken enforcement. She feels the permitting process is too cumbersome for revoking permits, and recommends a licensing process. She reiterated that she would like to see an increased notification distance for public hearings above the state requirement of 300 feet. Putting notices in the Mining Journal is expensive, and the \$250 fee may not cover it. She doesn't feel the Township should have to subsidize the cost of home occupations. She recommends considering use of e-mail and phone communications for notifications. She feels the proposed home occupation provisions do not conform with the Chocolay Township Master Plan, will result in larger home occupations, and do not adequately define operational impacts such as increased traffic. She agrees the prohibited use list is not all inclusive. She clarified that the Motor Vehicle Act does not repress work on motor vehicle parts. Mulcahey said that in 2009 there was a cease and desist order to shut down a transmission repair business in her neighborhood. She had previously mentioned the issue of hazardous materials (mineral spirits) to Woodward, who commented that anyone can have these types of materials in their home. Mulcahey says this is different than having the large quantity associated with businesses. She thinks it is short-sighted to expect other agencies to help with enforcement of hazardous substance because they don't have the necessary staff to enforce their regulations. She said Chocolay Township should not create issues for other regulatory agencies. She thinks Chocolay needs to make regulations easier to enforce. She doesn't want to live in a business district. Mulcahey claimed that in March Smith proposed the idea of permitting motor vehicle repair as a conditional use. She questioned Smith's motives in introducing ideas for the changes that she thinks are very different from what we have. She wants to protect well water and quality of life in the Township.

Maki asked Mulcahey for clarification on the traffic provision, and the court order for abatement in the case she mentioned. He also questioned her assertion that Smith proposed the home occupation amendment. She clarified that she meant that Smith proposed a provision to allow auto repair as a conditional use instead of a prohibited use at the March 2012 meeting. Mulcahey said that the court deemed the transmission repair operation a nuisance per se. Mulcahey and other residents claim that the transmission repair operation has not closed down, although there have been no deliveries in the last two months. They can't say what is going on in the garage. Mulcahey claims that Township staff feels their hands are tied in enforcement – the previous planner was not allowed on the property. She claims the Township can knock and ask to inspect the property pursuant to the court order. Police and the prosecutor say there is no probable cause to get a search warrant for a knock-and-talk inspection

such as Mulcahey has proposed. Mulcahey says you don't need the documentation that someone is doing something illegal if you have the documentation of the activity that is being brought to the place. She claims there has been continued violation since 2009, and the Township felt they had no proof. She said this has created enforcement difficulties for staff.

Lorraine Leidholdt of 196 Brookside Drive said there is an illegal operation on South Big Creek Road behind a fence, which is an auto repair home occupation run by a non-resident of Chocolay Township. She doesn't want to live in a business district, and thinks the ordinance changes will allow more businesses to crop up in neighborhoods.

Peter Ollila of 633 Lakewood Lane said that he discussed the rationale and enforceability of the Home Occupation provisions with Sikkema, who said that ordinance design and enforcement are two separate issues. Ollila feels you can't separate the two, and should not have regulations if you can't enforce them. He feels the scope of these provisions has been broadened beyond the original intent, and industrial equipment and chemicals do not belong in residential neighborhoods. He wants to scale the provisions back to allow only "mom and pop" operations and get away from uses with impacts that are not enforceable. He noted a circular argument in that the attorney claims that probable cause (criminal standard) must be shown for entry, but you can't get probable cause without entry.

Stephanie Gencheff of 597 Lakewood Lane and her husband are also opposed to the Home Occupation amendment. Public comment was closed for this item.

#### Discussion Home Occupation #34-12-04

Sikkema noted that this issue came up because a person wanted to report a home occupation, and felt they wouldn't have enough income from the home occupation to cover the required conditional use fee of \$250. It was deemed unnecessary to require a conditional use permit for all home occupations. There is also a concern that there are many unreported home occupations. It was thought that a simplified process would be less likely to deter notification of the existence of home occupations. The original intent of the amendment was to make home occupations a permitted use. During discussion, the commission addressed the issue of non-resident employees, and came back to the belief that home occupations should be for residents only. The commission questioned the relevance of the prohibitions against all types of vehicle repair because they do not all have the same impacts. The commission hoped to create a fair permitting system that discriminates based on operational impacts and not type of operation. For example, someone doing repairs on starters may not create any adverse impacts and could earn income in retirement. The commission questioned the logic behind allowing lawn mower repair but not repair of automobile parts. The conditional use process includes a possibility for additional special requirements based on anticipated impacts.

Sikkema explained that the planning commission felt it was not fair or logical to limit home occupations to 25% of the area of one story, because this would give an unfair advantage to someone living in a ranch home with the same square footage as a two-story home but a larger footprint. They also discussed home occupations in accessory buildings, and felt they did not want to encourage people to build accessory structures strictly for home occupations. After listening to public comment, the planning commission decided to limit the size of home occupations to 25% of the area of one structure.

Sikkema also noted that the Planning Commission didn't feel the limit of one home occupation per parcel was fair if both husband and wife want a home occupation, such as a home office and craft business. Meister noted that they strengthened enforcement with inspection provisions. Sikkema said that under the current provisions, there are probably very few conditional use permits and many unreported operations. They want to make it easier for residents to report legitimate home occupations, and easier for the Township to know what is going on.

Mahaney commented on the home occupation provisions of neighboring jurisdictions as provided in the packet. He said they are all different with few commonalities except the intent to allow home occupations without impacts. He said it's a complicated issue that has been discussed quite a bit, and there is not one specific way to do it. It's important to listen to public feedback.

Sikkema addressed the sensitivity to auto repair as a home occupation and said the concerns are probably well justified. But he didn't feel you should write an ordinance based on one case that wasn't enforced. The ordinance should be reasonable for the community, and then it should be enforced. You shouldn't fail to write an ordinance because you don't think it will be enforced.

Carlson asked Lawry about Marquette Township's provisions. He stated that he could only speak to the City of Marquette's provisions. The City revised their home occupation provisions a couple of times and are currently rewriting the entire zoning ordinance. He can't speak in detail because the project is being done by a consultant who has not provided the Planning Commission with anything for review. He does not think home occupations are a big issue in Marquette, and suspects the majority are not registered even though they are supposed to.

Maki commented on enforcement related to contractor yards that led to a previous amendment and the two-tiered system in the 2007 home occupation language. Under that system, a home occupation that met all the standards was permitted, and if not, then could only be permitted by conditional use permit. He feels the permits that were issued and termed out are not being put through the re-application process or being enforced. Some of the proposed language mirrors the 2007 language with the exception of the motor vehicle repair. He noted the original prohibitions came from uses with anticipated problems with impacts or enforcement. He said that residents don't usually want to speak out against their neighbor because it creates problems with relationships. He thinks we should structure a lower fee and go back to a two-tier system. Tabor noted that he thinks this is what the Planning Commission has proposed. Engle noted that the \$250 cost for the permit doesn't cover the entire cost of the conditional use process, so he doesn't think it is justified to lower the fee.

Greenberg gave an example of his own home business that consists of a desk, file cabinet, and telephone. He went to the ZBA for permission for a home occupation and sign, but it was simple back then. He likes the Planning Commission's thoughts and thinks the two-tier approach makes sense. He said the fee should be set so as not to discourage registration but to cover expenses. Sikkema said that currently all home occupations must go through the conditional use process and pay the \$250 fee, and there is no guarantee they will get their permit. The \$250 probably does not even cover the notification costs. This is why a change is needed.

Engle suggested we move the "Permitting and Approval" section from (D) to (B). He also noted a text change that "1) ALL PERSONS conducting a home occupation . . ." instead of "ANY PERSON conducting a home occupation". He suggested making C.5.b (any type of repair, assembly, etc) as a separate section C.6 labeled "Conditional Use". Item C.7 would then include "Prohibited Uses".

Maki wants to get rid of the provision in "Permitting and Approval" that encourages people to start a home occupation without having first gotten the relevant permit. He thinks they should not be able to come in 30 days after they start a home occupation for approval. They should get a Zoning Compliance Permit or Conditional Use Permit as appropriate and then start. Sikkema said that some people experiment with these activities before really committing to a home occupation. He doesn't want people to feel they are committing a violation. Maki noted there would be no penalty if people didn't come in for the permit first – they would just be informed they needed a permit.

Trudeau said that most people want to try something first before they get serious about a home business. Then if they get serious, they can get a permit. But they might register first. He said that you wouldn't even know that many home businesses are there and they don't have permits. Sikkema noted



that when the home occupation gets to the point that it creates operational impacts, it should be required to move to the commercial area, but this process would allow them to get a start first before making that commitment.

Greenberg asked if we could say that no permit is required for certain home occupations, and conditional use permits are required only for the ones with operational impacts? Trudeau asked if the proposed language will take care of all the uses that should be prohibited due to operational impacts. Sikkema said that if the neighborhood knows about the home occupation, then it is probably in violation of proposed operational impact standards. Maki wanted to know if there have been any conditional use permits granted in the last 10 years. Smith remembered a sawmill on Willow Road. Maki wondered why the change was made in 2008 to make all home occupations conditional uses. Carlson noted that the Governor is trying to eliminate licensing for barbers so they can do this from their home, and this should be considered. Meister noted that home occupations with operational impacts would not be granted the conditional use permit. Mulcahey disputed the effectiveness of depending on this approach.

Woodward proposed not mentioning specific uses since a list could never be all-inclusive, but clarifying levels of operational impacts as the basis for tiered approval. As an alternative, she proposed a language change that would broaden the definition of uses that could be considered through the conditional use process based on anticipated operational impacts. She suggested a Zoning Compliance Permit (currently \$25) for Tier 1 approval, and the Conditional Use Permit (currently \$250) for Tier 2 approval. She suggested that when operational impacts are questionable, the Planning Commission could determine the proper permit required. Milton said the Zoning Administrator should have the authority to determine the appropriate permit required. Sikkema suggested this needs to be more clear. Trudeau asked for clarification of whether Tier 1 would be a registration process or a Zoning Compliance Permit approval process?

Maki asked what would be the trigger for the second tier approval – for example, would there be different size requirements for Tier 1 and Tier 2 permits? Sikkema thought the conditions would be the same – he noted this question made things get complicated in earlier discussions. Mahaney noted the amendment currently lists the conditions as applicable to ALL home occupations. Sikkema discussed an example of someone creating a sawmill on 20 acres where there is noise but no real impacts because there are no nearby neighbors. Neighbor input would be taken in the public hearing for the conditional use. Smith and Maki wanted to know what kinds of home occupations have been approved under the current ordinance. Maki wants to include the conditional use standards from Section 16.1 in the Home Occupation section to make it clear that all those standards also have to be met for the conditional use to be approved. It was generally agreed that there may be other uses besides auto repair that could be approved through the conditional use process, so the language should reflect this. Woodward reiterated her opinion that it is problematic to try to list specific uses into one of three categories – permitted by right (administrative approval), conditional use permit (planning commission approval), or not permitted. It should not be determined by type of use, but by the operational impact. Sikkema asked if the Board wants to see the prohibition against all automobile repair as a home occupation?

Maki wants separate language for the two tiers. Smith said that if a home occupation couldn't meet all the required conditions, then they could try for approval through the conditional use permit process that would explore the actual operational impacts. In this case, Maki thinks there should be different conditions for the conditional use than the permitted use. Woodward said you can have specific conditions that are different for each tier, and conditional use provisions that apply only to the second tier. She reminded participants of former versions of the amendment that followed this method. Sikkema thinks this much detail in regulation is problematic, and thinks some decisions can be left to the discretion of the Planning Commission after public comment and within reason. Greenberg appreciates the Planning Commission and the job they do. He is concerned that the conditional use is approved by a public body that is not elected, since the Board does not have final approval. So he likes to see black and white provisions. Woodward thinks it is important to strengthen the inspection and administrative

provisions, and suggested that the more black and white the provisions can be, the more defensible they are.

Maki feels we should still deal with whether motor vehicle repair would be allowed in residential areas. He doesn't want to see this, but doesn't mind if someone works on parts (although it was noted that a transmission is a part). He reiterated that we shouldn't encourage problems between neighbors by depending on a discretionary process. Sikkema asked if full vehicle repair should be prohibited, with parts repair potentially permitted through the conditional use process. Smith believes that if the operational impacts had been enforced, then the previously mentioned auto parts repair facility wouldn't have been approved or would have been found in violation. Sikkema suggested that certain conditions such as size, location, and exterior appearance could be varied in the conditional use approval process while allowing no relaxation of operational impact provisions. However, it was noted that the noisy sawmill on the large acreage that wasn't bothering anyone would not have been approved under such a system.

There was agreement on the following:

- The Board doesn't necessarily want a ban on all auto repair uses, but they want to prohibit the repair of whole vehicles while allowing some flexibility for parts repair as long as there are no operational impacts.
- The Board would allow other conditional uses with some variance. For example, it might be appropriate to allow a sign, outdoor storage, additional space, etc. depending on the situation.

Then there was a question about whole tractor or boat repair? Sikkema said that's why the Planning Commission made vehicle repair a conditional use. As Mahaney said, when you get into planning for every possible scenario, you could spend a whole year on it.

Maki made a motion that the proposed home occupation amendment go back to a two-tier system similar to the 2007 language, retain current prohibited use language (3 items), require an administrative permit for Home Occupation 1 (meeting the conditions from 2007) and Conditional Use permit for other home occupations (Home Occupation 2), keep current size provisions, require a conditional use permit for a sign, and let the Board address the conditional use fees for home occupations. Support by Carlson. During discussion Trudeau said the motion was too confusing, and should be structured as a recommendation. Maki withdrew the motion, Carlson withdrew, and the above provisions were structured as a recommendation to the Planning Commission.

## B. Sign Amendment #34-12-01

### Presentation

Woodward gave a brief presentation about the initiation and progress of the Sign amendment, and a summary of the proposed regulatory change. In researching the minutes from meetings and other documents, it appeared the sign ordinance amendment began with a question regarding LED digital signs that staff was asked to research. Planning Commissioners said that the Board of Trustees were concerned about a number of nonconforming signs which might either indicate a lack of enforcement or difficulties with interpretation. Maki disputed the information about nonconforming signs and lack of enforcement (except with the Holiday Sign which the attorney said couldn't be enforced because of lack of ordinance clarity). Maki didn't remember any other problems with signs being mentioned in discussion. Others mentioned discussion on political signs, banners, temporary signs, Lankenland signs, etc.

Woodward outlined challenges including administrative difficulties, inequitable provisions, and lack of clarity. The Planning Commission was concerned that many signs were approved through a variance and are therefore nonconforming. The commission argues that standards should reflect what is

reasonable so that variances are not needed. Some current provisions are hard to enforce, or are in conflict with other regulations. The nonconforming policy needs to be updated to reflect recent case law that has determined that amortization or removal of nonconforming uses is not allowed in regulations adopted in accord with the Michigan Zoning Enabling Act. There are many omissions in the current provisions, which, if added, would provide clarity.

Goals for new standards include a user-friendly format, increased clarity, provisions to accommodate new sign technology, greater equity, and more defensibility supported by a reliance on model codes and national standards for guidance. Improved corridor safety achieved through appropriate sign size and less visual distraction was noted as a high priority.

Woodward explained the changes in sign area provisions. The current provisions prescribe a total sign allowance (all sign types) based on lot frontage length. The proposed standards have separate area allowances by sign type. Freestanding sign area is related to the speed of the adjoining roadway and the setback, therefore creating a more consistent standard with a relationship to public safety and motorist readability. Additional sign area is allowed for signs with greater setback, up to a maximum percent increase. The currently proposed freestanding sign area reflects a significant reduction from that recommended by the United States Sign Council studies. Wall sign area is related to building façade area, resulting in signs that are more in scale with the buildings. This method mirrors USSC standards.

Woodward presented findings from the sign inventory (area measurements compiled by Andy Smith). It was shown that several Township signs exceed current maximum sign area of 100 square feet. This information was disputed by Maki, as he thinks these signs would have been put up in violation if there were no variances.

Woodward presented three case studies for Family Dollar, Citgo, and Snyder's that compare allowed sign area per current vs. proposed standards, based on information on frontage length, setback, and façade area computed from Township records (retained site plan and permit records). Family Dollar is currently permitted about 275 sq ft with enlargement factor; proposed standards would permit a 120 sq ft freestanding sign and 210 sq ft wall sign for a total of 330 sq ft, or a 20% increase over current standards. Citgo is currently permitted 124 sq ft, but actually has 234 sq ft (exceeding current standards by at least 110 sq ft). Proposed standards would permit a 120 sq ft freestanding sign and 151 sq ft wall sign for a total of 271 sq ft, which is 16% over what they currently have, but would make the existing signs conforming. Snyder's is currently permitted 173 sq ft; proposed standards would permit a 120 sq ft freestanding sign and 339 sq ft wall sign for a total of 459 sq ft, which is 166% over current standards. Maki disputed these findings and computations, and doesn't believe that many signs are nonconforming. Woodward said the Township does not maintain an up-to-date list of nonconforming signs.

Current and proposed standards for temporary signs (specifically banner signs) and electronic message signs were presented. Currently temporary signs are authorized for not more than 2 months at a time with a permit, and are only allowed for public direction or events, with no other specifications. The proposed standards would permit temporary signs for 90 days without a permit to accommodate seasonal promotions. The area of temporary signs would not be counted toward total permitted area but there are size restrictions. Banner size is limited as a percent of the area of any one building façade, and by total square footage allowed per parcel. Electronic message signs are proposed to have a size limit of 40 sq ft, a static message that doesn't change more often than once in 20 seconds, and an auto adjust mechanism to regulate brightness levels in relation to ambient light conditions. Nonconforming standards were discussed, with Woodward noting recommended changes for abandonment and amortization per her research based on the Michigan Sign Guidebook.

### Public Comment

Deborah Mulcahey, 633 Lakewood Lane, said that she wants to address the fence issue for those who live on Lake Superior. She thinks current provisions that designate the road side as the “front” for purposes of fence placement, and do not address the lake side as the “front” of the property, create problems for neighbors with widely varied setbacks. She can put any fence she wants between the Lake and her house (even on the dunes) but she can’t put any kind of fence she wants between her house and the road, even though, with the offset setbacks, her neighbors can have privacy fences extending along the property line nearer to the road than she can.

Regarding signs, Mulcahey wondered why the area of warning signs is being increased to six square feet, and why there are increases for residential sign area. She commented on provisions that she thinks favor political and real estate signs but make garage sale signs suspect. She wants the sign ordinance to be enforced on the Barbieri property adjacent to the Welcome Center. She says the property owner is unlawfully displaying 4’ x 6’ and 2’ x 3’ signs saying “private beach” and “no trespassing”, and is harassing people who walk on the beach. She says the Township was involved in removing illegal signs from the DNR property, but they need new language to control this because there is no prohibition against people walking on the beach in Michigan. She is concerned that the traveling public visiting the Welcome Center see these uninviting signs. She encourages the Planning Commission to keep sign regulation simple so people know what is allowed.

Public comment on signs was closed at 9:23 pm.

### Discussion

Smith asked for clarification from Mulcahey on the fence issue. She gave a demonstration.

Maki appreciated having information presented with clarity, even though he disputes the facts. He said that the ZBA allows increases to sign area with no basis, citing the Moyle development as an example. He knows we need to change the LED signs, but he said that for 32 years when he administered the Ordinance there was no problem with signs. He thinks the signs in the Township that were approved under the previous ordinance look nice. He doesn’t hear people saying they need more signs. He agreed the effort started with LED signs, but then went on and on for three years – it gets crazy. He commented on Summer’s comments of a previous draft that mention County ordinances. He questioned the recent proposed decrease of freestanding sign area from what was formerly based on national standards (which he thought were too large). Meister said they reduced the numbers because they thought a reduction would be more appropriate for the Township.

Trudeau wants to make the Ordinance less subjective so the ZBA has more guidance (more objective criteria). He said the changes the planning commission has made are based on rational discussion.

Meister said that Maki had asked them to review the sign area numbers because he thought they were excessive, so they initiated a discussion and agreed to back off the numbers. Maki said that was good, but questioned whether the discussion shows up in the minutes. Woodward offered the minutes of the August 6 meeting that were written with more detail per Maki’s request. Smith said it was not arbitrary; it was all discussed in a good 3 year effort. Planning Commission members offered more information about the input and reasoning that are the basis for the provisions.

Maki is happy about the sign size reductions, but wants more reductions, although he objected to the ever-changing document. Sikkema said that’s the point of the joint meeting – to try to make adjustments based on Board input, but it’s been confusing to figure out what the Board wants to see and to determine how broad the consensus is across the entire Board. He said the Planning Commission has had very long discussions in their efforts to make standards more objective by basing them on national standards or reasoning based on what is applicable to the Township. Meister wants to learn

more about Board objections so it can be addressed. Smith noted Woodward's influence and efforts in getting rid of problems and making the amendment read better.

Maki questioned why the size limits were changed – he said it's not based on case studies that say we need bigger sizes. He doesn't want the purpose to be making existing signs (that may be violations) conforming. Greenberg asked what Maki wants to see.

Trudeau asked if the speed limits might change, affecting the provisions. Sikkema said it is not likely and it's maxed out at 55 mph anyway.

Maki again said he doesn't agree with all the facts and will have to look at them. He said he should not have to continually be the staff and work through all these ordinances, but he will do some more homework on the last two meeting minutes. To get to specifics, he doesn't understand why residential signs are proposed to change from 2 square feet to 6 or 8 square feet, representing a large percentage increase. Woodward clarified that Maki was referring to residential name/address signs whose area is proposed to be based on speed of the adjoining roadway. Meister clarified that people can't see a 2 square foot residential sign on M-28. Maki said he suggested a larger sign area on M-28 ten or twenty years ago for the purpose of addressing homes with greater setbacks. He agrees with larger signs on M-28 due to the higher speed limit, but thinks 3 or 4 square feet is sufficient, and 16 square feet (4' x 4') is too much for name and address. Engle noted it's more visible for the person going 55 mph. Meister noted the signs that have camp names, and an effort to make this more equitable. Milton noted it was an effort to create criteria to control the camp signs. Maki suggested it was an effort to accommodate the maximum plus 20 percent.

Maki doesn't understand the increase in area for banners and changes in display time. He asked why give them another 80 square feet of free sign area for the summer? Tabor asked what is the problem with increasing it? Maki asked what is the reason for increasing it? Tabor said it seemed reasonable. Greenberg doesn't think banners have been a problem. He thinks it's somewhat self-regulating based on the length of the sale the businesses are promoting. Maki's opinion is that banners are not to be used for sales promotions, they are supposed to be for special events. Smith said this was all extensively discussed and the Planning Commission was in agreement. They did not randomly choose numbers. Meister related his experience in utilizing banners for promotions. His experience is that most businesses don't want to make their property look bad by leaving banners up for extended periods of time. He feels that banners are important tools for businesses, and are not a negative for the community. Mahaney said it is important to regulate the size and condition of banners. Maki objected to the display time. Greenberg asked what time period Maki suggests. Maki said he thinks one week is plenty of time for a sale. Trudeau said that the Planning Commission is composed of citizens who have determined that this regulation is appropriate and the process should move on. Carlson noted Snyder's and Ace Hardware's use of banners for promotions. Mahaney gave an example of a 90 day Scott's promotion, or 120 day DeWalt promotion for which he is sent banners for display. He said banners are an inexpensive way to advertise product. Maki doesn't object to banners, but thinks four-20 square feet banners per property is excessive. The Planning Commission discussed the typical size of banners, and that they can be displayed on multiple facades. Mahaney said Chocoy Township businesses won't go to the extreme to make their businesses look tacky, and praised the business corridor. Sikkema said businesses are important to the community, and the Planning Commission wants to show them support so they can be a part of the community. The Planning Commission reached a compromise on banner provisions. Tabor said they gained input on the typical size of promotional banners that are received by businesses. Sikkema said they also sought the input of business owners, CABA, sign companies, and the national standards. Smith pointed out that the size of banners is limited to 20 percent of building façade area. Maki stated it is good that banners can't be hung on poles, posts, vegetation, fences, etc.

Trudeau had a concern that the political sign standards need to accommodate the typical size of signs sent by national and state organizations, and urges staff to go measure them.

Maki again expressed concerns with the size of residential signs. He was told that the regulations were altered in consideration of existing conditions for residential signs (which were measured by Jennifer Thum) and what they thought was reasonable at different speeds. Maki wanted to be provided with evidence. Greenberg said many signs are not in compliance with the 2 square feet limit. Sikkema said no one is complaining about the signs that are out there, so why would we write an ordinance that makes them nonconforming? Again, the Planning Commission all agreed on numbers they thought were reasonable. Maki objected to the fact that the “reasonable” numbers keep changing. Engle said more information was available now than before on what is reasonable, based on standards no one ever looked at before, and the Planning Commission even chose reduced numbers from those standards based on what was right for the Township. Engle said this draft is much more readable than any others, with much better definitions. Maki extended appreciation to Woodward. Sikkema said the Planning Commission did their due diligence with careful consideration. Thum, Woodward, and the Planning Commission found issues and kept fine tuning. He really wants to know what the issue is so that adjustments can be made.

Tabor thinks we are there with this version of the amendment. Maki has learned things that make him feel a little bit better, but still feels that a change should be based on evidence. He feels better about banners; although he still thinks you should get a permit for banners because how else can you count the days? Maki doesn't think sign area should be changed just to make nonconforming signs conforming. Sikkema said that was not their method – they took examples of signs that seemed reasonable in size (as measured by Smith), and they looked at national standards. Lawry said the fire and police departments say they have problems with the size of residential address signs when responding. They want to see signs larger than 2 square feet for better visibility. Maki said he is the one who suggested this enlargement before and they agreed with him. There is especially a need for larger numbers that may not be visible on a sign that is 2 square feet.

Staff was directed to look at the Barbieri signs (on the beach next to the Welcome Center) to see if they are in violation, and to talk with the attorney to see what can be done. The Township has done a lot of work to welcome people as a tourist area, and we shouldn't allow an illegal sign to offset this. Sikkema noted that the proposed sign provisions apply only to signs visible from the public right-of-way, public facilities, public trails, and navigable waterways, which would include Lake Superior and the public beach, but some signs on private property would not be regulated. Trudeau thinks this particular sign should be addressed. Perhaps it is on public property since it is between the high water mark and the shoreline.

Maki suggested the Board write a recommendation on their desired changes to the amendment at the September meeting, based on everyone suggesting changes and collaborating. Trudeau mentioned that the Planning Commission thinks they have a finished document. Greenberg was in agreement with passing on specific comments to the Planning Commission after the next Board meeting. Sikkema asked if they are getting there. Greenberg said, “Absolutely”. Maki said they will try to quantify it and be in agreement. Sikkema said no one will get everything they want, it will take compromise. It was called a work in progress through the ages. Discussion was ended.

#### C. Planning Commission Priorities

##### Public Comment

Deborah Mulcahey, 633 Lakewood Lane, said that she would like to make the concept of “Aging in Place” a priority. Senior citizens use golf carts to get around on Lakewood Lane, and there is a safety issue. Lakewood Lane may need to be wider to accommodate walkers, bikers, and others so we don't lose senior residents.

Discussion

It was suggested that the Planning Commission give the Board a list of priorities at the September meeting, and the Board can add to the list. Items for inclusion are the junk car ordinance and private road standards. Sikkema would like to get through the ordinance issues and leave time to get back to Township planning. He mentioned a previous directive from another joint meeting to determine appropriate areas for more commercial/industrial development, and to make sure these areas are adequate for the future.

Smith asked about the Lowe's grant status. Lawry said a Lowe's grant was used for a slide at the Silver Creek Recreation Area a year ago, and picnic tables through the fire department (in the pavilion). The Township is still attempting to purchase the parcel on Silver Creek for better access to the recreation area. Some KBIC money is being put toward that purchase.

There was a discussion about the Iron Ore Heritage Trail (IOHT) route, and whether it should stay on the DNR trail or run through the business district. IOHT is talking about only including the DNR trail route. Both locations were shown on the map when the millage was passed, and the Supervisor is concerned that this should not look like a bait-and-switch situation to voters, and that the Chocolay Township voters should get a direct return on the dollars they contribute to the millage with IOHT investment in the Township trails. Sikkema thinks the Township should be part of the IOHT master planning process and have input into the route location. Woodward noted this is proposed to be on the agenda for the next Planning Commission, to work with Don Britton to determine the route, which is then advertised. Milton and others want to see the trail on the business route where it will also support the Silver Creek Recreation Area and other public access points in addition to the railroad spur. The Board is in agreement, and suggests bringing CABA in for support.

**PUBLIC COMMENT**

Wayne Dees, 512 Woodvale Drive, said he was going to hit specifics on these two ordinances, but doesn't think it's necessary. He thinks there needs to be a procedure and methodology for these public processes or the public bodies will keep spinning their wheels. This back and forth on issues is not effective or efficient and causes problems for the public who are trying to track government processes.

Meeting adjourned at 10:25 p.m.

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Max Engle, Clerk

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Greg Seppanen, Supervisor

**CHARTER TOWNSHIP OF CHOCOLAY  
PLANNING COMMISSION MINUTES**  
Monday, September 10, 2012

**I. MEETING CALLED TO ORDER BY: Andy Smith at 7:30 p.m.**

**ROLL CALL**

*Members Present:* Mr. Andy Smith (Vice Chair), Mr. Andy Sikkema (Secretary), Dr. Ken Tabor, Mr. Gary Heinzelman, Mr. Tom Mahaney, Mr. Eric Meister

*Members Absent:* Mr. Kendell Milton (Chair)

*Staff Present:* Kelly Drake Woodward (Planning Director/Zoning Administrator), Brad Johnson (Public Works Foreman)

**II. MINUTES**

A. August 6, 2012

*Motion* to approve the minutes as written by: Meister

Second by: Sikkema

Vote: Ayes: 6      Nays: 0      MOTION CARRIED

B. August 22, 2012

*Motion* to approve the minutes as written by: Sikkema

Second by: Tabor

Vote: Ayes: 6      Nays: 0      MOTION CARRIED

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

*Motion* to reverse the order of Old Business and New Business, and to approve the agenda as corrected by: Meister

Second by: Sikkema

Vote: Ayes: 6      Nays: 0      MOTION CARRIED

**IV. PUBLIC HEARINGS**

None

**V. PUBLIC COMMENT**

Deborah Mulcahey, 633 Lakewood Lane, presented comments in regard to the proposed Home Occupation text amendment, specifically the "alternatives" document as presented in the packet. She doesn't like the idea of having non-resident employees. She doesn't think it should say "REASONABLE business hours" as this is subjective. She feels that the Planning Commission would set up neighborhood bickering if enforcement depends upon having a "formal written complaint" for investigation.

She reiterated her opinion that a licensing system instead of a permitting system should be used to facilitate timelier and less costly revocation actions. She said that the permitting system has to follow provisions of the Administrative Procedures Act, and under that system a cease and desist order for a home occupation may have to be



defended in Circuit Court. She says a license could have a much simpler revocation process because it doesn't have to follow the Administrative Procedures Act.

She thinks we need a better definition for hazardous substances. She thinks there should be clarification of "motor vehicle repair". Does that mean boats and airplanes? She thinks the planning commission should consider protection of the property owner by making sure the property owner, not just the resident, signs the home occupation request. She thinks there should be no home sales for any home occupation.

Vehicle parts repair, which is proposed to go through the Tier 2 conditional use process for potential approval, requires hazardous substances, so should be a prohibited use in her opinion.

She said the Planning Commission did not address a specific number for an increase in the required notification distance for Tier 2 approvals (*the Planning Commission approved the submittal of a text amendment application to address this issue at a previous meeting*). She said the Comprehensive Plan does not envision residential areas to be used for businesses.

Dick Arnold, 312 West Branch Road, had several questions, including how the Township can enforce the home occupation ordinance without a search warrant? He doesn't want home occupations in accessory buildings because it is his impression that there is no limitation on the height or placement of such buildings (Woodward stated there are height and setback limitations in place for most accessory buildings in all Districts). He said the Township rezoned a subdivision that's been a subdivision for 30 years for farming and logging which doesn't make sense.

There were no further comments so public comment was closed.

## **VI. PRESENTATIONS**

None

## **VII. NEW BUSINESS**

- A. Consideration – Citizen request to correct spelling of Basil Road to reflect the family name of early settlers, Basal. Michael P. Basal presented a packet of information to the commission. He said he wants to correct the spelling on the sign at US-41 for "Basil" road to reflect the proper spelling "Basal". His father, Myron Basal, is the last of the 13 children from original settler George Basal. Mr. Basal read a letter from his father, excerpts follow. *Myron Basal was born in 1929 on the family farm on what is now North Big Creek Road. His father and Uncle Charlie ran the farms which were inherited from their grandfather Frederick. The family settled in the area in the late 1800's, and was considered one of the founding families. When Myron was 10 years old (1939), his father George and Uncle Charlie deeded the road, which they assisted the WPA to build, over to the Road Commission. At that time the entire road was called Basal River Road. The road was later divided with the northern portion along the section line called N. Big Creek Road, and the other portion to retain the family name of Basal. It is a common error to misspell the name like the spice. At that time, it was mis-spelled as "Basil", even at the County Register of Deeds. It is important to him that the road name be changed to reflect the family and area*

*history for his grandchildren.*

Mike Basal showed a 1960 plat map that identified property for C & H Basal and George Basal (mis-spelled), and a subsequent plat map that identifies the same property with the name spelled correctly. Greg Basal, Mike's cousin on Charlie's side, still lives on N. Big Creek Road (County Road BO). The 1930 Census documents show the families of George and Charles Basal living on Basal River Road (all spelled correctly). The family name is spelled correctly in the Township history books. His request involves changing one road sign and the various records. He spoke with staff at the Township, County Road Commission, Marquette County Resource Management (Al Feldhauser), and all said the change must originate at the Township Planning Commission. Feldhauser would help change all the appropriate records. Mike noted that his father offered to pay for the sign and also a spare sign (he requests that the others are destroyed so they don't ever go back up).

Heinzelman pointed out that on his 25 years on the police department, all records referred to the road as "Basal", spelled with an "A", so there must have been a reference that it was supposed to be spelled that way. Mike said that when he was a teenager and his uncle George lived on Basil Road, all the mailboxes for the residents on Basil Road spelled it correctly as Basal Road, even though the sign said "Basil" (self-corrected). He believes this is just a clerical error.

Meister inquired about the procedure to change the spelling. Woodward suggested that this be handled similarly to a zoning map change with a public hearing to allow resident opinion to be heard. Commissioners agreed it makes sense to hear from the non-Basal residents. Mulcahey suggested Basal use a petition to see if the people who currently live on the road agree with the change. Heinzelman said it would be more appropriate to allow all Township residents to give input should they wish to. Other people may remember this history.

*Motion* to hold a public hearing to correct the spelling of "Basil Road" to "Basal Road" at the next meeting, and to notify all residents on both Basil and N. Big Creek Road by: Sikkema

Second by: Heinzelman

Vote: Ayes: 6

Nays: 0

MOTION CARRIED

- B. Consideration – Discussion on the preferred route for the Iron Ore Heritage Trail through Chocolay Township. Don Britton, 121 Deerview Trail, Iron Ore Heritage Trail (IOHT) Board of Directors, spoke to this issue. He said he would like to see the Iron Ore Heritage Trail adopt the M-28/US-41 business loop through Chocolay Township as their trail to maintain, and leave out the section on the railroad grade from the Welcome Center to the Soo Line bridge on M-28. Smith asked if there is any reason that the IOHT authority can't adopt both routes through Chocolay Township? Britton clarified that the Authority has always envisioned the railroad grade as the spine of the trail from the Casino in Chocolay Township to Marquette, Negaunee, Ishpeming, and over to Republic. He thinks designating the business loop as the IOHT route is better for tourists, businesses, and the economy. If the bike path on the business loop gets rebuilt

with grant funds (the Township has approved the match), then it makes sense for the IOHT Authority to use that route for the designated IOHT. This is the trail that runs along the east side of US-41/M-28 from the south US-41/M-28/Cherry Creek intersection to the Welcome Center. Smith again asked for clarification on why they couldn't use both routes as part of the IOHT. Britton said he doesn't know why the IOHT Authority would want to adopt both portions because they only want to maintain the spine of the main trail. They are letting the communities do the spurs.

Mahaney asked how this would impact the snowmobile route, and if it would still follow the railroad grade. Britton said the railroad grade would have to be groomed along with part of the business loop. U.P. Central Trails would probably take care of grooming the portion that is an official snowmobile trail, or at least the M-28 business loop portion.

Britton noted that the IOHT Recreation Authority is not in agreement with his perspective. Sikkema asked for clarification of why the IOHT Recreation Authority adopted the railroad grade as the spine in the first place. He noted that the route through Ishpeming and Negaunee was chosen to highlight their assets. Britton confirmed that those routes were chosen as being more advantageous for citizens.

Supervisor Greg Seppanen, 1019 Ortman Road, spoke to the issue. He said this started because Andy Sikkema identified grant money to improve the remainder of the east business loop bike path through the Township, which has poor infrastructure and drainage problems (a portion will be resurfaced with this year's road construction project). The Township approved a match for the grant. If this route became the IOHT, the IOHT Recreation Authority would then be given control. When he approached the IOHT Authority with the idea, he expected reservations because of their current cash flow constraints with assets being diverted to the Negaunee to Marquette trail this year. However, they seemed to object to the business loop route through Chocolay based on projected maintenance costs. The discussion was delayed to give Chocolay time to survey their assets and collect public opinion about the best route. Seppanen noted that the IOHT does consist of portions with dual trails running through business districts. When the idea first came up, there was only one option for the trail location through the Township, but the possibility of the grant opens up this additional opportunity for a business loop route.

Seppanen said that the original IOHT map that Chocolay was given before the millage vote showed both trail routes, but the IOHT said that was not the official map, it was a map provided by the County. The decision needs to be made before discussion with the DNR about trail leases in the spring. Seppanen thinks the IOHT has a misconception related to projected maintenance costs. Chocolay contributes at least \$34,000 annually through the millage to support the trail. The monies collected so far are going toward acquisition and construction of the trail in other jurisdictions. The Township manager and supervisor looked at the three bridges on the railroad grade route (one over the Bayou, one over the Chocolay River, and one over M-28). One bridge deck is in bad shape, and it was

estimated that it would take around \$100,000 even to paint the railroad bridge. Seppanen said that staff analysis may show that the business loop route has lower projected maintenance costs. This route has only one bridge, which is new and won't need work for about 10 years.

Supervisor Seppanen tasked the Planning Commission with gathering the public opinion on the issue, including all the user groups. In his discussions, it was clear that the residents along the railroad grade would support a plan that would divert more snowmobiles from the trail along the railroad grade through the neighborhoods. He said that Chocolay Township citizens expect something in return for their millage contribution besides the improvements in other jurisdictions, such as consideration for the preferred location of the trail. If the Planning Commission decides to do a public hearing, the Supervisor asked them to do it in November and send it for Board review that month, because it will be a fairly new Board who should be in on the decision and the process of discussion with the IOHT Recreation Authority.

Smith asked about the IOHT Recreational Authority's opinion about snowmobiles on the trail. Britton said their goals and objectives include multi-use trails. If the railroad grade route was adopted, the IOHT would have a lease agreement with the DOT or the DNR and the IOHT would maintain the trail. Meister asked if the IOHT authority wants to adopt the railroad grade as the spine because they think the DNR would maintain it for them? Britton said that once the IOHT authority leases the trail, they have to maintain it. The IOHT uses a portion of the money from the multiple jurisdictions as match for grants (\$200 million in grants so far). Woodward asked for clarification on what the grant money is used for – only acquisition and construction? Britton said the IOHT Authority uses the Township contribution as a match for grants for acquisition, construction, and maintenance. Britton said maintenance activities include sweeping the trail and cutting the grass within three feet of the trail.

Mahaney asked if the railroad grade trail would be abandoned if the business loop is chosen as the route. Britton said that the portion of the railroad grade trail between the Welcome Center and the Soo Line bridge would still have to be used as a snowmobile trail because snowmobile traffic can only travel one-way through the business loop. This is because it is not possible for snowmobiles to cross over the highway at the Welcome Center to get to the west side of US-41 to travel in the same direction as traffic. The tunnel is not for motorized traffic. From the trail along M-28, snowmobiles can travel north through Harvey to the Welcome Center along the east side of US-41. The traffic is two-way on M-28 where the trail maintains enough separation from the highway. Britton said snowmobile tourists don't normally leave the main trail.

Meister asked if Britton would rather the IOHT authority adopt both routes, with the preferred route being the business route, or if he wants only one route designated. Britton said he'd prefer only the business loop was adopted by the IOHT with the remainder to be maintained by the DNR. Seppanen said the Township can attend to the due diligence on the maintenance costs on behalf of the Township and other interested parties.

Mahaney is concerned about maintenance of the bike path. Britton said the IOHT Recreation Authority uses millage funds for trail maintenance on whatever route they adopt. Seppanen said that the IOHT is collecting money now, but doesn't actually take over maintenance functions of the spine until next year. They currently only do maintenance on the portions of the trail that they have built and for which they have lease agreements with the State. Smith said that U.P. Central Trails spends some money currently for bridge work (about \$1,500 per year). Britton said the IOHT Recreation Authority is in a better position to ask for grants than the snowmobile club because their user group represents the entire population and not just one interest group.

*Motion* to hold a public hearing in November to take public comment on the preferred IOHT route by: Tabor  
Second by: Meister

Vote: Ayes: 6                      Nays: 0                      MOTION CARRIED

C. Consideration – Discussion on the relocation of the pavilion from the Township Hall to other Township property to make room for the fire hall, including photo presentation. Woodward showed pictures of each considered site, and of the current pavilion which is 20' by 40'. Meister inquired about frequency of use, which Johnson said may be once a year at the current location. However, the Beaver Grove pavilion gets rented about two times a month. The pavilion is rented out for parties and other events.

Johnson gave his impressions of the marina site, where his intention was to remove the two existing picnic tables and grill and put the pavilion in that area (adjacent to the larger parking area). He said this was his second preferred site due to lack of parking or opportunity for expansion of parking (kids use the field for recreation). Currently the main parking area can accommodate a maximum of 5 trucks with trailers, and secondary parking area can accommodate 2-3 other vehicles without trailers. Current marina users include boaters, kayakers, and fishermen who like the site because it's free to launch. If there was more parking, this would be staff's number one pick for a relocation site.

Lion's Field does not have a lot of room, and most of the site is sand. There is not much parking or opportunity for parking. There is not an ideal site already prepared on which the pavilion would fit and be easily accessible. The Kawbawgam Pocket Park is not well used, and would probably not attract use to the pavilion. There is already a pavilion at Beaver Grove.

Mahaney suggested it would be best to put the pavilion where it will be used the most to try to generate revenues for the Township. Johnson said Silver Creek Recreation Area would be the potential location that would generate the most use. Woodward showed a Google image with a scale sketch of the pavilion location by the soccer field in the multi-use area (playground, spectators, trails and disc golf facilities). It is buffered from residences by a strip of woods. More parking is planned for the recreation area, but there is plenty of existing parking for pavilion users. Mahaney asked about the potential for electricity to the pavilion, and Johnson said that is possible either there or at the marina location.

The pavilion roof will be moved with the firehall construction project. The picnic tables are to be moved with it. Meister asked about the feasibility of moving it, and whether the cost exceeds the value. Johnson was not sure about the age of the structure. Mulcahey mentioned the structure was built with donated supplies and labor, and this was confirmed by Woodward. Tabor and Heinzelman thought the pavilion would get the most use at Silver Creek, even though Heinzelman said he didn't want to short change the east side neighborhood. Johnson suggested that a public hearing may be needed for a potential marina location because it would be closer to residences. Meister said residents near the marina had complained about people parking in their yards, so an increase in traffic to the site may create problems. Sikkema thinks the Silver Creek location will attract the most use. Seppanen noted it would provide shelter for sports teams in case of bad weather or heat during a game. Sikkema asked if the Township is still considering the purchase of the parcel adjacent to Silver Creek Road and the recreation area, and whether the pavilion could be located there in the woods. Seppanen said this hadn't come to him for consideration. Johnson said his impression was that the owner was asking too much money for the property. Mahaney said it's a good indication that the Beaver Grove recreation area pavilion gets so much use. Sikkema cautioned that the pavilion should be placed as far from residents as possible (northwest corner). But the playground is in the southwest corner. So the staff's preferred location was in the middle of that area.

*Motion* to recommend to the Township Board that the pavilion be moved to the Silver Creek Recreation Area: Tabor  
Second by: Sikkema

Vote: Ayes: 6            Nays: 0            MOTION CARRIED

## VIII. OLD BUSINESS

- A. Consideration – Review proposed Text Amendment #34-12-04 Home Occupations. The meeting packet included original home occupation language (before 2008) as referenced by Trustee Maki at the joint meeting, current language, draft of the proposed language, and a reference document by Woodward with alternative language that could address some of the Board's concerns or be used for alternate language, such as a two-tier system.

The commission clarified again that they do not want home occupations to include non-resident employees. Woodward pointed out that the current proposed version utilizes a registration process and conditional use process for approval. She would prefer there to be an administrative approval process utilizing a zoning compliance permit, and a conditional use process for approval, as illustrated in the alternative document. Maki had earlier expressed that he thought a home occupation should get official approval before beginning (like any other use permit), and should not be encouraged to register as much as 30 days after beginning operations. It was discussed at the joint meeting that occasional "testing" of the home business before an official start was not an issue of concern or a violation. Woodward also encouraged the supplemental strengthening of the permitting and enforcement language at least for home occupations because the

current zoning ordinance language is not comprehensive.

Mahaney received clarification about the approval process. Woodward reminded the commission of Maki's question regarding the differentiation criteria for Type 1 and Type 2 Home Occupations. She wants to know what factors would differentiate these two. For an example, Type 1 might have only off-premise or infrequent interaction with customers (internet business, accountant, caterer). Type 2 might have on-site interaction with customers with limitations. Woodward would like the commission to move away from differentiation based on a list of specific uses, to differentiation based on impact criteria. Sikkema noted that frequency of activity is an example of a factor that may differentiate levels of home occupation impact. Another is scale of activity. The Type 1 Home Occupation may have no impact (evidence of activity), whereas the Type 2 Home Occupation may have low impact (some minor evidence of activity). Impacts may include more frequent traffic to the home, larger vehicles coming to the home, extra space for storage, etc. The Type 2 process would include a public hearing to explore the acceptability of the anticipated impacts. Tabor noted that what is acceptable in one area or district might be less acceptable in another. Mahaney thinks there should be only no impact, no evidence of home occupations. He questions the intent of allowing home occupations. Meister said the conditional use places restrictions, and reminded everyone that permitting of home occupations is not new to the Township.

Tabor said most home occupations start from hobbies that someone hopes to make a little money from. Sikkema said that when they reach of level of creating impacts, they should move to the commercial area. Smith noted that people with 6 kids can create neighborhood impacts in their daily lives, and did not want to encourage a disgruntled neighbor reporting a strange car coming to a home or something minor like that. Meister noted the original attempt was not to change the intent of the provisions, but to make it easier for no impact home occupations. Sikkema noted the responsibility to listen to Board viewpoint and try to incorporate their wishes because the commission works for the Board.

The commission discussed Woodward's desire to strengthen the administration and enforcement provisions, and noted no changes to what she proposed. The majority of the commission was in agreement that a two tier process was appropriate. They do not want non-resident employees or on-premise retail sales, although there may be a need to define retail sales vs. wholesale pick-up of special order items. Does the off-premise vs. on-premise interaction wording take care of this? There was still indecision about signs. Most commissioners don't want additional signs for home occupations, although a business name on the permitted residential sign may be ok.

Woodward felt that it's helpful to provide examples of occupations that may exemplify the impacts of each tier. Commissioners were in agreement, but made modifications to the suggested examples. Sikkema wanted to move dressmaking, sewing, or tailoring to Type 2 because of on-premise interactions. This would allow the commission to determine the frequency or scale of impact. "Offices for sales representatives or professionals" was changed to "Home

office”. Plural references in the examples were eliminated. It was agreed that Tier 1 would be allowed in single or multi-family residences, but Tier 2 would only be allowed in single-family residences.

Sikkema requested staff to research language regarding the regulation of hazardous substances and vehicle parts repair. There is still difficulty with prohibiting motor vehicle repair, because of the differences with boat, tractor, and automobile repair. Arnold mentioned that there is a good definition in the #55 Vehicle Parking and Storage Ordinance (*but that includes, but is not limited to, automobiles, trucks, vans, buses, truck tractors, motorcycles, motorbikes, bulldozers, front end loaders, construction equipment, logging skidders, snowmobiles, all-terrain vehicles, and boats that are self-propelled by means of an engine*).

There was a discussion of the provision that no advertising shall use the residential address of the home occupation. The intent was not to encourage increased traffic to the address, but not to discourage the display of an address on a business card. Business cards would not be considered advertising. Commissioners discussed scenarios including professional home offices, catering, golf club repair, cabinet maker, hair styling, home photography, antique car parts repair, furniture making, canoe building, pet grooming service, etc.

*Motion* to review the changes at the next meeting before moving to a public hearing: Tabor  
Second by: Sikkema

Vote: Ayes: 6            Nays: 0            MOTION CARRIED

*Action Items:* Staff will research language regarding the regulation of hazardous substances and vehicle parts repair.

**IX. PUBLIC COMMENT**

Deborah Mulcahey said that while the commission is working on the sign ordinance on Lakewood Lane, they should consider letting some signs be grandfathered but not accommodating them in the new standards.

**X. COMMISSIONER’S COMMENT**

Meister asked what would happen if they don’t get the sign ordinance finished before the new Board comes in. Would they be starting all over again? Woodward said it would be reviewed at the next meeting after the formal Township Board comments were received. Both the sign and home occupation amendments will need public hearings, possibly in November.

**XI. DIRECTOR’S REPORT**

None

**XII. INFORMATIONAL ITEMS AND CORRESPONDENCE**

None



**XIII. ADJOURNMENT**

Smith adjourned the meeting at 10:30 p.m.

Submitted by:

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Planning Commission Secretary  
Andy Sikkema

# CHARTER TOWNSHIP OF CHOCOLAY PLANNING COMMISSION MINUTES

Monday, October 1, 2012

**I. MEETING CALLED TO ORDER BY: Kendell Milton at 7:30 p.m.**

**ROLL CALL**

*Members Present:* Mr. Kendell Milton (Chair), Mr. Andy Smith (Vice Chair), Mr. Andy Sikkema (Secretary), Dr. Ken Tabor, Mr. Gary Heinzelman, Mr. Tom Mahaney

*Members Absent:* Mr. Eric Meister

*Staff Present:* Kelly Drake Woodward (Planning Director/Zoning Administrator),

**II. MINUTES**

A. September 10, 2012

*Motion* to approve the minutes as written by: Sikkema

Second by: Tabor

Vote: Ayes: 6      Nays: 0      MOTION CARRIED

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

*Motion* to approve the agenda as written by: Sikkema

Second by: Tabor

Vote: Ayes: 6      Nays: 0      MOTION CARRIED

**IV. PUBLIC HEARINGS**

None

**V. PUBLIC COMMENT**

None

**VI. PRESENTATIONS**

None

**VII. OLD BUSINESS**

A. Consideration – Review proposed **Amendment #34-12-04 Home Occupations** as discussed at the August meetings.

6.9.C.2.a – Sikkema has a question about this statement, “The Zoning Administrator shall review applications for Type 1 Home Occupation permits, and the Planning Commission shall review applications for Type 2 Home Occupation permits.” He thinks it should say that each shall “review and approve” applications. The change was made. Milton asked if it should say that there is no fee for Type I applications. Woodward said that would be up to the Board. She affirmed that Zoning Compliance Permits are \$25. It was thought this is a reasonable fee to process the application.

Page 1, 6.9.C.2.c - (C) Sikkema has a question about this statement, “If the resident applicant is other than the owner of the property, the owner must authorize the application.” He wonders how the owner will do the authorization, whether by letter or signing the application? It was decided to change the

statement to, "If the resident applicant is other than the owner of the property, the owner must sign the application."

Smith had a question about 6.9.D.2, "All work areas and activities associated with the home occupation shall be located either inside the dwelling or in an accessory building." He wonders if outside storage of wood out of view of the neighborhood would be prohibited. In other words, if there is no evidence of a home occupation when viewed from the street right-of-way or adjacent lot, would they be able to have outdoor storage? Mahaney said then you might be using more than your allowed square footage. Woodward noted provision 6.9.D.3.a that says "No outdoor storage or display of products, equipment, or merchandise is permitted other than of a type and quantity characteristically found at a single-family residence." She said there are many residences that store wood outside. Sikkema suggested a conditional use permit might allow some outdoor storage, so anything with outdoor storage should move to a Type II permit. No change was made to the provision.

Motion by Sikkema, second by Tabor, to hold a public hearing on the revised language of the proposed amendment #34-12-04 (with those few minor corrections) at the November 5 Planning Commission meeting.

Vote: Ayes: 6            Nays: 0            MOTION CARRIED

B. Consideration – Review proposed **Amendment #34-12-01 Signs** as revised at the August meetings.

Woodward noted the addition of a substitution clause in 18.1.A thus, "Any sign that can be displayed under the provisions of this ordinance may contain a non-commercial message." The purpose is to not favor commercial messages. She said this is a requirement according to the Michigan Sign Guidebook published by Scenic Michigan and the MSU Planning & Zoning Center. Woodward also noted slight changes to the Intent provisions to specify both the problem to be solved and the goals/intent of the regulations. The following items are new:

7. Reinforce and support the desired community character in a manner that takes into consideration building scale and massing, building and sign setbacks, travel speed, and pedestrian presence so that signage contributes to a sense of place.

8. Ensure that the constitutionally guaranteed right of free speech is protected and to allow signs as a means of communication for business identification and other commercial speech, non-commercial speech, and dissemination of public information, including but not limited to public safety information and notification as may be required by law."

All changes to these provisions were accepted as written.

Woodward added a definition of "Farm" based on the Michigan Right to Farm Act, to read "The land, plants, animals buildings, structures, ponds used for agricultural or aquacultural activities, machinery, equipment, and other appurtenances used in the commercial production, harvesting, and storage of farm products as defined in the Michigan Right to Farm Act, Act 93 of 1981." Only commercial farms would be permitted signs. Otherwise the applicable

residential sign would be allowed. This change was accepted.

Woodward noted prohibitions for phosphorescence and luminescence, and also prohibitions for affixing signs to fence posts, benches, and perimeter walls. Sikkema noted the exception for conventional “No Trespassing” signs. These changes were accepted. Also prohibited are “Signs affixed to a motor vehicle, trailer, or other wheeled device parked with the primary purpose of display.” The words “or other wheeled device” are new and were accepted.

Most importantly, Woodward added a statement that “any sign not expressly permitted” is prohibited. This is to give the Township the opportunity to respond with regulation if necessary when presented with a sign technology not previously contemplated. Tabor said it seems backward – if not mentioned, it’s permitted. Sikkema noted as an example the lights on the Holiday sign that were proposed – this would give the Commission the opportunity to address them and potentially alter the ordinance. Woodward mentioned the possibility of supergraphics, and asked whether they would be considered to be similar to the window decals permitted as wall signs, or a sign type not expressly permitted. Is there a need for a definition of supergraphic? Could someone put up a temporary supergraphic? Woodward noted that some supergraphics have digital components, such as a projected image or woven fiber optics. Sikkema asked if this would be considered an electronic sign. Sikkema suggested amending the provisions thus, “any sign *or sign type*” not expressly permitted (are prohibited). This was agreed.

Woodward then discussed off-premise signs. She said that general bans or bans with exceptions are not advised, as they may be challenged if the exceptions do not support stated goals. The current language bans new off-premise signs with some exceptions. She said the current language was probably not that problematic, as the exceptions relate to Township goals, and signs permitted by another agency (MDOT through the Highway Advertising Act), or some temporary signs like political signs, real estate signs, residential directional signs, food stands, and snowmobile directional signs. She said you can choose not to ban them but try to control them through other regulations, such as limiting the number of off-premise signs per undeveloped parcel, or limiting size to discourage them. Sikkema stated that in general he doesn’t feel that off-premise signs, primarily billboards, add to the appearance of a community. He thinks they should be controlled. He also thinks they do not benefit local businesses, but are usually for businesses located elsewhere that do not care what the local community looks like. Heinzelman noted the McDonalds billboard for a local business. There were no objections to the way it is written.

Heinzelman discussed signs on motor vehicles, and the dilapidated truck with a business name and phone number painted on it. Woodward said this would be prohibited because of the primary purpose of display.

Woodward discussed the inventory of signs along M-28. Trudeau had asked for an inventory of political signs. None were over 32 square feet, but some were around 9 or 12 square feet. All were located in the right-of-way. The way the

amendment is written, anything over four square feet would have to be placed outside the right-of-way. The provision currently says, "Area may be increased to up to thirty two (32) square feet provided that no portion of the sign is located in the public right-of-way." This was changed to, "Area may be increased to up to thirty two (32) square feet provided that the sign is located at least thirty (30) feet from the edge of the roadway (white line along the edge) or curb." The reason is that so many signs would not have to be removed. Mahaney favored retaining the four square feet as a maximum when the sign is located less than 30 feet from the roadway, so as not to provide a hazard. Sikkema said the larger signs are mounted with 2x4 boards or other more substantial posts and would be a hazard closer to the roadway. But it was decided that 30 feet was a safe distance for the larger signs from the edge of the roadway.

Temporary real estate signs, which formerly read "Temporary real estate signs for individual parcels shall not exceed an area of nine (9) square feet except as otherwise provided herein. Commercial or Industrial real estate signs shall not exceed an area of thirty-two (32) square feet." Woodward suggested the following change for clarity: "Within the R-1, R-2, MFR, and WFR districts, temporary real estate signs shall not exceed an area of nine (9) square feet except as otherwise provided herein. Real estate signs in Commercial or Industrial districts shall not exceed an area of thirty-two (32) square feet." She thought that more accurately reflected the intent. This change was approved. Woodward discussed the portable sandwich signs for firewood, etc in the right-of-way along the highway. They are temporary portable signs, but not specifically addressed under that sign type. Sikkema says MDOT considers them off-premise signs. They would pull them as a violation of the Highway Advertising Act. You can overlook signs on people's property for a temporary event, but if it's there all or most of the year, it should be considered a home occupation sign. It's like comparing a garage sale and a home occupation. The home occupation sign would violate the home occupation amendment, and wouldn't be allowed. Mahaney asked about people selling vegetables. In the AF district it would be a farm. In the R-1 district it wouldn't be allowed to have those signs.

This provision for farm signs previously read, "Farms are permitted one (1) identification sign not to exceed an area of thirty-two (32) square feet and one (1) sign identifying farm products grown on the premises not to exceed an area of twelve (12) square feet." Because she was concerned about content-based regulation, Woodward proposed a change to read, "Farms are permitted a total of forty-four (44) square feet of sign area, provided that no sign shall exceed an area of thirty-two (32) square feet." The property owner could divide this sign area accordingly between the signs. Heinzelman was concerned that this wording might lead to multiple small signs cluttering a property. The wording was changed to add a limit of two signs.

Sikkema was going to check on the recent Highway Advertising Act standards regarding farm signs. He was concerned that even though we allow off-premise signs for roadside stands, MDOT may still pull them. It was decided that we can still have this standard.

Woodward noted a clarification that signs with commercial messages are prohibited in residential districts. This was to reinforce the intent of the home occupation amendment.

Based on the sign inventory, the Commission decided to reduce the maximum sign area for residential name/address signs where speeds are 45 MPH to twelve instead of sixteen square feet.

Tabor asked for a clarification on current permitted illumination. He said there is a sign by the passing lane out east that is brightly lit up from below.

Woodward made changes to the nonconforming provisions because of legal interpretations that sign ordinances authorized under the Michigan Zoning Enabling Act cannot require the removal of nonconforming signs or to enforce an amortization scheme. This could only be done if the Township had a separate sign ordinance. The new language only requires a sign be brought into conformance upon verification that the use is abandoned. This change was approved.

Woodward added this statement for clarity to the administrative provisions: "It shall be unlawful for any person to erect, relocate, or structurally alter or repair any sign or other advertising structure within Chocolay Township as defined in this Ordinance without first obtaining a Zoning Compliance Permit. (See Section 18.1.J and 18.1.L for maintenance exceptions which do not require a Zoning Compliance Permit.)" The words "or repair" were removed.

Motion by Sikkema, second by Tabor, to hold a public hearing on the revised language of the proposed amendment #34-12-01 (with those five minor corrections) at the November 5 Planning Commission meeting.

Vote: Ayes: 6            Nays: 0            MOTION CARRIED

General celebration ensued upon completion!

**VIII. NEW BUSINESS**

- A. Consideration – Text amendment application regarding notification distance. Woodward presented a copy of the text amendment application for increased notification distance, pertaining to Section 1.6.B.6.a. This is being submitted by the Planning Commission and was brought before them for approval of the wording. This increase to notification distance would impact any public hearing, such as conditional uses, rezonings, etc. This is prompted by a request from Deborah Mulcahey and others. The issue is that many properties are large, and so the current standards don't prompt direct notification of very many people. The increase would increase the numbers of people who would receive letter notifications. Property widths along Lakewood Lane were discussed. Milton thought Jennifer had said the State was looking to make changes to the notification distance. It was decided to check on this before filing the application to avoid duplication of effort or inconsistency. The application will be put on hold pending information on a State change.

Action item: Staff will check to see if there is a pending State change and report at the next meeting.

B. Consideration – Upcoming priorities

Sikkema noted some have been requested by the public, so should gain priority. Tabor asked about the issue concerning the junk car ordinance. Woodward said it's hard to determine what is inoperable, and which license plates are up-to-date or even if there is a license plate when you can't go on the property to inspect. She suggested thinking about what is to be accomplished – a neater front or side yard, or other goals. The Commission noted the junk car ordinance was changed a couple years ago. Tabor asked how big an issue this is. Woodward says it's huge. Heinzelman said it was a big issue for the police. Tabor said the intent was to require screening if someone wanted to keep the vehicles.

Code enforcement education and follow-through means notifying citizens of rule changes, or amnesty periods, etc. Mahaney inquired about the firearms ordinance. Heinzelman responded to the question. It mainly deals with where you can discharge firearms. Zones may need to be updated.

This is to give the new Board an idea of priorities. Sikkema suggested junk car and private road as a priority #1. He thinks there is a request about the private road regulation. Smith noted Au Train Township spent a lot of time and some court battles with the rental property issue. Woodward hopes to get public input on this issue. The Commission asked if there are any complaints. Woodward noted only a couple complaints received. Commissioners noted one at Shot Point. The Commission further discussed this issue and determined it is a priority.

Sikkema suggested these items show up in their future business to determine if the issue needs to be dealt with.

Mahaney asked if there have been calls on farm animals. Woodward noted calls asking about what is permitted in their area. She wants public education and opinion on this issue, and would put it as a #2 priority.

**IX. PUBLIC COMMENT**

None

**X. COMMISSIONER'S COMMENT**

Heinzelman asked about the Basil Road issue. Due to notification issues, it has been postponed to the November meeting, along with the Iron Ore Heritage Trail, sign amendment, and home occupation amendment.

**XI. DIRECTOR'S REPORT**

Woodward is attending the Michigan Association of Planning Conference in October.

**XII. INFORMATIONAL ITEMS AND CORRESPONDENCE**

None

**XIII. ADJOURNMENT**

Milton adjourned the meeting at 9 p.m.

Submitted by:

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Planning Commission Secretary  
Andy Sikkema



# CHARTER TOWNSHIP OF CHOCOLAY PLANNING COMMISSION MINUTES

Monday, November 5, 2012

**I. MEETING CALLED TO ORDER BY: Kendell Milton at 7:30 p.m.**

**ROLL CALL**

*Members Present:* Mr. Kendell Milton (Chair), Mr. Andy Sikkema (Secretary), Dr. Ken Tabor, Mr. Gary Heinzelman, Mr. Eric Meister

*Members Absent:* Mr. Andy Smith (Vice Chair), Mr. Tom Mahaney

*Staff Present:* Kelly Drake Woodward (Planning Director/Zoning Administrator)

**II. MINUTES**

A. October 1, 2012

*Motion* to approve the minutes as written by: Tabor

Second by: Heinzelman

Vote: Ayes: 5      Nays: 0      MOTION CARRIED

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

*Motion* to approve the agenda as written by: Heinzelman

Second by: Sikkema

Vote: Ayes: 5      Nays: 0      MOTION CARRIED

**IV. PUBLIC COMMENT**

None

**V. PRESENTATIONS**

*Jim Edwards, 549 Cherry Creek Road, on behalf of his son Michael Edwards, updated the Planning Commission on the progress of Michael's Eagle Scout project, which involves setting up the Adopt-a-Tree program in Chocolay Township. The project joined boy scouts, girl scouts, business owners, and members of the community in a common goal to maintain the plants that have been installed along the highway corridor. Michael hopes to have 50 or 60 recognition brick installations completed soon. Over 40 planting areas have been adopted thus far and 30 more are available. See interactive map and project history at:*

[www.chocolay.org/communityprojects/adoptatree.php](http://www.chocolay.org/communityprojects/adoptatree.php)

Togo's supported the scout troops with lunch for their efforts, and Fraco supplied the recognition bricks. Michael raised money to engrave the bricks with names of adopters. There have been other in-kind donations of labor and costs. Jim said it takes both people wanting to do the work, and people knowing what work can be done to work together. The project originated with a grant supported by MDOT, MI DNR, Chocolay Township and other funders, but volunteer community support is vital.

**VI. OLD BUSINESS**

A. *Consideration* – Hear comment on citizen request to correct the spelling of **Basil Road** to reflect the name of early settlers, Basal. Prepare a recommendation to the Township Board on this matter.

### Planning Director Comments

*Woodward* presented information from the staff memo regarding the proposed change. The county planning staff said that the decision rests with the Township. The Planning Commission decided to gather public comment on the matter before making a recommendation to the Township Board.

### Public hearing

*Bob Basal* – He grew up on the Basal farm, and lived there 35 years. His great-grandfather Ferdinand homesteaded here in 1860. The family has a long tradition and history of contributions in this area, and he would appreciate their name being spelled correctly.

*Mike Basal* – He is here on behalf of his father, Myron, to correct what they believe was a clerical error commonly resulting from spelling their name like the spice. He provided many historical documents, including the original deeds transferring the road right-of-way in 1939 from the Basals to the County (with the name spelled correctly). The road sign with the mis-spelling didn't go up until the late 1970's, at which time the early families were deceased. Mike wants the name corrected for the sake of history, and he believes any family in their situation would want the same. He appreciates the idea of an interpretive plaque with the story, but what the family really wants is to have the road name spelled correctly. He cited numerous examples of communities who have changed the names of roads for more arbitrary reasons and at great expense. This is a relatively simple and inexpensive request.

*Woodward* read a letter from Vince Jeevar of 110 Basil Road stating concerns about expenses that might be incurred by current Basil Road residents with this change, and potential problems with postal delivery. Otherwise, he is in support of the name change, and he even suggested the installation of a historical plaque on his property (at the road origination point).

### Commissioner/Applicant Discussion

*Sikkema* asked how many residents currently live on Basil Road. *Woodward* stated there are 8 separate property owners including the State of Michigan. Commissioners discussed post office concerns and deed concerns per the staff memo. The post office anticipates no problem with mail delivery until someone moves away and needs mail forwarding. If the residents do not correct their address with all their mailers, some of the mail may not be forwarded. Deeds would not be impacted by the change.

### Commissioner Decision/Recommendation

Motion by *Tabor*, second by *Heinzelman*, to recommend that based on public comment, the Township Board approve the official change of spelling for Basil Road from "B-a-s-i-l" to "B-a-s-a-l" to correct a supposed clerical error and accurately reflect the role of early settlers in forming the Township road system.

Vote: Ayes: 5                      Nays: 0                      MOTION CARRIED

- B. Consideration – Discussion of the preferred designated route for the **Iron Ore Heritage Trail** through Chocoley Township, and preparation of a

recommendation for the Township Board.

*\*Note that "UR" refers to the urban route from the Welcome Center through Harvey to the US-41/M-28 intersection, and east along M-28 to the overpass, and "RR" refers to the rural residential route along the railroad grade from the Welcome Center, through the Lakewood Lane residential area to the overpass on M-28. "IOHT" refers to the Iron Ore Heritage Trail. "IOHTRA" refers to the Iron Ore Heritage Trail Recreation Authority.*

#### Planning Director Comments

*Woodward* clarified that the decision involves choosing between two possible trail routes for designation as the Iron Ore Heritage Trail (as shown on the map). She explained that snowmobiles use the RR in the winter. They can also travel from Munising along M-28 and into some portions of Harvey, but not all the way to the Welcome Center. Currently snowmobiles cannot travel from Marquette south into Harvey along US-41. She clarified that the current discussion is not about ATV use of these trails, or about pursuing other options for the snowmobile trail. The discussion relates to which trail will be designated as the official Iron Ore Heritage Trail to be maintained by the Iron Ore Heritage Trail Recreation Authority. She said that currently the RR is maintained by the DNR, and the UR is maintained by the Township.

The Planning Commission had some questions about trail maintenance and control. *Don Britton* of the IOHTRA was present for questions along with *Jim Thomas* who is the Chair of the IOHTRA and *Carol Fulsher* who is the administrator. *Britton* said that currently the RR is owned and maintained by the DNR. It is used as a non-motorized trail in the spring, summer, and fall, and a snowmobile trail in the winter. If the RR is designated as the IOHT, the IOHTRA would lease the trail from the DNR and maintain it. Currently the UR is used as a non-motorized trail in the spring, summer, and fall, and portions are used as a snowmobile trail in the winter (north to about *Wahlstrom's*). The portion along M-28 is a two-way snowmobile trail, but north of the US-41/M-28 intersection the trail is one-way snowmobile trail only into portions of Harvey.

#### Public hearing

*Gary Walker, 765 Lakewood Lane*, prefers the designation of the UR for the IOHT. He said the history of these two trails rests a lot with the issue of snowmobiles, which the designation really doesn't. He said that the change in snowmobile traffic won't be impacted by the designation of the Iron Ore Heritage Trail. The IOHT is a tourist attraction and keeping the tourist attraction along the UR provides local business opportunities. In terms of maintenance, if the IOHTRA end up with maintenance, the UR is much more easily maintained with a new bridge built to handle snowmobile traffic. The RR would require more costly maintenance. He thinks *Chocolay* would get more bang for the buck with a UR designation because in the summer the RR route is not used by any motorized vehicles, and he thinks the walkers and bikers will be mostly local folks. He thinks the UR would work better as a tourism route.

*Tabor* asked which route the IOHT Recreation Authority prefers, and the IOHTRA representatives said they currently prefer the RR.

*Jim Thomas, Chair of the IOHTRA*, said the IOHT Recreation Plan was created 5 years ago with the initial designation for the IOHT to be along the railroad grade by the lake. There was some miscommunication that the IOHT would involve two trails through Chocolay Township, which they never intended. They are here to listen. If we designate the UR, they will have to remove or move their established mile markers from their current location on the RR. Based upon an MDOT recommendation, their intent is to create and promote the spine of the trail first so there's something to build upon.

*Carol Fulsher, IOHTRA*, said the IOHTRA chose the RR because they thought it created more interest, would be more unique, and would better attract visitors. They thought that people would not be interested in a trail along the highway. But she noted that the IOHTRA will abide by Chocolay Township's decision for the designation of the trail location.

*Alan Rose, 176 Riverside Road*, spoke about the advertised users of the IOHT. He said sometimes the RR is very busy and it's difficult to navigate around other users when you're on a bike, much less an ATV. He thinks that if we designate the trail as the IOHT, and include all the specified uses associated with the IOHT name, then there will be an issue.

*Britton* said ATVs were never intended to be on the Chocolay Township trails. These trails are meant to be for walking and biking in the summer and snowmobiling in the winter.

*Fulsher* explained that the IOHT is 48 miles long, and some portions are designated as ATV trails, but not Chocolay Township. Different parts of the trail have different uses. She said there is an order from the DNR director that our trail will be closed to ATVs.

*Joe Holman, 210 Riverside Road*, expressed distrust in the DNR's promises about trail use - the snowmobile trail was only supposed to be a one year trial.

*Brad Cory, 110 Lakewood Lane*, agrees with Mr. Walker that the UR should be designated as the IOHT because of economic considerations (benefits) for the Township. He thinks this designation will help with the overall traffic problem.

*Don Balmer, 101 Forest Road*, said that there is an economic benefit to routing snowmobile traffic along the UR and keeping the RR for non-motorized activity. He doesn't see the need for a change in designation, just a change in the routing of snowmobile traffic.

*Walker* said that's an excellent solution but the DNR stands between what they want and common sense. He believes there may be confusion among ATV users who see IOHT advertising and think they can use any portion of the trail, and thus mis-use non-ATV portions of the trail such as Chocolay. He thinks misuse is an unintended consequence of the IOHT designation.

*Thomas* said that the IOHT is synonymous with walking and biking. They do support snowmobile, ATV, and equestrian use along portions of the trail where the communities have requested it. This works in more rural areas.

*Milton* clarified that no ATVs are allowed on the M-28 portion of the trail. Tabor clarified that the issue is which trail the IOHTRA will take responsibility for maintaining.

*Thomas* said the trail is planned for mostly non-motorized use, and it is now becoming a much larger trail system with the Negaunee to Marquette portion under construction. There will be some asphalt paving in the City of Negaunee, then the trail changes to crushed aggregate from Negaunee to Hwy 492 in Marquette Township, then there is another paved portion to the Holiday Inn in Marquette and across the Soo Line bridge and onto the City trail system and out to the Welcome Center in Chocolay Township. It is too expensive to blacktop the entire route. Bikes can ride on the aggregate portion easily.

*Jerry Maynard, 146 Lakewood Lane*, clarified that the RR portion of the trail is not rural, it's a residential neighborhood, and it's also part of the scenic North Country Trail. He is also concerned about ATV use, and does not want them in the residential area where the trail is heavily used by non-motorized users. He doesn't want to open up the opportunity for the DNR to change their mind in the future and open the trail to ATVs, so he supports the UR for motorized users.

*Claire Rose, 176 Riverside Road*, supports the UR designation because of the unintended consequences associated with illegal ATV travel that may come with the IOHT designation, and problems with cost of enforcement in the residential area.

*Jennifer Bruggink, 673 Lakewood Lane*, would be horrified if there were ATVs on the RR. She said her kids use this route often because it is separated from traffic. She wouldn't want to be routed through Harvey if she was on a bike trip with her kids because she thinks there is too much conflict with cars and it wouldn't be a pleasant experience. She doesn't think the DNR decision for ATV use is related to the IOHT designation issue. She doesn't think the tourism benefit for businesses will be that great. (She supports the RR designation for the IOHT)

*Deborah Mulcahey, 633 Lakewood Lane*, asked why we can't have both trails designated. But this is not the DNR's fault. The reason you can't have snowmobiles travel two-ways along the UR is because no one has acquired land along both sides of US-41. So no matter how much residents would like to get snowmobile traffic removed along Lakewood Lane that will not happen. The snowmobilers coming into Harvey from Marquette have to travel the RR because they cannot travel southbound along US-41 on the east side of the road, and they can't travel in two directions on the same side of the road. She thinks we need to try to get a snowmobile trail outside the residential area. Voters have approved the IOHT where it is currently (RR). She is also concerned about traffic. The intersection of US-41/M-28 is a dangerous intersection and is not safe for kids on bikes. She wants both trails to be maintained even if both are not designated as the IOHT. She said that even though it's not currently an ATV trail that could change. She has sympathy for those living on the snowmobile trail, but mentioned that the State gives Chocolay Township money for enforcement along the trail. She said don't look at tourism as the bottom line. The community pays for the trail. She wants to keep the RR as a trail designated for non-motorized users and look for an alternate trail for snowmobilers.

*Holman* said the snowmobile trail has long been contentious. He suggested starting with a UR designation and working toward a long-term solution such as separate but parallel non-motorized and motorized trails. There are safety

concerns with snowmobiles. They want to get downtown and so they travel Green Bay Street and it's dangerous. He thinks designating the UR as the IOHT will set the stage for future long-term solutions that make everyone happy.

*Jude Emerson, 119 Lakewood Lane*, said she is strongly in favor of UR designation as a win-win for residents and businesses. She thinks if the RR is designated as the IOHT, the ATVs will come and create a disturbance. We don't have enough enforcement to take care of the problems.

*John Carlson, 274 Riverside Road*, said that what is done now is not just for the short-term. We are establishing long-term trends. Once you allow motorized traffic, it sets a base and others will come. Chocoley Township should look at a Comprehensive Plan for the trail users.

*Balmer* suggested creating a two-way route for snowmobiles through town.

*Mulcahey* said the problem is in the area of the rock cut.

*Balmer* addressed enforcement. While he has been on the RR, someone went by on a motorbike. The police came shortly thereafter looking for him, but there was no way they would catch up with him. He thinks they will need an officer on the trail 100 percent of the time.

*Mulcahey* said that local residents are the worst violators with ATVs.

*Carlson* said that it's a habit of some ATV users to move from cabin to cabin and there is diminished capacity and drinking involved.

*Thomas* said he has noticed some confusion. He thinks that when we discuss the IOHT, we should be talking about where we want a walking/biking trail – along the lake or on the business route. It has nothing to do with snowmobiles or ATVs. They have separate trails managed by other groups. The IOHTRA wants to know where we want to have walkers and bikers.

*Susan Maynard, 146 Lakewood Lane*, said that you can't see the lake from the RR except the 50' stretch where it crosses over the Chocoley River bridge at the mouth.

*Alan Rose* said that if the IOHTRA wants to make the IOHT a walking/biking trail, they should remove ATVs from their organization user list or their organizational definition because it creates confusion.

*Barb Holman, 210 Riverside Road*, supports the UR designation.

*Paul Charboneau, 174 Riverside Road*, seconds Alan's comment and the concerns of the residents to keep the trail residential.

*Woodward* read written communications from *John Renfrew of 234 Riverside Road*, *Greg McDonnell of 182 Riverside Road*, *Scott Emerson of 119 Lakewood Lane*, and the *Chocoley Area Business Association*.

The *Chocoley Area Business Association* supports the UR designation because it is felt that the extensive marketing and promotional activities will increase tourism for local businesses.

*Emerson* was supportive of the UR designation for a trail that would be open to snowmobiles in the winter and would be non-motorized only in the summer. He

thought this would benefit the business community (increased traffic) as well as the residential community (decreased traffic). He wants the existing trail through the residential area (RR) to remain non-motorized in the spring, summer, and fall, and for ATVs to be prohibited as incompatible with most users.

*McDonnell's* comments were based on an understanding of intent to have year round motorization of the RR. He talked about the enforcement difficulties for motorized users (cost, safety, diverting police from other duties), and other issues including trespassing; property damage; conflicts with pedestrians, handicapped and pets; increased maintenance costs; noise; environmental damage; liability; and other nuisance concerns. He wants to maintain the current status and use alternative routes for motorized vehicles.

*Renfrew* was in favor of the UR designation because that is more appropriate for snowmobile users and would support businesses. This route has been enhanced with the new bridge on M-28 and a paved trail so it should be easy to maintain. Along M-28, it is also very wooded and scenic. He thinks speeding snowmobilers are a danger in the residential area. He thinks the UR designation will reduce snowmobile traffic through the residential area.

*Mulcahey* said that Chocolay Township is one of the jurisdictions that decided not to allow ATVs to operate on Township roads. This probably lessens the impact on the trails.

#### Commissioner Discussion

*Milton* said the Township is looking for a way to maintain trails and not dip into the general fund. The IOHT could take over maintenance of the UR, and the RR would still be there and be open to use even without the IOHT designation.

*Sikkema* asked who controls what happens on the railroad grade. The IOHTRA representatives confirmed that the DNR would still control what happens on the railroad grade (including user groups) regardless of IOHT involvement. The IOHT can't dictate that – they can only make recommendations.

*Thomas* said the RR was designated as the IOHT 5 years ago for walkers and bikers, and that's when all of the signs went up. That was the agreement and the other route was not discussed. He has been on that trail several times and has never seen an ORV on the trail even though it's been designated as the IOHT for 5 years.

Several people agreed that ATVs are on the trail, but not heavily.

*Mulcahey* said that voters passed the millage with the map showing only the trail through the residential area. ATVs were not mentioned. Just walking and biking.

*Thomas* said that both Chocolay Township and the DNR have said there will be no ATVs. There is no guarantee, but citizens have a lot of influence. We just need to decide where to locate the walking/biking portion of the trail.

*Sikkema* asked if the IOHT manages any snowmobile trails. The IOHT does not currently manage any ATV or snowmobile trails.

*Britton* said the IOHT will do some maintenance of ATV trails in other jurisdictions. *Thomas* added this would be in Negaunee and Ishpeming where there are two trails.

*Mulcahey* asked why we can't have two trails (one motorized and one non-motorized) so we can get the motorized traffic out of the residential neighborhood.

*Sikkema* answered by saying that in Ishpeming and Negaunee, the two trails are in the same corridor but separate. *Sikkema* asked how does the IOHT decide where they have support for ORV trails?

*Thomas* said they look for a recommendation from the people to determine trail users.

*Fulsher* said the west end jurisdictions weren't interested in the IOHT unless they could have a motorized trail. She said it was never the intent of the IOHTRA to tell citizens what they want. For example, the City of Marquette controlled the non-motorized designation in their jurisdiction.

*Sikkema* wanted to know how the citizens would be assured that the non-motorized designation for the IOHT in our jurisdiction would not be changed.

*Britton* said the railroad grade is controlled by the DNR and the IOHT would just lease the trail. The DNR would not lose control of that trail.

*Holman* knows of a community that voted to have a non-motorized trail and then the DNR changed the designation to a snowmobile trail without community support.

*Mulcahey* said that was Cheboygan, and she worked on that issue. The citizens wanted the changed designation because it was a governor's direct order that it become a snowmobile trail. But she agrees it could happen that the DNR change the designation.

*Thomas* said we must find a place to meet between user groups in various areas.

*Walker* said that the community is expressing concerns way beyond the issue of designation. People see the issue of designation as a step toward installing motorized use. The Township would like to remove snowmobiles from the current route, but tried unsuccessfully. However, conditions have changed somewhat with the new M-28 trail, but there wasn't proper planning earlier to accommodate the snowmobile route through town. Ideally this would involve an access road which would be costly. Ideally, separate non-motorized and motorized trails would be maintained. He is concerned that the IOHT designation would increase motorized use (he is not saying that the IOHTRA has anything to do with that).

*Fulsher* asked if the Township would rather have the RR trail maintained locally (IOHT) or by the State (DNR)?

*Charboneau* talked about the issue of maintenance. If the UR was designated as the IOHT, the IOHTRA would use the Chocolay millage to maintain that trail, and the DNR would maintain the RR trail, so both trails would be maintained at no cost to Chocolay Township other than the millage. Walkers and bikers could still use the RR trail.

*Heinzelman* said that the IOHT user survey reflected that people have asked for better surfaced trails, more lighting, parking for trailheads, and more bathroom facilities. Those items are not located along the RR at someone's house. With



the new bridge on M-28, he thinks it makes sense to designate the UR as the IOHT.

*Britton* said the one-way trail through Harvey is not groomed for snowmobiles because people then interpret it as a two-way trail. When two-way trails are this close to the highway, their lights shine in the eyes of motorists and create unsafe conditions.

*Bill Joswiak, 248 Timberlane*, mentioned a portion of the trail near his home where there is a hill, curve, slope, and bike trail crossing. Even bikes have trouble stopping in time, but it would be especially dangerous with a motorized vehicle.

*Milton* said there is an ordinance that limits the time of motorized use.

*Tabor* said that it seems to him if the RR is designated as a walking/biking trail (IOHT) then it would be more difficult for the DNR to allow motorized use, but if there is a UR designation, it might be easier for the DNR to designate the RR as a motorized trail because now there would be an alternate walking/biking trail.

Someone pointed out that the RR would still be the North Country trail.

*Thomas* said on the asphalt trail between Ishpeming and Negaunee, the police could not catch the ATV users. The problem was taken care of by the increase in walkers and bikers, especially the old ladies who literally chased the 4-wheelers up and over the berm at the old landfill. It is not the decrease in the usage of the trail that keeps the 4-wheelers off, it's the increase in usage.

A citizen asked for clarification on why there are a variety of trail surfaces. The representatives of the IOHTRA said it is based on finances and cost.

*Sikkema* said that the trail was paid for by different kinds of grant funding according to the policies of various grant agencies.

*Fulsher* said the IOHTRA is trying to find out if people prefer certain surfaces, and then they can consider upgrades if warranted.

*Sikkema* said that this issue came up because the Township would like to have two designated routes. But the IOHTRA only wanted to support one route. They already established the trail on the RR. The question is does the Township want to change the previous agreement? They can either take no action (everything will stay the same), or recommend a change.

*Meister* said he got the impression that the Township originally wanted the trail to go through the business district. There was confusion about this between the Township and IOHTRA.

*Britton* said the County planning staff had created IOHT maps that showed spine and spur routes. At the time of the millage, the Township had one of these maps on display, but the spurs were not intended as part of the official route.

*Sikkema* asked how many years the IOHT has been on that alignment. It's been on the RR for 5 years. *Sikkema* asked for confirmation that if the designation is not changed, it will stay like it's been for the last 5 years. The IOHT position hasn't changed on the uses. The designation impacts the maintenance agreements. If the Township wants the UR designation, the IOHTRA would have

to change the mile markers and interpretive sign locations.

*Tabor* asked if the IOHT polled users on the RR portion of the trail to see where they are from? They have not.

*Thomas* said that scenery attracts people from other areas. The IOHT is advertised as a nature trail. There are currently 14 interpretive signs.

*Alan Rose* reiterated that the neighborhood wants more protection or assurance that the RR will stay a non-motorized trail, and he thinks this assurance would come with a UR designation for the IOHT. The RR designation would give less assurance.

*Wayne Dees, 512 Woodvale Drive*, said that as a retired appraiser, he understands concern for property values with motorized traffic coming through. He asks if social engineering can be done on the RR to design it so motorized traffic can't come through?

*Thomas* said bollards can be put up to keep ATVs out at trailheads, but not the whole trail system. They can get around them.

*Bruggink* said that ATVs go on residential streets and on the lake and ice too. You can only do what you can to minimize it.

*Meister* wants to encourage more motorized traffic through the urban area, not the residential area. So he would recommend the UR designation.

*Heinzelman* would support the UR designation to increase tourism, and because he thinks people on road bikes are looking for better trail surfaces.

*Tabor* said the issue is which trail the IOHTRA will maintain (yes they are using our money to maintain it). He thinks the RR will mostly be used for locals, and not as a tourism trail.

*Meister* asked for clarification on the financial issue. Is there a difference in cost for the Township? With an RR designation, the Township would maintain the UR. With the UR designation, the DNR would maintain the RR and the IOHTRA would maintain the UR.

*Sikkema* said that currently MDOT maintains the trail along US-41. The M-28 trail is owned by the Township.

#### Commissioner Decision/Recommendation

Motion by *Heinzelman*, second by *Milton*, that the Chocolay Township Planning Commission recommends that the Township Board seeks designation of the urban route through Chocolay Township (route from the Welcome Center through Harvey) as part of the Iron Ore Heritage Trail, based on citizen comment and the following compelling reasons:

1. Tourism benefit for businesses
2. Better trail surface for users
3. Requirement for less maintenance

Vote: Ayes: 3 (*Heinzelman, Milton, Meister*)  
MOTION CARRIED

Nays: 2 (*Sikkema, Tabor*)

The representatives of the Iron Ore Heritage Trail Authority suggest that this decision will impact their Recreation Plan (amendments will be needed), so this item needs to be addressed by the Township Board as soon as possible, and certainly before the end of the year. They need a letter with the decision.

- C. Consideration – Receive comment on proposed **Amendment #34-12-04 Home Occupations**, and prepare for presentation to the County and Board.

Planning Director Comments

*Woodward* said she provided public education sheets on this topic at the meeting. Attorney Mike Summers reviewed the proposed amendment and said there were no legal issues, but he offered some minor suggestions for clarity. *Woodward* incorporated those suggestions into a revised document for Planning Commission consideration. *Heinzelman* noted (from the staff memo) that it was the Attorney's opinion that the revised document could be adopted with no need for an additional public hearing on his revisions. *Woodward* verified this and said there would be additional opportunities for a public hearing if the Planning Commission decides to review the comments from the County, or if the Township Board wants to hold a public hearing with their review. The legal requirement is one public hearing on a text amendment.

*Woodward* presented the proposed revisions which relate to the definition, fees, relocation of the home occupation, inspections, and hazardous materials.

*Sikkema* asked if "noxious" is an enforceable term. Peter Ollila offered comment that this was too subjective and suggested substitution of the term "hazardous substances" or "hazardous wastes" which are legal terms.

*Mark Maki* objected that the document was being changed as we speak. *Woodward* clarified that she was just presenting the revisions suggested by the Attorney that will be discussed by the Planning Commission this evening, then the Commission will hear public comment, and they may or may not approve changes to the document.

*Maki* suggested postponing the remaining public hearings till the next meeting because the Commission isn't going to want to discuss this for another hour and a half (it's 9:30) and he has a lot of comments and suggestions as do others. He doesn't want to give public comment then have the discussion delayed. *Heinzelman* and *Meister* want to at least get through the Home Occupation discussion. *Woodward* said the Commission could decide to amend the agenda to hold the two remaining public hearings on home occupations and signs, then postpone the discussions to the next meeting, so at least everyone who had come for public comment could still be heard tonight.

*Maki* felt the attorney should have looked at the document before it was offered for public hearing. *Woodward* said that the suggested revisions were made available to the public before the public hearing as part of the agenda packet that was available online. *Woodward* suggested the Planning Commission hold the public hearing, then send the amendment for County comment, then review the County comments and decide if another public hearing is needed before sending the amendment to the Township Board. *Maki* disagreed and said the process is for the amendment to go to the Board after County comments. *Maki* again

suggested postponing. *Meister* and *Heinzelman* again suggested proceeding with the Home Occupation amendment. *Maki* said to remember that Mike Summers reviewed the 2008 ordinance and then would not enforce it after approving it, and not to put a lot of credence in all that. *Milton* opened the public hearing.

#### Public hearing

*Peter Ollila, 633 Lakewood Lane*, submitted a letter of public comment. He reiterated his comment on noxious substances vs hazardous substances. He congratulated the Planning Commission for getting close to a decent ordinance but said there are a few problems yet. On page 5, motor vehicle repair is allowed as a home occupation in the AF district. He doesn't think this was recommended in previous meetings. Page 5, G #5 (g) under examples of Type II home occupations, he is concerned that vehicle parts repair is listed in conflict with a previous section that says this is not allowed in all areas. It's confusing whether you can do this or not. He thinks we should drop (g) under examples. In the examples (h), he doesn't understand what an assembly operation is. He thinks of Ford Motor Company when he hears it. He thinks we should drop this example or define. He is concerned about the notice provisions for conditional uses, because he sees none in this document. He thinks ½ mile notification distance is appropriate. He wants the amendment to go to the County for review.

*Dick Arnold, 312 West Branch Road*, asked if, for motor vehicle repair, the Township will require a mechanics state license, Federal ID license, and Michigan sales tax license, etc? Because the zoning ordinance says that if it's less restrictive than another ordinance, the more restrictive ordinance must be enforced.

*Sikkema* said the intent is not to take over enforcement for other agencies, or see if people have those licenses, the other agencies do that. We won't duplicate their efforts. For example, we wouldn't say you can't live in the Township unless you pay your Federal taxes. That's someone else's requirement to enforce.

*Mulcahey* said, "What Dick Arnold is saying is that if you're going to allow motor vehicle repair operations in the Township, wouldn't you want them to have the proper certifications and be licensed by the State of Michigan?"

The Planning Commission said they absolutely would want them to have that, but Chocoley Township wouldn't be the one to enforce that. *Mulcahey* noted the enforcement section of the amendment that says you can revoke the home occupation permit if the use is in violation of other statutes, ordinances, etc.

*Arnold* said he doesn't want motor vehicle repair in the AF district because it's not listed as a permitted use in that district. He said nonconforming lots are only entitled to permitted uses. He said there are 396 nonconforming lots in the AF district – he thinks the Township should have made all those properties R-1 and made farming a conditional use in that district. He doesn't think the Township should jeopardize everyone's property values for three farmers. He thinks the zoning ordinance does not allow motor vehicle repair on a nonconforming lot because it's not listed as a permitted use.

*Milton* clarified that motor vehicle repair would be considered a permitted

accessory use by conditional use permit in the AF district per the home occupation language. *Meister* said that a conditional use that is approved is then a permitted use.

*Arnold* said home occupations are part of the underground economy and don't pay taxes so why bend over backward to accommodate them.

*Jill Bradford, 555 Little Lake Road*, said home occupations are like apple pie to Americans, whether you're a seamstress or a blacksmith. They are entrepreneurial incubators. They can be cottage industries. They kept people alive in the Great Depression. These occupations drive the work ethic into kids and teach things schools fail to teach. They are the beginning of business in the community. You have some people trying to stop home occupations when you have other people that have to stay at home to take care of their kids who have sacrificed their hospital career. They stay home and try to make a living any way they can. They are not cheaters – they pay taxes. There will be cheaters and non-cheaters in anything that happens on earth. She takes offense at *Arnold's* comment because some people take cash instead of credit because it costs too much to accept credit. She wonders if the \$250 conditional use fee will stop some little old lady with good ideas from doing business. They don't have much money. There are mother with ideas that may end up as businesses on Main Street. But you don't know till you try it, and they can try the business out before risking everything they have on the overhead. She agrees with keeping water safe. She isn't sure about prohibiting firearms sales as home occupations. It's the American way for hunters. She doesn't think you should penalize people for trying to make a living an alternate way. Don't criticize them - maybe you should think of something nice about them. It's a better way than knit-picking.

*Arnold* said that when people do auto repair as a home occupation in their garage, they take business away from people who have businesses, provide health insurance, and pay taxes.

*Wayne Dees, 512 Woodvale Drive*, to the fee comment, asked why his taxes should subsidize home occupations (if fees don't cover the costs of public hearings, etc)?

*(general discussion among the audience ensued)*

*Milton* said it is important to have a cottage industry until it becomes so viable that employees are needed, then it can move into the business district.

*Maki* said he was the Zoning Administrator from 1977 to 2002, and for at least 20 years of those years they did not have fees for home occupations. They may have had enforcement issues. They tried to keep them very low key and things worked out fine. In around 2000 the Township changed the zoning ordinance to set up a two tier system. That lasted for seven years. He doesn't know what the fee was, but somewhere along the line the fees have changed drastically, and are now 2 ½ to 3 times that of West Branch and Skandia. The two tier system worked well but the Township didn't require a permit and didn't keep track of them. They failed to renew some permits. There was lack of enforcement and administration. In 2008 the Township changed the ordinance and brought in the \$250 fee because some lady said she can't pay the \$250. So a lot of time has been spent on this, and the Comprehensive Plan and Rec Plan are out of date

because we spend too much time on signs and home occupations. Enforcement has not done and that's why we have sign problems, and that's why they're trying to write the sign ordinance to fix the problems so they're not in violation. So we go around and around in a circle because they haven't been doing their job. In 2007 we had fine home occupation provisions and they changed it and made them a conditional use. Again they were never enforcing it so it never came up except for that lady. So it started with the \$250 fee which could have been easily resolved by going back to the Board and requesting a reduced fee for home occupations. Instead we got into this process that went to the County once, came back, the Township Board sent it back, they had a joint meeting, the Board said no motor vehicle repair but it's still in the language in the AF district, or maybe in all districts as a conditional use. The Board said no, don't have it in there. They said what do you want, and we told them, and somewhere along the line it went back in the ordinance. The Board said go back to the 2007 ordinance that was working and I don't think we've gotten there.

*Jennifer Bruggink, 673 Lakewood Lane*, doesn't want a gun dealer across the street. She hopes the auto stuff is prohibited in all districts. She has no faith it can be clean.

*Deborah Mulcahey, 633 Lakewood Lane*, said that as a result of the Home Occupation amendment and future agenda items dealing with Lake Superior rentals, she made a FOIA request to Chocolay Township for three lists and one letter. She received a response from the clerk that she was to pay \$222. She checked with Woodward and Lawry who said the lists don't exist. Why should the Township charge for that? She thinks it's a problem that the Planning Director will be responsible for enforcing the ordinance, but does not know the nonconformities that exist. She thinks there are contradictions. On page 2, paragraph 5 of the FAQ sheet it says the use provisions are slightly more prohibitive than the current ordinance. The sale, storage, or manufacture of motor vehicles would be prohibited in all districts (current regulations allow these activities in the AF district). No change is proposed to motor vehicle and parts repair, which is currently prohibited in the R-1, R-2, MFR, and WFR districts, but is not prohibited in the AF district (may be allowed through conditional use permit in the AF district). On page 4, G of the proposed amendment, it says Type 2 Home Occupations shall be a conditional use in all districts (when in conformance with following requirements), but on page 5, G (3) it says motor vehicle repair may be permitted as a Type 2 home occupation only in the AF district. But on page 5, G (5) (g) vehicle parts repair is listed as an example that is presumably allowed in all districts. This is confusing and is not what was said at the joint meeting. She thinks it's contrary to the Comprehensive Plan. She thinks the notification distance should be ½ mile, and that the Planning Commission shouldn't wait for the State of Michigan to change their requirements. In C #2 of the approval process, where it says "may" require public hearing, she thinks it should say "shall". She says don't limit hours for inspection to business hours because these people work non-business hours because they have a day job. In C #3 (d), she says the Township doesn't have a choice but to go through the Administrative Procedures Act, including an informal hearing then a full-blown hearing, and this takes time. On page 3, #4 Operational Impacts, she doesn't know what "normal senses" means. Noise is

not defined. The quantity is not defined in hazardous wastes. Substantial traffic volume is not defined. She agrees with Arnold about not violating the zoning ordinance to create other opportunities.

*Milton* said they want to make a document that can be understood by laymen.

*Mulcahey* said that in the 2008 court case, the judge said it was illegal for the vehicle parts repair business to be in a residential area because it was more appropriate in a commercial area pursuant to zoning. She still objects to vehicle parts repair being allowed in all districts and motor vehicle repair being allowed in the AF district.

*Maki* made comments about contractor yards. *Milton* said it sounds like we have more work to do.

Motion by *Milton*, second by *Sikkema*, to table the rest of the agenda until the December 3 Planning Commission meeting.  
(General discussion ensued among the public).

Vote: Ayes: 5            Nays: 0            MOTION CARRIED

The public asked if the public hearing was adjourned. The Planning Commission said it will be taken up at the next meeting.

#### Commissioner Discussion

*Postponed till December 3 meeting.*

#### Commissioner Decision/Recommendation

*Postponed till December 3 meeting.*

- D. Consideration – Receive comment on proposed **Amendment #34-12-01 Signs**, and prepare for presentation to the County and Board.
1. Planning Director comments
  2. Public hearing – limit 3 minutes per person
  3. Commissioner Discussion
  4. Commissioner Decision/Recommendation

All postponed till December 3 meeting.

## **VII. ADJOURNMENT**

Milton adjourned the meeting at 10:35 p.m.

Submitted by:

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Planning Commission Secretary  
Andy Sikkema

# CHARTER TOWNSHIP OF CHOCOLAY PLANNING COMMISSION MINUTES

Monday, December 3, 2012

**I. MEETING CALLED TO ORDER BY: Kendell Milton at 7:30 p.m.**

**ROLL CALL**

*Members Present:* Mr. Kendell Milton (Chair), Mr. Andy Smith (Vice Chair), Mr. Andy Sikkema (Secretary), Mr. Gary Heinzelman, Mr. Tom Mahaney, Mr. Eric Meister

*Staff Present:* Kelly Drake Woodward (Planning Director/Zoning Administrator)

**II. MINUTES – November 5, 2012**

Andy Sikkema noted changes to his comments on the Iron Ore Heritage Trail. Woodward will use the recorded minutes to make revisions to reflect questions posed as statements and other corrections for noted comments.

*Motion* to approve the minutes as corrected by: Heinzelman

Second by: Meister

Vote: Ayes: 6      Nays: 0      MOTION CARRIED

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

Add approval of 2013 meeting dates as New Business IX (B).

*Motion* to approve the agenda with additions by: Milton

Second by: Sikkema

Vote: Ayes: 6      Nays: 0      MOTION CARRIED

**IV. CONSIDERATION OF RESIGNATION OF CHAIR FROM OFFICE**

Milton noted he had resigned as Chair. He would like to nominate Gary Heinzelman as Chair.

**V. ELECTION OF NEW CHAIR**

*Motion* to nominate Heinzelman to serve as Chair: Milton

Second by: Meister

Vote: Ayes: 6      Nays: 0      MOTION CARRIED

**VI. PUBLIC COMMENT**

None

**VII. PRESENTATIONS**

None

**VIII. OLD BUSINESS**

A. Consideration – Receive comment on proposed **Amendment #34-12-04 Home Occupations**, and prepare for presentation to the County and Board.

Planning Director Comments

Woodward said this item was postponed from the last meeting during the public hearing. The hearing was re-noticed in the Mining Journal. If we can finalize the language at this meeting, the amendment can go before the County and a first reading of the Board in January. Attorney Mike Summers reviewed the proposed



amendment and said there were no legal issues, but he offered some minor suggestions for clarity. Woodward incorporated those suggestions into a revised document for Planning Commission consideration (agenda item VIII.A3). There are proposed changes to the definitions for home occupations and motor vehicles and additional factors for consideration for Conditional Use approval.

#### Public hearing

Dick Arnold said according to the zoning ordinance, if it's a nonconforming lot, it can only have permitted uses. He asked if that is still the case. Heinzelman said this would be discussed during the commissioner discussion. Arnold had a question on page 2 of the zoning ordinance – relationship of other laws. If state law is more restrictive than Township law, then you have to enforce the more restrictive. He wonders why it doesn't state that for motor vehicle repair you have to be certified by the State of Michigan. He also wonders since home occupations are considered a business, is there a ruling that they have to get a tax number which is also a requirement? He can't see how, unless you change the zoning ordinance, you can NOT require those things.

Jill Bradford wanted to make sure the proposed anti-firearm language (prohibition of the sales of firearms as a home occupation) has been eliminated from consideration as stated in the staff memo. She said that people who deal in arms are highly regulated by ATF and the FBI and other agencies. She feels gunsmithing is fairly safe with no hazardous materials involved.

#### Commissioner Discussion

Commissioners considered the proposed changes which were made available for both the November and December meetings as part of the public packet. They started with Mike Summer's five suggested changes. The first clarified that a fee is required, as reflected in Section 6.9(C)1 of the proposed amendment. This change was approved. Summers also suggested tightening the hazardous materials provisions to say that "no noxious materials used or produced in the home occupation shall be disposed of on-site." It was suggested that the word "hazardous" be substituted for the word "noxious" because "hazardous" is a term used by the Environmental Protection Agency. This change was reflected in the proposed Section 6.9(D)4(c). Sikkema also suggested adding the words "stored or" in the sentence, "no hazardous materials used or produced in the home occupation operation shall be stored or disposed of on-site . . ." He doesn't want people to think they can store wastes on the property without a plan for disposal. Heinzelman asked if there would be a time limit for disposal. Sikkema also suggested quantity could be a trigger for removal, but said some of this has to come down to reasonable discretion. Commissioners didn't want to restrict people from storing supplies to be used under this provision. Heinzelman suggested this could be addressed on a case-by-case basis in the conditional use provisions. Meister said it might also be relevant in a non-conditional use situation.

Milton had a question about the provisions in Section 6.9(D)5 "no persons other than full time residents as named in the application shall be engaged in the home occupation", yet under permitting Section 6.9(C)2(d) "if the resident applicant is other than the owner of the property, the owner must authorize the application". To him this means the owner has to be the authorized applicant, yet only the

resident is to be engaged in the home occupation. He wondered if there is another line on the application for the person who is applying. It was clarified that the resident is always the applicant, but if they are not the owner, then the property owner also has to sign the application. Woodward will create the proper application. Sikkema clarified that the first provision deals with who can work in the home occupation, and the second deals with who can apply.

Meister suggested we could say that hazardous wastes requiring disposal cannot be stored for more than 6 months or some other time period. Woodward was concerned about how she would keep track of the amount of time something was stored for enforcement purposes. Sikkema said there should never be more than one collector container for wastes. Mahaney sees difficulty in quantifying a specific amount of allowable stored waste. Woodward wasn't sure we should be concerned about accumulations of waste products that are properly stored and not a danger to the environment because further detail could make enforcement difficult. Sikkema noted the main thing is that it is not disposed of on-site. Sikkema suggested removing the word "used", so the sentence would read, "no hazardous materials produced in the home occupation operation shall be stored or disposed of on-site . . ." This change was approved.

Smith asked how often inspections would occur. Woodward said this would vary based on the type of home occupation and whether there were perceived risks or complaints.

Summers suggested additional language for Section 6.9(C)3(a) Enforcement. This was approved.

Section 6.9(D)6 reads "no advertising shall use the residential address of the home occupation. This provision does not apply to business cards". Summers stated it is unclear whether third party advertising is allowed, such as Yellow Pages and other off-site informational sources. Commissioners were in agreement that Yellow Pages are clearly advertising and advertising the address there is not permitted. No change was made.

Commissioners discussed whether a home occupation permit was transferable to another person (new resident of the home). Commissioners felt it was clear that the use shall terminate automatically when the applicant no longer resides in the dwelling unit, so it cannot be transferred to a new resident.

Milton asked if the home occupation would have to be re-approved if the non-owner resident (tenant) is the applicant and there is an ownership change after approval. Woodward thought this would be up to the new owner to work it out with the tenant, and Sikkema noted that there would probably be a new lease agreement at that time.

Commissioners approved a revised definition for home occupation to read "a business, profession, occupation, or trade conducted by an occupant of a dwelling unit as a secondary use subordinate and incidental to the use of the dwelling that meets the standards of Section 6.9" instead of "a commercial activity in a residential zoning district, carried on by an occupant of a dwelling unit as a secondary use subordinate and incidental to the use of the dwelling and meets the standards set out in Section 6.9." Woodward advised this change partly because home occupations are also allowed in the AF district, not just

residential zoning districts.

The commission approved the addition of “personal watercraft” to the definition of motor vehicle in Section 6.9(G)3. They also approved additional considerations for the approval of conditional uses in Section 6.9(G)4, including “the zoning district; size of lot; distance to adjacent land uses; screening and buffering”.

Smith asked if we address licensing. Woodward said this is something that is required by other agencies, and we would not do enforcement for other agencies such as the DEQ. We do work with the DEQ and notify them of issues of concern to them. Heinzelman said we had discussed this previously and determined it was not our responsibility. Smith asked how we would know that home occupations are following all other rules and regulations. Mahaney said we might permit a tax accountant without being concerned if they are licensed. Sikkema said that if we approve a home occupation, and then find out that they do not meet the requirements of other agencies, we can revoke their permit. Meister says it goes beyond the scope of the job to expect the Zoning Administrator to be aware of all applicable laws, although if the Zoning Administrator becomes aware of something they could notify the appropriate agency. Smith said we should at least ask if they have the appropriate licenses, etc. Sikkema said on the application we can ask if the activity requires other licensing and if so, have they obtained it. Smith suggested addressing it in Article 16 Conditional Use Standards so there is a checklist of things to ask for approval for any conditional use. It would apply to every conditional use. We would ask if there is any other licensing required, and then we could revoke the permit if the license is not obtained. Mahaney asked what would happen if a conditional use was approved and we were not aware of licensing required by the State, and a couple months later become aware of it and they don't have the license but they hold the permit, what would happen? Woodward said we would give them the opportunity to obtain that license from the appropriate agency, and if they don't get it, we could start the revocation process per the statement in Section 6.9(C)3(b)(iii) that says permits for a home occupation may be revoked at any time if the use is in violation of any statute, ordinance, law, or regulation.

Heinzelman affirmed that an additional public hearing is not needed for this amended version. Woodward said that is correct.

Citizen Jill Bradford, 555 Little Lake Road, asked if farms are permitted to have migrant workers. Woodward said farms are not considered to be home occupations – they are a permitted principal use.

Woodward was asked to address Arnold's concern about permitted uses on nonconforming lots. Arnold asserted that nonconforming lots (in the AF district) can only have permitted uses, so motor vehicle uses can't be allowed as home occupations because they are not a permitted use in the AF district. He refers to Section 6.4 of the Zoning Ordinance that reads: “Nonconforming lots, any lot of record may be used for permitted uses even though the lot area and/or dimensions are less than those required for the District in which the lot is located, provided that yard dimensions and other requirements of the District, not involving lot area and width are met.” Arnold also referenced a list of permitted principal uses for the AF district (page 28 of the zoning ordinance) which does not include motor vehicle uses. Woodward explained that every lot (not just

nonconforming lots) shall contain only permitted uses. She said home occupations are accessory uses, not principal uses, and they are permitted per Section 6.9 of the Zoning Ordinance (Home Occupation provisions), and the list of permitted principal uses does not apply to home occupations. Whatever activity is approved as a home occupation per Section 6.9 of the Ordinance is then considered a permitted accessory use to the principal use which is the residence in that district.

Arnold said he is concerned about people with automotive uses who dump hazardous substances on the property, and it's hard to keep track of their activities but it endangers the water supply. Mahaney said it was more of a problem when we didn't have disposal sites set up. Sikkema said he would be hard pressed to permit a vehicle repair business as the primary income opportunity for a homeowner. It's different if it's supplemental income as a hobby. He can see the public's concern about someone's primary car repair business next door, but thinks they are protected by our size and operational impact controls. Meister said the restriction on number of employees also provides protection. Meister said we should ask about disposal methods for hazardous wastes on the application. Smith said this should be asked of all conditional uses per Article 16. Mahaney said we should also ask about quantities of these materials.

In re-addressing motor vehicle uses, Woodward explained the current ordinance and proposed ordinance provisions. Currently vehicle repair, parts repair, assembly, storage, sale, or manufacture, and any other work related to motor vehicles and their parts are prohibited in only the R-1, R-2, MFR, and WFR districts –they are NOT prohibited in the AF district, but may be permitted per the conditional use process. The proposed amendment is more prohibitive for the storage, sale or manufacture of motor vehicles because it prohibits these activities as home occupations in ALL districts. This is probably ok with everyone. The proposed amendment represents no change from current language for the permitting of motor vehicle repair (could be approved as a conditional use home occupation only in the AF district). Some Board members may want this to be more prohibitive. As currently proposed, the amendment would be more permissive than current regulations for motor vehicle parts repair and assembly which could be permitted as a conditional use in ALL districts. Woodward offered a proposed definition for “assembly operation” if one is needed. She cautioned that it may not be clear what is defined as motor vehicle repair vs. motor vehicle parts repair, so a distinction could be created for “major vehicle repair” vs. “minor vehicle repair” to provide more clarity.

Sikkema said this all came up because of making alternators for old cars as an example of motor vehicle parts repair. There are intricate small parts that don't require heavy machinery and power washers – things that would typically be worked on in a garage or basement. He said in an R-1 setting, transmission repair may be inappropriate. Smith noted the inconsistency with allowing people to work on parts for snowblowers or lawn mowers, but not cars. Sikkema said no one would think allowing repairs to car radios would be inappropriate in a residence, but something like a transmission is questionable in a subdivision. Smith noted the quantity of repairs is significant in relation to hazardous wastes, etc, so hopefully the operational impact provisions and enforcement will protect

people from violations. Milton noted that what was previously needed was stronger enforcement provisions. Sikkema noted no one has come in to speak to support automotive parts repair, and there was a whole room of people opposed to it, and the Township Board isn't supportive of it. So they could spend all this time working on it and the amendment may not get adopted regardless of the good things in the amendment. Mahaney was worried about less visibility associated with home occupations vs commercial businesses, and what they might feel they can get away with. He thinks it's a contentious issue that should be prohibited. Smith stressed the importance of facilitating the development of small businesses.

Heinzelman clarified the issue is whether to keep Section 6.9(G)5(g) or get rid of it. Woodward said if it is determined that vehicle parts repair is inappropriate in residential districts, then it should be added to the list of prohibited uses in Section 6.9(E)1 or 2.

Milton spoke about solar energy and the potential hazard associated with the batteries that would not preclude the permitting of the use.

Smith said the most positive thing to come out of this ordinance is to make it more reasonable and less difficult for appropriate home occupations to start up. The Township will be more aware of them, and can ask the right questions for those that are conditional uses. Sikkema again cited the lack of support for vehicle parts repair as indicated by citizen input, making it questionable if there is a demand. He reiterated lack of support. Mahaney said citizen comment should be taken into consideration. Sikkema said this is a good amendment, better than what we have, but this is the one questionable issue that could kill it.

The commission was polled for their opinion by Heinzelman. Two members would like to leave vehicle parts repair as conditional in all districts, and four members think it's best to prohibit it in the residential districts (conditional use in AF district only). The commission agreed to move motor vehicle repair and vehicle parts repair to 6.9(E)2 where it would be prohibited in the four residential districts only.

The term "vehicle assembly" was compared with "vehicle manufacture". Woodward felt that "manufacture" denotes processing raw materials into new products through chemical or mechanical processes, while "assembly" means putting together pre-made parts. There are no objections to "assembly operation" being a potential conditional Type II Home Occupation, however, the Commission decided to add "vehicle assembly" to Section 6.9(E)2, to read, "Animal boarding facilities including kennels, commercial stables, and other similar uses; and motor vehicle repair, vehicle parts repair and assembly are prohibited as home occupations in the R-1, R-2, MFR, and WFR districts."

#### Commissioner Decision/Recommendation

Milton moved, and Sikkema seconded, to send Home Occupation Amendment #34-12-04 version VIII.A.3 as changed to the County and to the Township Board for review and comment at their earliest possible date. (Changes include adopt all highlighted text; Section 6.9(D)4(c) to read in part "No hazardous materials produced in the home occupation operation shall be stored or disposed of on-site . . ."; delete Section 6.9(G)3 and Section 6.9(G)5(g) and move "motor vehicle repair", and "vehicle parts repair and assembly" to Section 6.9(E)2; and move the

definition of motor vehicle to the definition section.)

Vote: Ayes: 6 Nays: 0 MOTION CARRIED

- B. Consideration – Receive comment on proposed **Amendment #34-12-01 Signs**, and prepare for presentation to the County and Board.

Planning Director Comments

The attorney noted no legal issues. Woodward discussed his comments regarding complexity, and Summers agreed the complexity is probably needed for sign provisions. Woodward said she could add a table to Section H to clarify sign types and provisions per district for better readability. This would not be considered a significant change necessitating another public hearing. Sikkema asked about acceptance of the electronic sign provisions.

Public hearing

Bradford asked if the Commission intends to prohibit signs for home occupations, and this was affirmed. She urged them to consider permitting a small sign for delivery confirmation. She is against a total prohibition which comes across as “anti-home occupation” in tone. Woodward noted that former home occupation language permitted home occupation signs, so there will still be existing nonconforming signs if the prohibition is adopted.

Commissioner Discussion

Milton is opposed to lighted signs in residential districts, and noted some home occupations had begun to light their signs. Meister asked for clarification of current sign provisions for home occupations. Woodward said that currently signs are not permitted as “exterior evidence” per home occupation provisions. She said the Commission could allow content related to a home occupation to be included on the permitted residential signs. No one wanted to re-address this issue. Meister inquired about the time limit for temporary banners, if the 90 days pertained to exhibiting of one particular banner. This was affirmed. Heinzelman addressed Summers’ question about the lack of clarity for electronic vs animated signs. It was felt these provisions are clear in the proposed amendment. Animated sign provisions don’t apply to electronic message signs. Woodward asked Summers if he thought the same illumination standards for electronic message signs should be used for all illuminated signs, and he didn’t think this was necessary. Woodward was not sure the provisions as written would protect against the colored lights all around the sign such as other Holiday Stations have adopted. No one wants colored lights as a border on signs. It was noted the illumination standards require fully shielded fixtures that minimize glare, and are not visible by pedestrians, motorists, or adjacent property owners. It also says bright colored lighting is prohibited on signs except as part of an electronic message sign. It was questioned whether bright lights would be allowed all around gas station canopies since these aren’t signs. Woodward said most of them do have signs on them. It was noted the outdoor lighting standards may have to be revised to be consistent with these provisions.

It was noted that Dan Landers of Cook Sign had said that we would probably get smaller electronic signs if we allow them to scroll the message. No one suggested a change to the electronic message sign provisions.

Smith asked how distance from travel lane would be calculated for the Togo's building. Which travel lane would be considered? Highway M-28 and US-41 would be the pertinent travel lane. All wall sign areas would be added together to determine if they exceed the maximum allowed wall sign area.

The only change would be the addition of the chart.

Meister asked if we know the illumination level of the Holiday Sign. We do not. He asked where we got the illumination standard, which was from a national study. Woodward noted we need to obtain a measurement device.

Commissioner Decision/Recommendation

Milton moved, and Meister seconded to send Sign Amendment #34-12-01 as changed with the addition of a chart to the County and to the Township Board for review and comment at their earliest possible date.

Vote: Ayes: 6 Nays: 0 MOTION CARRIED

**IX. NEW BUSINESS**

- A. Consideration – Prepare comments on the Iron Ore Heritage Trail 2013 Draft Recreation Plan.

Sikkema thinks there is difficulty in the IOHT wanting to encompass all uses in different sections as stated on page 13, "Provide a quality user experience and safe trails for the diverse trail users". They could not assure our community that ATVs would not be allowed on the trail that the DNR controls. This creates a difficulty for them in relation to what the community wants. He thinks they need to better define which uses are allowed per section of the trail in the plan. Woodward noted this is shown on page 6, but the map resolution is poor and the scale does not allow a detailed view. Heinzelman agreed this is a difficulty.

Smith said he understood that Britton was asking for support for the route location, but the IOHTRA already had support for the rail trail. Heinzelman noted that this was before the alternative urban trail was available, and now most participating citizens support the urban trail as the designated route. Smith noted that from the intersection of M-28/US-41 to the LSI bridge it is a designated 2-way snowmobile trail. Nothing is proposed (for designated snowmobile route) from intersection to the Welcome Center. It is currently only a one-way trail north from the intersection to the Welcome Center. Sikkema said snowmobiles are allowed to travel along any state highway in the direction of traffic at the furthest edge of the right-of-way.

Woodward noted resistance on the part of the Iron Ore Heritage Trail Recreation Authority (IOHTRA) to adopt the urban route as the designated route instead of the rail trail. The idea is that the DNR doesn't have the money to mow the trail, but the IOHTRA would take care of summer maintenance along that trail. The IOHTRA tabled the decision till the December 19 public hearing.

Sikkema also noted there are no items in the Action Plan that pertain to Chocolate Township, even though we have invested in the trail system. We shouldn't pay a price to be a member of the group without actually receiving some services, such

as maintenance. He thinks maintenance activities should be addressed in a more detailed manner in the form of an action or maintenance plan so the Township would know the expectations.

Smith asked about the millage money and what it funded. It was clarified that none of the Chocolay trails were funded by the IOHTRA. He said the millage money was to go for development and maintenance, but there have been no maintenance agreements thus far. There are no criteria or restrictions on how the millage will be spent. Woodward noted there are no appendices included in the review document so we can view their By-Laws or other documents to see if this is addressed. Who will receive the money to do the maintenance? Smith noted that part of the millage monies could be returned to the Township to perform maintenance activities instead of being spent on equipment, for example. Sikkema noted that Chocolay Township does have a representative on the IOHTRA who represents our interests.

Woodward presented these comments for inclusion:

- Page 6 map resolution is poor
- Page 12 typo “Apprendix C”
- Page 15 – The Chocolay Township boundary starts at the Welcome Center, and thus it is not accurate to say that the rail trail “hugs Lake Superior” as there is quite a distance and a dense wooded buffer between the trail and the Lake.
- To highlight how the rail trail intersects with water bodies in Chocolay, you could say that the rail trail bridges the Bayou and the Chocolay River, and provides occasional river views near Harvey. The only public access to Lake Superior in Chocolay Township for pedestrians (accessible from the rail trail) is at the Welcome Center, but people boating on the Chocolay River can access Lake Superior at the mouth.
- Page 15, Connections - the rail trail in Chocolay Township provides access to the Chocolay Marina and Park (via Green Bay Street), but also Lion’s Field, the NMU Golf Course, and the Kawbawgam Pocket Park.
- Add a section commenting on future spurs and other connections throughout the region. In particular, even if you don’t designate it, we want to highlight our urban trail system through Harvey that provides an alternative paved surface, lighting, safe ADA access to refreshments, bathrooms, and other recreation areas including the Silver Creek Recreation Area, Chocolay Community Gardens, Willow Farms Therapeutic Riding Stable and the M-28 fishing site.
- Add a section on future envisioned collaborations.

The Commission accepted these comments to pass along to the Iron Ore Heritage Trail Recreation Authority. Smith said he agrees it would be best if the IOHTRA would designate both trails, even if they only maintain one trail utilizing our millage money. Even if they adopted both routes, there would be very little maintenance on the urban trail because the property owners and adopt-a-tree citizens maintain most of it, so most of their effort could go to maintenance of the rail trail. Woodward noted it is a unique situation in our Township, and it doesn’t seem that the IOHTRA is set up to address this in a flexible manner instead of a



formulaic one. They fear setting a precedent for other areas.

- B. Consideration – Approve 2013 meeting schedule. No difficulties were noted and dates were approved. It was not anticipated that any meeting would be eliminated because there is no shortage of agenda items. Mahaney requested the meeting packets go out Wednesday or Thursday. It was noted that the packet is available on the website as well, or can be e-mailed digitally.

**X. PUBLIC COMMENT**

Bradford said “good job”.

**XI. COMMISSIONER’S COMMENT**

Milton said “nice job”. Smith asked about the vacant property on Silver Creek Road that was considered for purchase. Woodward will get an update. It was noted we need to change the agenda format so that a motion is not needed to adjourn.

**XII. DIRECTOR’S REPORT**

- A. Report – Woodward updated the Commission on the Iron Ore Heritage Trail Board meeting regarding the route through the Township.

**XIII. INFORMATIONAL ITEMS AND CORRESPONDENCE**

None

**ADJOURNMENT**

Heinzelman adjourned the meeting at 10:15 p.m.

Submitted by:

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Planning Commission Secretary  
Andy Sikkema