

# CHARTER TOWNSHIP OF CHOCOLAY PLANNING COMMISSION MINUTES

Monday, January 7, 2013

**I. MEETING CALLED TO ORDER BY: Gary Heinzelman at 7:30 p.m.**

**ROLL CALL**

*Members Present:* Gary Heinzelman (Chair), Andy Smith (Vice Chair), Andy Sikkema (Secretary), Bernie Stanaway (Board Rep), Tom Mahaney, Eric Meister

*Members Absent:* Kendell Milton

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

**II. MINUTES – December 3, 2012**

Andy Sikkema noted changes to his comments on Home Occupations.

*Motion by Meister, seconded by Sikkema, to approve the minutes as corrected.*

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

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

Correction of date on the agenda.

*Motion by Sikkema, seconded by Smith, to approve the agenda as corrected.*

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

**IV. PUBLIC COMMENT**

None

**V. PRESENTATIONS**

None

**VIII. OLD BUSINESS**

A. Consideration – Discuss proposed **Amendment #34-12-01 Signs** after the addition of the tables. Planning Director discovered a need for clarification on several items in order to accurately complete the tables.

Planning Director Comments

Woodward noted that Attorney Mike Summers said that an additional public hearing would only be needed if the Commission made a change that was material in nature as opposed to strictly a clarification. If it was determined a public hearing was needed, it could be held at either a future Township Board meeting or Planning Commission meeting.

Commissioner Discussion

Regarding the exempt residential name/address signs, a clarification was needed on the types and number of signs allowed in relation to the maximum square footage. The Commission discussed either allowing one sign per lot (at the appropriate 8 or 12 square feet maximum) or allowing unlimited numbers of signs provided the total combined area of all signs does not exceed the appropriate maximum. Based on the measurement standards, the Commission decided to allow unlimited numbers of signs up to a combined maximum area per lot so that we would not create enforcement difficulties resulting from the already common situation of having separate multiple sign panels for house numbers, addresses,

and names. The maximum square footage requirement will limit the number of such signs. These can be either freestanding or wall signs.

The Commission agreed to clarify that temporary directional signs are permitted off-premise signs. Sikkema wanted staff to check to see if the County Road Commission permits signs in the right-of-way, because MDOT doesn't, and he doesn't think we should imply that temporary off-premise directional signs can be located in the right-of-way if it violates other agency rules. However, they could also be placed on someone else's private property (with permission, of course). Woodward clarified that the amendment already specifies that temporary signs shall not be located in the public right-of-way except as otherwise indicated, and the amendment also prohibits signs that extend into the public right-of-way without authorization of the road authority. For further clarification, the Commission decided to change the text to "temporary off-premise directional signs not located in the right-of-way, and placed with the permission of the owner, not exceeding an area of three (3) square feet . . ." If the County Road Commission does allow signs in the right-of-way, then we won't add the clarification of "not located in the right-of-way, and placed with the permission of the owner", because they could be in the right-of-way. They also clarified that the intent is to permit temporary directional signs in any district, not just residential districts.

The Commission clarified that temporary real estate signs in the AF district should be divided into only two size categories, those that are less than 20 acres, and those that are 20 or more acres. They decided to delete the language that said, "for lots which are not less than 5 acres" because that left no direction on what is permitted on lots less than 5 acres.

The Commission agreed to change 5(b)ii Temporary Banners 80 square feet per premises to say 80 square feet per lot, because there is a definition of lot in the ordinance, but not a definition of premises. The Commission re-discussed the provision limiting the total area of all temporary banners to 80 square feet per lot in relation to fairness. (There is also a square footage limit per façade). They were concerned this may not be fair to multi-tenant or multi-structure properties. It was decided that was a private matter between the property manager and the tenants because the intent is to limit the proliferation of banners for purposes of aesthetics. Change 5(b)iii to delete the words "per calendar year".

The Commission discussed a clarification on which districts would allow temporary portable signs, and the number of such signs permitted per lot. They decided they would be allowed for permitted uses in the C and I district, and for conditional uses in all districts, and there should not be more than one such sign per lot at any one time.

The Commission clarified that farms could have either freestanding or wall sign types. The language for conditional use signs in the AF district was clarified for number of signs and sign type per the 60 square feet maximum. It was decided that they could have any number of freestanding or wall signs as long as the total combined area of all signs does not exceed 60 square feet. They added a specified height limit of 12 feet to add to the chart.

The Commission discussed the standards for trail signs. These standards were removed from the AF district (because these trails run through other districts as well) and added to governmental signs that are exempt from permitting. The intent is to facilitate wayfinding signage, especially since we now have two trails designated as part of the Iron Ore Heritage Trail. Smith noted you can't advertise specific businesses in the DNR right-of-way, although you can put up maps identifying businesses, so the existing sign at the LSI bridge is nonconforming to DNR standards. (No one knew who was responsible for putting up this sign, but it was not the snowmobile club.) The language was changed to permit off-premise wayfinding signs on public trails provided they meet the standards of the appropriate public entity, and are located only at designated turnoffs and within the public right-of-way. A limit of sixteen (16) square feet was set for these trail signs. Regarding the MDOT right-of-way in Harvey, wayfinding signs are not allowed unless they have an MDOT permit.

The Commission also discussed illumination in relation to the Holiday Stores putting up the blue lighting all around the signs and canopies. The standards say that exterior illumination has to be fully shielded and cannot be directly visible by pedestrians, motorists, or adjacent property owners. It also says bright colored lighting is prohibited on signs except as regulated as part of a permitted electronic message sign. The Commission thinks we should also be concerned about outdoor lighting standards and some necessary changes to cover lighting on canopies and buildings (not a part of signs). They want to put this on the agenda for the next meeting.

The Commission decided to review the discussed changes and the comments from the County Planning Commission and to have an additional public hearing on the sign ordinance at the February Planning Commission meeting.

## **IX. NEW BUSINESS**

- A. Consideration – Choose road names to accommodate addresses for new driveways off Kawbawgam Road. Commissioners did not feel it is appropriate for them to name a non-governmental road. They feel this is the responsibility of the land owner. The access does not currently need to be approved as a private road because it is now only a driveway that doesn't serve more than 4 parcels. But the driveway needs a name because a home is being built there, and they can't have a Kawbawgam Road address (none are available). Heinzelman suggested the chosen name needs to be reviewed by the county so there are no conflicts with other road names. Meister suggested the planning staff determine the name along with the property owner. This was the consensus decision.
  
- B. Consideration – Comments on the Planning Commission Annual Report  
Woodward presented a draft annual report for commissioner review. Commissioners only made changes to the ongoing and new goals. The zoning amendment relating to "dark sky lighting" was changed to "outdoor lighting" and given a priority of one. The "Rural Residential district" was deleted from the ongoing goals because there was a perception of no need (no one asking about it). "Review firearms ordinance" was upgraded to a priority three in ongoing goals because it contains language for zoning districts that no longer exist. This

would be an ordinance amendment (not zoning ordinance, but separate ordinance). There is not enough control in residential areas in the current ordinance.

“Planning for commercial and industrial land uses” was previously postponed because there aren’t many areas available that wouldn’t encroach on existing land uses. This was a Board request. Meister suggested addressing this because the residential uses will only get more prevalent the longer we wait. Leave this at priority 3.

Sikkema asked for an updated status of proposed amendments to be attached to the agenda at every meeting. This would also include citizen requests for upcoming revisions.

- C. Consideration – Proposed amendment to the zoning ordinance related to Conditional Use Standards. This originated with Smith’s request to ensure that home occupations that are conditional uses (all conditional uses) provide proof that they have obtained all other applicable permits and meet all other regulations during the review process. Woodward said other administrative changes are needed to this section, but for now we can make these additions and address the others during a more comprehensive update.

Commissioners decided to add a statement (to item 9) that, “Failure to comply may result in Planning Commission review and possible revocation of the Conditional Use permit.”

Commissioners discussed general needed amendments to the zoning ordinance, and the scope, and how to proceed. Sikkema wants to spend more time on planning and not address ordinance amendments in such a piece-meal manner. He asked Walker about the process for coming to the Township Board to get permission to hire someone to rewrite the ordinance so the burden is not on the Planning Commission. Mahaney noted that many of the Planning Commission’s agreed upon goals relate to zoning ordinance amendments. Smith asked what kind of planning Sikkema is referring to. Noted items include recreation planning, master planning, and future land use planning. Woodward said this planning should be done first as a basis for the zoning amendments. Walker noted that when the Planning Commission makes decisions on an ordinance, they are doing planning and impacting the future. Heinzelman asked if the Commission should send a letter to the Township Board asking them to hire someone to rewrite the zoning ordinance. Sikkema said he wants to clarify the intent related to the ordinance amendments. Woodward said she could put together a presentation detailing needed changes for consideration in determining next year’s budget. Smith asked what would necessitate a change? Woodward noted difficulty in enforcement and interpretation, or regulatory gaps. Sikkema said he wants to have a conversation about what they want to accomplish.

*Moved by Meister, seconded by Mahaney, to proceed with this proposed zoning amendment with the addition of Meister’s suggested language above, and to file the appropriate text amendment application and to hold a public hearing as soon as possible.*

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

**X. PUBLIC COMMENT**

None

**XI. COMMISSIONER'S COMMENT**

Sikkema asked who is the Township representative for the Iron Ore Heritage Trail? It is Don Britton. No one in attendance was aware of how he was chosen, but Woodward thought he was appointed by Seppanen. Sikkema asked if this is consistent with how other communities appoint representatives, and said Don is doing a good job. He asked if Don reports back to the Board on what is going on. Smith wants an update on purchase of the Silver Creek property to improve access and parking. Woodward noted she was only told that the property was deemed too expensive at this time. She will get an update from the Manager.

**XII. DIRECTOR'S REPORT**

Woodward updated the Commission on the Iron Ore Heritage Trail Board Recreation Authority decision on the location of the routes through Chocolay Township. They have adopted both the rail trail and business route as part of the Iron Ore Heritage Trail, but will invest money in maintenance only on the rail trail. They will facilitate maintenance on the business route, and will assist with wayfinding signage and artwork.

Woodward also advised Commissioners on the Solka decision in the Buchler trial, which has the effect of setting local precedent for pre-emption of local zoning by the Michigan Right To Farm Act. This may pertain to commercial farmers (no minimum level of sales) who meet all the applicable GAAMPS, and who would be protected against nuisance claims regardless of when the operation began. Woodward suggests the scale of agriculture needs to be more clearly addressed in the township zoning ordinance. She encourages education about community resilience, local food supply, and sustainability and gathering public input. Woodward has had inquiries about raising poultry and other small animals for food, and a couple complaints about chickens roaming free in residential neighborhoods. The old animal control ordinance is not sufficient to address all relevant issues, and the zoning ordinance is unclear. Local zoning is not completely irrelevant to this issue.

Sikkema noted the grant for improving the remaining portion of the urban route looks positive. Results will be in soon. There is also a project to resurface and widen US-41/M-28 from the Carp River Bridge to Shiras Hills.

**XIII. INFORMATIONAL ITEMS AND CORRESPONDENCE**

None

**ADJOURNMENT**

Heinzelman 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, February 4, 2013

**I. MEETING CALLED TO ORDER BY:** Gary Heinzelman at 7:30 p.m.

**ROLL CALL**

*Members Present:* Gary Heinzelman (Chair), Andy Smith (Vice Chair), Andy Sikkema (Secretary), Bernie Stanaway (Board Rep), Tom Mahaney, Kendell Milton

*Members Absent:* Eric Meister (excused)

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

*Others Present:* Lee Blondeau, Bill Joswiak, Gary Walker

**II. MINUTES – January 7, 2012**

*Motion by Sikkema, seconded by Stanaway, to approve the minutes as written.*

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

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

*Motion by Sikkema, seconded by Mahaney, to approve the agenda with the addition of item VII.C to discuss using excerpts from staff reports as findings of fact in minutes.*

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

**IV. PUBLIC COMMENT**

None

**V. PRESENTATIONS**

None

**VI. OLD BUSINESS**

- A. Consideration – Consideration of proposed amendment **#34-12-01 Signs** for submittal to the Township Board.

*Chair Introduction and Opening of Public Hearing*

Chair clarified that this discussion is to allow public comment on approved changes from last meeting, and to move the amendment forward.

*Public Hearing*

There was no public comment.

*Planning Director Comments and Commissioner Discussion*

Woodward said the amendment has gone to the Attorney and County for comment. The County recommended we reference the Access Management section of the ordinance which has provisions pertaining to signs. The recommended reference was added to Section 18.1.A to read thus, "Refer to Section 5.3 for additional provisions pertaining to signs in the US-41/M-28 Access Management Overlay District". The remainder of highlighted provisions relate to items approved at the last meeting, and sentences reworded for consistency, such as "no such sign shall exceed". On page 16, Temporary Directional Signs, provisions were amended to acknowledge that County sign standards do allow these types of signs in the right-of-way. It says, "provided they are placed in conformance with the requirements of the appropriate road authority." Illuminated sign standards were checked for consistency with outdoor

lighting standards, and were found to be consistent. The packet includes the County Planning Commission comments and the County Road Commission standards for signs. Woodward recommends approval of the amendment to forward to the Township Board for the first reading at the earliest possible date.

Heinzelman said he thinks last meeting's changes were incorporated correctly. The County sign standards were discussed in relation to the amendment. The standards relate to placement, timing, and property owner approval. Our standards just reference the County standards, and thus do not sanction something they don't permit.

Sikkema questioned the statement regarding the number of signs permitted in the AF district for conditional uses. The intent was confirmed and the language was not changed.

*Commissioner Decision and Recommendation*

*Moved by Smith, seconded by Milton, to send Sign amendment #34-12-01 as written to the Township Board for review and comment at their earliest possible date.*

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

**B. Consideration – Consideration of proposed amendment #34-13-01 Conditional Use standards.**

*Chair Introduction and Opening of Public Hearing*

Chair opened the public hearing on the proposed amendment.

*Public Hearing*

Lee Blondeau, 1001 N. Tracie, asked if the rules would be retroactive on Conditional Uses. Heinzelman indicated he did not recall discussing retroactive review. Woodward confirmed this would relate only to new Conditional Use decisions.

*Planning Director Comments and Commissioner Discussion*

Woodward said this amendment originated from a concern by Smith that we have some ability to confirm that an applicant for a conditional use permit has taken steps to conform with other applicable rules and regulations, and has gotten all necessary permits before we issue conditional use permits. At the previous meeting, the Commission approved an additional statement about the ability to revoke permits. The current Zoning Ordinance doesn't address permit revocation except for mining permits and permits based on applications with false statements.

Mahaney asked what would happen if the Township approved a certain Conditional Use, and later found that an individual was not licensed? Would the Township be in jeopardy for allowing the activity, and would the permit be revoked? Woodward said that the licensure would be enforced by another agency, and we would not have the authority to enforce their rules or be responsible for compliance. If the Township found out that the party was not in compliance with other regulations as stated in the application, then a letter of notice would be sent, and the party would be given the chance to comply before possible revocation proceedings. Mahaney wondered if the Township would have liability for the continuance of the use without the necessary compliance or

licensure while the party was given the opportunity to comply?

Walker provided an example. He said that if he practices law from his house, and does not have a license to do so, it is not the Township's concern, it is the Board of Law Examiner for State licensure. The fact he is operating with a conditional use does not give the Township any liability for his non-licensure. We are just making our conditional use permit contingent upon having the other appropriate licenses and following other applicable regulations. The Township would have the ability to revoke the permit, but not the responsibility for someone operating without a license.

Mahaney was just concerned because rules change. For example, if he wants to raise lilies at his home, in the State of Michigan he has to have a plant dealer's license.

Stanaway said his understanding was that we were relying on the applicant to provide the information regarding compliance with other regulations. It was discussed again how we would know that the applicant is being forthcoming and telling the truth, because we are not an expert in all these regulations. Stanaway said a quick Google search today can produce much information on requirements. Mahaney said people seem to think we are the ultimate licensing agency or something. Woodward said the provisions are intended to provide additional protection. If we don't adopt the provisions, we can't do anything about people failing to comply with other regulations. At least this would give the Township the opportunity to do something if someone doesn't have the necessary permits or licenses, or follow the necessary rules.

Milton said it was meant to enhance enforcement provisions. Smith said his first thought for Conditional Use permits was that we need a standard checklist for all decisions of this nature so that nothing is forgotten in the decision. Mahaney asked if the Planning Commission will receive copies of all conditional use applications. Woodward confirmed this would be included in the packets for the meeting when the item was under consideration. The application would include questions relating to the proposed amendment provisions.

*Commissioner Decision and Recommendation*

*Moved by Stanaway, seconded by Mahaney, to send zoning amendment #34-13-01 as written to the Township Board for review and comment at their earliest possible date.*

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

**VII. NEW BUSINESS**

- A. Consideration – Consideration of proposed amendment **#34-12-05 Administrative standards**, relating to notification distance for public hearings.

Heinzelman noted citizens had requested we increase the distance for written notifications for public hearings because they don't think 300 feet is enough. Woodward said she created six case studies within the Equalizer system so that Commissioners could visualize how many properties would receive written notices based on inputs of 300, 500, and 700 feet radii. She picked typical size parcels and large size parcels, because citizens were concerned that notification would not be sufficient when larger parcels were involved. The cost of additional



mailings was presented. She explained that her normal practice is to include additional parcels anyway just to make sure no parcels seem unnecessarily excluded, and so the distance ends up looking more like 500 feet typically. She indicated the 700 feet notification distance would be a change, but was not necessarily unreasonable. The amendment could be as simple as changing the number for notification distance.

Mahaney noted the cost increase was not significant. Commissioners discussed the case studies. Smith asked if the County changed their notification distances. Woodward said she responded to the previous question about State requirements, but was not aware of a question regarding the County. The discussion turned to notification practices for rezonings. Woodward noted our Ordinance goes further than State requirements for notifications for rezonings. The State requirements say that for any group of adjacent properties numbering eleven or more that is proposed for rezoning, certain notice requirements do not apply (you do NOT have to notify every property owner, or every person to whom real property is assessed within 300 feet, or all occupants of all structures within 300 feet). But our Ordinance says all property owners will be given written notice of proposed rezonings regardless of the number of parcels involved, and seems to say that owners and occupants of neighboring properties within 300 feet are also to be notified of ANY public hearing (including rezonings).

Heinzelman thinks 300 feet is inadequate, and the more people that are notified, the better off everyone is. He did not think cost is prohibitive in increasing the notification distance. Stanaway said relevance depends on the zoning districts and size of parcels involved. A 700 feet notification distance in the R-1 district may be excessive, because it will involve a lot of small parcels and owners may not think the notice is relevant to them. He thinks 700 feet is too much, and 500 feet may be a good compromise. Milton said 500 feet seems sufficient. Heinzelman confirmed there would need to be a public hearing on this. Mahaney and Smith are in favor of 500 feet.

There was a discussion whether neighbors would be notified of a rezoning. After discussion, it was determined that they would, but standards could be more clear. Provision #10 may be redundant, but it doesn't hurt anything. When asked, Walker said there is no harm in leaving both #6 and #10 in. No change was made on this issue.

*Moved by Stanaway, seconded by Smith, to change the notification distance for public hearings to 500 feet, and to hold a public hearing on Zoning Amendment #34-12-05 (Administrative Standards and Procedures – notification distance) at the March Planning Commission meeting.*

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

- B. Consideration – Proposed changes to outdoor lighting standards to address exterior lighting on canopies and buildings.

Woodward noted this was initiated because of the Commission's desire to address outdoor lighting on buildings and canopies. It follows the intent of dark sky standards without incorporating the "bug ratings" and technical lighting measurements. It mostly regulates cutoff and shielding of fixtures to deflect light from adjacent properties and streets. It does address shutting off lights after

businesses are closed. There was a question about whether AF district is considered non-residential. The heading for Section E was changed from “Non-Residential Lighting” to “Lighting in C/I Districts”. The provisions do address canopy lighting (all lighting can only be underneath the canopy, entirely recessed, with a flat lens, but allow no other internal or external lighting). There were questions about commercial loading dock lighting, security lighting for business entrances, and lighting for outdoor storage areas. The provisions could be changed to say, “Outdoor lighting, except that at building entrances, shall be extinguished between 11:00 pm . . .” Smith wants the opportunity to observe existing conditions late at night.

*Moved by Mahaney, seconded by Smith, to make changes as discussed and table this until next month to give Commissioners a chance to study actual lighting conditions in the Township.*

*Vote: Ayes: 5 Nays: 1 MOTION CARRIED*

C. Consideration – Discuss using excerpts from staff reports as findings of fact in minutes.

Woodward received information from MSU Extension regarding how to take minutes for administrative decisions. Specifically, this relates to documenting information that is contained within staff reports that contributes to decision making, but is not necessarily discussed at the meeting. She said that communities can accept a staff report as basic findings of fact if the report is complete, includes analysis, but is without a recommended action. The Commission can pull excerpts from staff reports to use as findings of fact, and then the whole staff report would be available as reference in a court action.

Walker elaborated on this issue. If an administrative decision is challenged, the court will look to what is actually in the Ordinance. They won't look beyond the Ordinance if they don't have a published record as to the reasoning used when adopting that Ordinance. You can't supplement the record in court. This would be adopting, by reference, part of the staff report as findings of fact.

Woodward noted that the City of Marquette reads their staff report in entirety, but the minutes don't contain the entire language of the report. She suggests placing the chosen excerpts in the minutes, or including them in the motion. It was noted this might create longer, more complicated motions. Walker noted it is not necessary to read the whole motion if everyone has it in front of them.

This discussion was just to make Commissioners aware of this issue and to expect some changes in the future.

**VIII. PUBLIC COMMENT**

None

**IX. COMMISSIONER'S COMMENT**

None

**X. DIRECTOR'S REPORT**

Woodward noted the new road off Kawbawgam was named Charlotte Trail in honor of Chief Kawbawgam's wife, Charlotte. Woodward has compiled a list of zoning ordinance amendments starting from the 1977 Ordinance, including their topic, and their adoption date. There are some difficulties in documenting proposed but not adopted

amendments since 2009. There is no documentation in the official record when an amendment was considered but not passed, so this is taking some additional research of minutes to confirm the progress of over 30 proposed amendments. The research is not complete, but the official record and official text of the zoning ordinance is in question related to some proposed, but not adopted amendments. Woodward will complete the research and address this again with the Commission along with the list of Zoning Ordinance changes needed.

Woodward will reformat the draft Master Plan into a more simplified, summary document with detailed analysis contained in Appendices. Dale is making progress on the Recreation Plan. There will be public meetings with current user groups and the public to determine satisfaction with existing facilities and ideas for new facilities. However, the plan will not be ready to be submitted to the DNR until next year's grant cycle. It was originally thought that a new plan was submitted in 2010, however this is not the case. The last plan expired in 2009, so grant opportunities are limited until next year.

Woodward researched the potential Silver Creek property acquisition, and there are no staff that are up-to-date on any proposed action on this property, although it is considered a goal to purchase. It would be a good potential project for a DNR acquisition grant. Milton thought the lot is not buildable based on setbacks and other requirements. Woodward will check on this. The concern is to make sure there is legal public access to the park, so this issue was brought to the Planning Commission by the former Planning Director and DPW staff.

Smith suggested the Township look into purchasing the property to the west of Township Hall along Silver Creek Road, because the current driveway entrance does not allow for proper automobile stacking. Walker confirmed that this was formerly negotiated, but negotiations were not successful with the property owner. He will look into this again to see if anything further can be done, because this would be an opportune time with the fire hall reconstruction project. Smith asked about the eminent domain process in relation to this project. Sikkema and Walker commented on this process. The Township would have to pay the appraised value, but there could be a civil action to claim a higher amount.

Woodward discussed potential improvements to the Park & Ride facility at Jack's Foods, and a potential Farm Incubator on Township property in cooperation with the U.P. Food Exchange initiative. Plans will be created for both projects (especially in case discretionary funding becomes available for the transportation project).

## **XI. INFORMATIONAL ITEMS AND CORRESPONDENCE**

Marquette City Planning Commission minutes and Planning & Zoning News

### **ADJOURNMENT**

Heinzelman adjourned the meeting at 9:10 p.m.

Submitted by:

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Planning Commission Secretary  
Andy Sikkema

# CHARTER TOWNSHIP OF CHOCOLAY PLANNING COMMISSION MINUTES

Monday, March 4, 2013

**I. MEETING CALLED TO ORDER BY:** Gary Heinzelman at 7:31 p.m.

**ROLL CALL**

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

*Members Absent:* Bernie Stanaway (Board Rep) -excused

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

**II. MINUTES – February 4, 2012**

*Motion by Sikkema, seconded by Milton, to approve the minutes as written.*

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

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

*Motion by Sikkema, seconded by Meister, to approve the agenda as written.*

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

**IV. PUBLIC COMMENT**

Gary Walker, 765 Lakewood Lane, said that the Township attorney advised caution when he attends Planning Commission meetings because of his authority to appoint Planning Commission members. He should not be perceived as exercising undue influence on the Commission. He said he would continue to attend but he will be uncharacteristically quiet so as not to intrude on decisions so that the decisions are not subject to challenge. Heinzelman asked if the Commission can still solicit advice from Walker, and he said yes.

Public comment was closed.

**V. PRESENTATIONS**

Tim Kopacz, representing the Upper Peninsula Disc Golf Association (UPDGA), gave a presentation on the expansion of disc golf opportunity in the Township. The UPDGA focuses on expanding recreation opportunities for residents within the entire Upper Peninsula. The "Disc the U.P." organization runs leagues, hosts tournaments and events, and works with schools to give clinics and demonstrations. This group focuses mainly on Marquette. Several members of the organizations were in attendance for questions.

The group wants to expand the Silver Creek course from 9 holes, which is equally split between Church and Township property, to 18 holes. Kopacz described the improvements to be made to this course. The regional goal is to create a good balance of courses satisfying different niches. The 18 Hole, professionally-designed Powder Mill course in Marquette will be more challenging, and will attract touring players and college students. The Silver Creek course is a tight technical course (due to small parcel size) where people can work on accuracy and control. The design includes amateur tees that provide opportunity for youngsters as well as longer, more technical tees.

Other regional facilities include 18 hole courses in Iron River, Grand Marais, Escanaba (2 courses to open in May or June), and Sault Ste. Marie, as well as the 9 hole Al Qual course in Ishpeming that is being redesigned for 18 holes. There are 9 hole courses in Lake Linden, Houghton (Michigan Tech), St. Ignace, Escanaba and Copper Harbor. Requests for courses are increasing. The courses are on both public and private land. They need at least 5 courses within a 20 mile radius to bid for the World Championships. Tournaments can accommodate 5 players per hole, for a total of 90 people out utilizing and enjoying the facility.

Costs to construct 18 hole courses range from \$18,000 to \$23,000. Many courses are sponsored by Rotary or Lion's Clubs. It is a low cost recreation option compared to other popular forms of recreation. These initiatives utilize a large quantity of volunteer labor. The group would like to create a partnership to expand opportunity in Chocolay.

Commissioners asked questions of Kopacz. Sikkema asked how the courses are maintained once they are put in. The group has a land use agreement with the BLP to partner for maintenance at the Powder Mill course. As the players use the course, it also reduces the amount of maintenance needed. They can arrange a similar land use agreement in Chocolay Township. No mowing is required in the woods. Occasionally they have to remove dead trees, which is actually helpful in reducing fire danger. The baskets are removable for winter, so all parts would be flush to the ground to accommodate winter sports like cross-country skiing. They might need to arrange for storage of equipment with the Township in the off-season. The baskets are locked on during the season, and so deter vandalism.

Johnson gave a brief history of the group's involvement with the Church and Township. He said that since the group has undertaken maintenance activities, vandalism at the park has gone down. There are always people playing there, they take care of the trash and are great to work with. Johnson said the Township has room to store the disc golf equipment during the off-season, however, there is not necessarily a need to pull the baskets because they do not interfere with any other recreation at this time.

Kopacz pointed out that the deadfall from the old growth needs to be cleaned up anyway because it poses safety concerns from fire danger. The group proposes to selectively cut some trees in consultation with the Township. They give consideration to preserving specimen trees like maples and conifers that contribute to four-season aesthetics.

Mahaney asked about the typical width for fairways. Kopacz said they typically use a ten percent rule: the width is ten percent of the length. However, he explained that disc golf is different than traditional golf because they do not have "fairways", they have "airways". They do not clearcut an area. They selectively cut. The airways are precisely designed to narrow and widen and present various obstacles. It is fun to gain the technical skills required to avoid the obstacles. There are different disc types for different purposes. Some people may carry 15 to 20 different discs which have different configurations and performance characteristics. The goal is to make a course tight but as minimally frustrating as possible.

Meister asked how much participation they get from young people, and which age groups are involved. The group offers clinics for Bothwell and Northstar students. The sport accommodates all ages.

Mahaney asked about membership and who can play. People do not have to join the group to play. Anyone can play for free. Discs are frequently made available at nearby businesses, including gas stations. You can start with one eight inch disc and learn the different throwing techniques.

Mahaney asked if the group had to secure funding for the Powder Mill course. Tim said yes, and much came from donations from club members. He suggested this project can be part of a grant application effort for a Silver Creek improvement initiative, funded by the Township, or they can institute a sponsorship and fundraising drive. The grant would be the only way to assure a definite opening date. They install sponsorship signs at holes for businesses or organizations that sponsor (fund) them.

Heinzelman asked if there has been any other discussion on uses for this particular area. Johnson said that several years ago a dog park was proposed but the idea died fast.

Milton asked if there is a parking issue. Johnson said yes. There has been a plan for many years to expand the west parking lot and to build additional restrooms. The Township is also trying to get a new access off Silver Creek.

Woodward mentioned that Kevin Taylor of Silver Creek Church is supportive of the expansion. Based on the numbers of NMU students playing at Silver Creek, Taylor thinks the sport helps to attract college students to the area. Woodward asked if Kopacz thought NMU students would continue to use the Silver Creek facility once the Powder Mill course was complete. There was unanimous and instantaneous assertion by disc golf members in attendance that the participation at Silver Creek would continue.

Heinzelman asked if there is a conflict with the park closing at dusk. Kopacz said there are lighted discs for night play if that was an option. Mahaney asked if the facility is predominantly used on weekends. It was reported by Township staff that there is ALWAYS someone there playing during the day between 7:30 am to dusk.

There are sometimes 40 people playing at any one time, and they bring their families and children. They encourage people to come there to learn the sport. The members are willing to promote the sport and teach others. The group believes participation among children will increase.

After discussion, disc golf members of the audience and Johnson left.

## **VI. NEW BUSINESS**

- A. Consideration – Discussion regarding disc golf opportunities at facilities in Chocolay Township.

### *Commissioner Discussion*

Sikkema asked if there is an official agreement for the disc golf facility at this time. Woodward said the present agreement is informal. The Township has no investment in equipment. If there was to be a grant application, the Church would have to issue a lease for the portion of the property used for the Recreation Passport grant project for a time period of 25 years.

Heinzelman asked Woodward to explain the Passport grant. A summary was given. The focus is on renovating existing obsolete facilities and accommodating ADA accessibility and Universal Access. This project would not be able to be ADA accessible due to the nature of the activity. To strengthen the grant

application, the Township could apply for other improvements at the same time that meet those requirements and earn those points. This is the only grant the Township could apply for at this time since the Recreation Plan is not finished.

Sikkema inquired about the criteria in place for use of Township property. Is there a formal policy or is it case-by-case? Woodward was not aware of a formal policy. Mahaney pointed out the facility is open to the public. Heinzelman noted the group is asking for primary use designation for the course. Woodward said the group is willing to work around other users.

Sikkema asked how the Township evaluates requests for new facilities from various user groups and decides which ones to support. He says ultimately the Township gets into a position where they have to say I'll support this but I won't support that. After you open up the door how can you tell anyone no if you don't have criteria that says this is how we make our decisions on who we allow to use Township property and who we don't? Heinzelman said they have already opened the door with the baseball and soccer fields. Sikkema asked if it is a bad thing to have special interest groups come in and provide facilities that people can use at no cost to the Township? We provide a place but they have the responsibility to install and maintain the equipment. This keeps facilities current, because the users are the experts, and they will maintain it since they are a stakeholder vs. the Township owning it and having to maintain it. So there might be value to this, but how do you decide who to support because you don't want to pick winners and losers or the flavor of the day. Woodward pointed out the criteria is typically in the Master Plan and the Recreation Plan based on identified needs and goals.

Meister said it's a positive thing if you can get someone else to maintain the property rather than the Township having to pay for it. He thinks one of the criteria has to be that the facilities support local residents. He said it does sound like the group thinks local youth will get more involved. Also it's a positive that the property is less subject to vandalism since disc golf users are there. Sikkema said there still should be a policy so it's fair to everyone.

Smith asked about the time commitment involved with making this property available for disc golf. Woodward said the equipment is portable and easily moved if plans change.

Mahaney asked if this project is high priority? Woodward said staff recommended it in the highest priority rank for this facility, subject to Planning Commission agreement as part of the Recreation Plan. Mahaney said he felt funds should go toward fixing existing problems at the park. Woodward said that there is additional financial benefit to including some of the existing facility improvements in the grant for the disc golf. The disc golf group was willing to help provide match for the disc golf portion of the grant.

Sikkema said once you allow one group, you have to allow them all unless there is a good reason to say "no", so the Township needs to be careful where they put their money. It's easier to say yes to someone providing a public facility for anyone to use at no cost to the Township.

Heinzelman asked about liability issues. Woodward said the only identified liability is related to brush cutting. Milton asked about lightening.

Heinzelman asked about deadlines. Woodward said that if this was a part of a grant application, the deadline is April 1, and the Board would have to address the issue at their next meeting. Woodward answered several questions about the grant and what the group requests.

Heinzelman said it's not up to the Commission to come up with the money, it's up to the Board. Sikkema had an issue with recommending the Township Board include the project in their Capital Improvement Plan, which he said indicated they would pay for it. Woodward said she intended it to be approved as part of a possible grant with the Township possibly funding a portion of the match, not that the Township would pay for the entire disc golf project.

Mahaney thought a grant should cover existing facilities. Woodward said none of the improvements were budgeted for this year, so improvements would not be likely without a grant.

Sikkema said this will put unused property to good use, but he has a lot of questions about the agreement, ownership, maintenance, etc. and thinks this has to be settled before moving ahead. Woodward answered some of the questions. The Commissioners indicated they would vote for the project if no money was involved because it's a good use of the property. They are in favor of disc golf as a use of that property. Sikkema said we should make best use of the property, and it's not a good decision to put money into a facility that won't be used. We know the disc golf will be used, but the soccer field really isn't being used. Meister said you have to make decisions or the property never gets used for anything. If the Township has unused property, and a group proposes a use at no cost to the Township, he would be in favor of that in most cases. But he agrees that spending priorities have to be carefully made. Mahaney said it sounds like public works is satisfied with the arrangement with the disc golf group, and it's been positive for the Township. Woodward pointed out the regional benefit of working together to establish enough disc golf courses in the area to attract tourism, and how passionate the group is in working to support the activity.

Sikkema said it's good that it uses property that is not currently used, but it's not clear it's benefiting Township residents. We don't do anything to attract college students here, and we don't make provisions for housing them, so we wouldn't be attracting residents through this project. He said it would be hard to say this is something we should invest in, but it's a good use of Township property and there will be some use by Township residents. The Commission discussed the need for a formalized agreement to give both parties some assurance of the continuance of the use after investment. They are supportive of the Township being the conduit for the grant if the group comes up with their portion of the match for the disc golf facilities.



*Commissioner Decision and Recommendation*

*Moved by Sikkema, seconded by Meister, to recommend that staff prepare a draft land use agreement with the U.P. Disc Golf Association for the expansion of current disc golf course at the Silver Creek Recreation Area without Township funding. The agreement should define Township and U.P. Disc Golf Association responsibility for course upkeep, funding of project, length of the agreement, and potential for agreement extensions.*

Vote: Ayes: 6 Nays: 0      MOTION CARRIED

**VII. OLD BUSINESS**

- A. Consideration – #34-13-01 Proposed amendment to the zoning ordinance related to Conditional Use Standards.

Woodward said the Attorney made only one change, which was to delete one word. The County will review the proposed amendment on March 6.

*Moved by Sikkema, seconded by Milton, pending County support, to revise the text of proposed Zoning Amendment #34-13-01 (Conditional Use Standards) as suggested by the Township Attorney and send to the Township Board for review and approval at their earliest possible date.*

Vote: Ayes: 6 Nays: 0      MOTION CARRIED

- B. Consideration – Proposed changes to outdoor lighting standards to address exterior lighting on canopies and buildings.

Sikkema noticed a few things while driving around observing lighting in the Township. 7.D.2 mentions sign lighting is not regulated by these provisions. Some property owners leave their sign lights on at night. However, these lighting provisions provide for extinguishing lights after hours when they are not needed. He thinks either this amendment or the sign amendment should address turning the sign lighting off. Meister asked if there is light pollution created by sign lighting, and if not, there is some economic value in leaving them on for advertising. The property owner should determine for themselves whether to choose energy efficiency or advertising benefit.

Smith does not agree with requirements for turning all lighting off at 10 pm as discussed in previously proposed amendments. He's not sure he's in favor of 11 pm even with the exceptions. Sikkema estimates 50 percent of property owners turn their sign lights off.

Milton asked how you light a flag at night if you can't turn a light skyward. Woodward said the light has to be directed onto the property and not out toward the street, and onto the object and not beyond it. She said an alternative to lighting a flag is to bring it in at night. The regulations do not impact lighting required by other regulations.

Smith asked about lighting for the park and ride facility. Woodward said that would be regulated as parking lot lighting. Lighting can remain on while employees and visitors are arriving or leaving.

Sikkema commented that night sky is not the only purpose. It should also be about general aesthetics of the Township. The commission decided the purpose

statement covers it.

There was a clarification on enforcement, specifically the limitation on hours of lighting. Woodward said we won't require new lighting fixtures for grandfathered properties, but to be fair we would have to enforce the hour limitations on every property if this is adopted.

Sikkema asked if the purpose is to have less lighting, keep it the same, or allow more. He wants to minimize the lighting and encourage people to turn off lights if they are not needed.

Meister asked about D.9 and whether that information should be required for a permit application to construct a house. It was decided to move items D.7-9 to Section E as items E.3-5.

Sikkema added the words "or 60 watt equivalent" to the lighting that's exempt (B.4). It was clarified that low voltage landscape lighting that is exempt includes solar landscaping lights.

Sikkema said MDOT uses Smart Phones applications for a light meter. He wanted to know what portion of the ordinance will prohibit the bright blue lights at the Holiday Stations. Canopies are covered. There was a question about controlling the blue lights on buildings. It was felt this is definitely an advertising device. It was decided to add the words "or buildings" to C.1 so that high-intensity lights can't be used to light the sky "or buildings" for advertising purposes, etc. Plus the blue lights are not shielded from the roads, and they cause glare.

Smith asked if other communities are implementing lights out times. This was affirmed.

*Moved by Sikkema, seconded by Milton, to move forward with a text amendment application to amend Section II Definitions, Section 9.1 Application and Review Procedures, and Section 11.12 Outside Lighting of the Zoning Ordinance, to forward it to the Attorney and County for review, and to hold a public hearing on the draft language as changed to include the following: move D.7-9 to E.3-5, add the words "or 60 watt equivalent" to D.4, and add "or building" to 3, and change the wording of the title of E to "Outdoor Lighting in Commercial and Industrial Districts and Non-Residential Uses in Residential Districts".*

Vote: Ayes: 5 Nays: 1 MOTION CARRIED

## **VIII. PUBLIC COMMENT**

None

## **IX. COMMISSIONER'S COMMENT**

Sikkema asked about the progress of the proposed amendment for the definition of "park". Woodward will address this in the Director's report. Sikkema also said that MDOT is close to receiving the conditional commitment letter for finishing the bike path on the east side of US-41. The Township had a \$20,000 match for this, and construction would be complete this year.

**X. DIRECTOR'S REPORT**

Woodward said the Home Occupation amendment was approved by the Board at their last meeting and will be effective 7 days after publication. She is preparing a Home Occupation permit application based on the new language, and has 2 candidates waiting for the form. The sign amendment will go to the Board in March for a second reading. Woodward and Walker met with Mark Maki to address his concerns. He will probably still suggest a reduction in residential sign area, but most of his concerns were addressed.

There was a meeting with the St. Louis the King Catholic Church to build another community garden on their site. The Church will put together a committee to work on it with the Township.

Woodward continues to work on the farm incubator project, and was contacted by a citizen who owns nearby property who is interested in utilizing her land in a similar way. Perhaps this will be the start of a local food innovation district.

Woodward completed the zoning ordinance amendment research. Woodward and Walker met with the Attorneys because there were some serious concerns about past procedural problems that have resulted in administrative errors. She handed out summaries of the research and said the Board will address the problems at their next meeting. There are at least a dozen incidences from 2009 where the current public version of the ordinance does not reflect official proceedings. The published Zoning Ordinance will be changed to reflect official proceedings. If the Planning Commission or Board want to pursue previously proposed amendments that were never completely addressed, the process will need to begin again because it has been too long. The erroneous changes to the Multiple Family district are substantial, but actually more permissive than the official document. It may make some developments nonconforming, but they will be grandfathered.

Woodward noted that in the future, proposed zoning amendments will receive a case number that will be consistent throughout the entire process, and will then be given a sequential official amendment number when adopted. This will simplify the documentation process so that the number doesn't change 3 different times during the process, causing confusion in the paper trail.

**XI. INFORMATIONAL ITEMS AND CORRESPONDENCE**

Marquette City Planning Commission minutes and Planning & Zoning News

**ADJOURNMENT**

Heinzelman 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, April 1, 2013

**I. MEETING CALLED TO ORDER BY:** Gary Heinzelman at 7:31 p.m.

**ROLL CALL**

*Members Present:* Gary Heinzelman (Chair), Andy Sikkema (Secretary), Tom Mahaney, Eric Meister, Kendell Milton, Bernie Stanaway (Board Rep)

*Members Absent:* Andy Smith (Vice Chair) – excused

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

**II. MINUTES – March 4, 2012**

*Motion by Sikkema, seconded by Milton, to approve the minutes as written.*

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

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

*Motion by Meister, seconded by Stanaway, to approve the agenda as written.*

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

**IV. PUBLIC COMMENT**

None. Public comment was closed.

Tom Mahaney entered the meeting at 7:33 p.m.

**V. PRESENTATIONS**

None

**VI. NEW BUSINESS**

- A. Consideration – Proposed Conditional Use for 129 Deerview Trail, Parcel #52-02-108-021-20, for a Montessori School/Licensed State Child Care Center

*Planning Director comments*

Woodward introduced the application for a Montessori School which the State of Michigan would license as a day care center. She asked the Commission to process the application based on the most specific description of the function of the use, which she determined is a “school”. This determination is based on the schedule that mirrors that of the public school system rather than a day care center (not open during the summer or holidays).

The applicant wants to purchase the property to start the school in the existing accessory structure and to live in the existing residence. There are no plans to build an additional structure for this use. The purpose of the application is to change the use of the accessory structure to a school which is a conditional use in the R-1 district. Day care center is also a conditional use in the district.

The zoning plan of the 2005 master plan recommends that schools be permitted in any residential or commercial zoning district. Currently schools are not permitted in the waterfront residential or commercial zoning districts, contrary to this recommendation. This has the effect of limiting the location of new schools to mostly rural areas of the Township such as the one proposed. Woodward said the master plan definitely supports schools as a use in residential districts.

The application is for a preschool and accelerated kindergarten only.

Woodward said that the Michigan Zoning Enabling Act (MZEA) does consider some residential uses of property, such as day care, preferential uses of property for which local zoning control is limited. Some day care uses must be permitted the same as any residence, and some must be granted a conditional use permit if they meet the minimum standards in the MZEA.

*Public hearing – limit 3 minutes per person*

Applicant Kimberly Pettit, currently of Van Buren, Missouri, potentially a new resident of 129 Deerview Trail, Marquette, MI. Kim has run a Montessori school for the last seven years. She has had anywhere between 8 and 45 kids in her school. She is a state licensed teacher, and has a total of 14 years teaching experience in the Montessori system and in public schools. She said Montessori Schools are basically magnet schools for the local public and private schools. Kids are prepped till the age of 6. These schools are an asset to their community and an alternative to Head Start.

Gary Walker, 765 Lakewood Lane, said he thinks that as a community we ought to do anything we can to support early childhood education and appropriate socialization. In his career as prosecuting attorney, he spent time dealing with people who didn't receive the appropriate attention as children. He said the one thing we know for sure in terms of prevention is that dealing with children appropriately at an early age is probably the best thing you can do to put them on a path so they're socially developed and become appropriate members of our society. Targeting young children is the best way to prevent crime instead of just reacting to it. He is somewhat familiar with the Montessori system and what he knows of it is very positive.

The public hearing was closed.

*Commissioner Discussion*

Sikkema asked about the type of conditional use per the Ordinance. Woodward said that this application is being processed as a school which is a conditional use in the R-1 district. This is because the specific should take precedence over the general, and this proposed use most specifically functions as a school. The applicant doesn't have an existing home where she is proposing to start a home occupation. She is a person who wants to start a school, and will open that school in a place where it is permitted and where she can also live. Woodward noted other situations in the Township where there are residences in addition to other uses on the same property, such as St. Paul's Lutheran Church, Pet Sitters Plus, Wert Salvage, and so on.

Milton said he can't think of a reason to deny the application.

Sikkema said there is a lot of information in the staff report that isn't included in the application, and he wants to be sure that this information is addressed in the permit documentation, and the applicant would be held to those standards. Woodward said the Commission could make that information part of the conditions for approval. Sikkema cited the number of kids and hours as examples. The applicant estimates she will serve 12 children, but would feel comfortable with 15. Some families will be transporting two children within that

age group. Her license will allow up to 20 kids maximum based on the size of the building, which would require two teachers.

Mahaney asked about the licenses held by the applicant. She has a State license in Missouri for public teaching (bachelors and masters degrees), a master's degree in reading, and Montessori certificate in preschool, kindergarten, and elementary. In Michigan there is no licensing for Montessori, so the applicant will be required to go through licensing for day care centers including fire, health, and other inspections.

Meister asked about the distance to the nearest home. Woodward estimated over 300 feet from the aerial photos.

The Commission discussed how to limit the size of the school. They could set a maximum number of students or a maximum size of the building. The applicant reported that for State licensing, the size of the building limits the number of students. Milton suggested controlling the size of the facility. The applicant said that for this age group, there must be 30 square feet per child for indoor space and a minimum of 1,200 square feet total for outdoor space. The building is 30 foot by 40 foot, minus walls and service areas, so they estimate there is enough existing space for 20 children. They are not asking to increase the size of the building.

Heinzelman asked whether there are other conditions to be addressed.

Mahaney said it appears the only contentious issue that had been raised so far from neighbors was the issue of the nearby hunting blind. The current owners of the home said they have lived there 7 years and no bullets have ever come their direction. The adjacent property owners have been very cautious and considerate of their dogs, etc. They estimate the blind is setback 400 feet from the property line.

The applicant said the fence will be attached to the garage and won't be anywhere near the rear property line.

Heinzelman confirmed there would be no summer school and no hours after 4:30 p.m. Mahaney felt the proposal meets all the criteria and is a good idea. The applicant said she had found no other Montessori Schools in Michigan except in Ann Arbor.

Meister said most neighbors would be more concerned about the impact of the traffic, which is not constant, and that the number of kids would not be a zoning problem. The applicants talked with Don Britton who takes care of the private road, and he volunteered to assist in controlling dust if there was a concern. However, the school is not open in the summer.

Sikkema noted this is not a public school, so problems cannot be addressed to a school board. Since it's a private school, concerns could be brought to the Township. He wants to ensure a process of due diligence is undertaken to get the permit right so that potential concerns are addressed up front.

Meister asked for clarifications regarding limitations that are set as part of the conditional use permit. Woodward noted that if expansions or changes to the approved conditions are warranted, the applicant can come back to the Planning Commission to ask for an amendment to the conditional use.

Sikkema wants conditions to address size and hours/dates of operation. The applicant says the State recommends 180 days per year of instruction if you operate on the same schedule as public schools.

One possible condition is that the school operates on the same general schedule as the public school system.

A second condition is that no additional space or construction shall be utilized for the school without an amendment of the conditional use permit. The school will be limited to the existing accessory building and the required outdoor space. Stanaway supported the idea of controlling the maximum number of students through controlling the space, because specifying the number of students could require more administrative time. Woodward said the size of the space is easier to enforce than the number of students, which she would not necessarily be aware of.

Sikkema asked the applicants to clarify that they are aware this is a private road and does not receive public maintenance. The applicants said the neighbors have come to a financial agreement to take care of the road cooperatively. Sikkema clarified that the Township would not intercede in arguments about road maintenance. The applicant noted that the school will be easily accessible by the circle drive.

The commissioners clarified that the facility will maintain the existing exterior appearance. The applicant said the only change would be the removal of the garage doors and finishing with the same siding.

The third condition would be that the general appearance of the school would remain as existing to maintain the residential character of the district.

The Day Care licensing covers safety concerns. The applicant's sister will assist in teaching. The number of teachers is also covered by State licensing in relation to the number of students.

The fourth condition would be that the student/teacher ratio shall be according to the Michigan Department of Human Services minimum requirement for child care licensing.

Signs will be regulated per the provisions of the sign ordinance, as will lighting.

Woodward noted the recommended condition within the staff memo consistent with the proposed zoning amendment for conditional use standards (permit effective upon proof of obtaining other permits and licenses and following other applicable regulations). Meister was not sure this was needed, and didn't want the process to be held up by a circuitous approval process. The applicant can't apply for the license without zoning approval, but can't get zoning approval without the license. He didn't think the Township should enforce other regulations. The Commission revisited the purpose behind this proposed zoning amendment. Meister feels the applicant shouldn't have to show the license up front to get the zoning permit. Walker clarified that we can issue the conditional use permit, and if the applicant don't get the state license, or loses it, the Township can revoke the permit. Woodward clarified that the conditional use permit can be approved without proof of the other permit, but the conditional use permit would not be effective until the state license is obtained. The applicant

would be given documentation of the decision to use for state licensing. The applicant said it could take up to six months to obtain licensing, but probably more like a year with all steps.

The Commission decided that the fifth condition would be that the applicant must show proof of compliance with all required permits and licenses within one year. Failure to comply may result in revocation of the conditional use permit.

*Commissioner Decision/Recommendation*

*Moved by Milton, seconded by Stanaway, that upon finding that the proposed use complies with all Conditional Use Standards of the Chocolay Township zoning ordinance as noted in the staff report dated March 28, 2013, the Conditional Use request for parcel #52-02-108-021-20 located at 129 Deerview Trail to convert an existing accessory structure to be used as a Montessori School/Licensed State Child Care Center is hereby approved subject to the following five conditions:*

- *The school shall operate on the same general schedule as the public school system.*
- *No additional space or construction shall be utilized for the school without an amendment of the conditional use permit. The school shall be limited to the existing accessory building and the required fenced outdoor space.*
- *The general appearance of the school shall remain as existing to maintain the residential character of the district.*
- *The student/teacher ratio shall be according to the Michigan Department of Human Services minimum requirement for child care licensing.*
- *The applicant must show proof of compliance with all required permits and licenses within one year. Failure to comply may result in revocation of the conditional use permit.*

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

**VII. OLD BUSINESS**

- A. Consideration – Receive comment on the proposed amendment to the zoning ordinance related to **Notification Distance** for public hearings.

*Planning Director comments*

Woodward said that at the February Planning Commission meeting, it was decided to increase the notification distance for public hearings from 300 to 500 feet. A public hearing was needed before the proposed zoning amendment was sent to the County for review.

*Public hearing – limit 3 minutes per person*

No public comment. Public hearing was closed.

*Commissioner Discussion*

No additional Commissioner comment.



*Commissioner Decision/Recommendation*

*Moved by Meister, seconded by Mahaney, to approve the increase in notification distance for public hearings from 300 to 500 feet, and to forward the proposed amendment to the County for comment and make a recommendation to the Board to adopt the proposed amendment.*

Vote: Ayes: 6 Nays: 0 MOTION CARRIED

- B. Consideration – Receive comment on the proposed amendment to the zoning ordinance related to **outdoor lighting standards**.

*Planning Director comments*

Woodward said the purpose of this agenda item is to hold a public hearing on the proposed zoning ordinance amendment pertaining to outdoor lighting standards prior to submittal to the County for comment. E-mail communications from Woodward were sent to CABA members on March 20, clarifying intent and provisions for the 11 p.m. lighting curfew (and exceptions). She did not hear from any businesses with specific concerns. Commissioner Smith submitted some concerns at 4 p.m. on April 1, which Woodward presented to the Commission before the meeting. Per Smith's concerns, Woodward also sought input from public safety regarding the 11 p.m. lighting curfew. The officer on duty was Gerald Trotochaud, who said he sees no advantage from the aspect of public safety in requiring businesses to turn off their lights at night.

*Public hearing – limit 3 minutes per person*

Dick Arnold, 312 West Branch Road, asked for clarification on the proposed regulations. Arnold was concerned that lighting protects from break-ins. He said that as far as protecting the night sky, you can go down the road to the beach to see the night sky. Too much control is taken from citizens. What does it bother if someone has a light on, unless it shines in the road like a spotlight? What about the street lights? That's not protecting the night sky. He doesn't agree with the proposed change.

Seeing no additional public comment, public hearing was closed.

*Commissioner Discussion*

Mahaney asked how this will affect current businesses if it is approved. Woodward said the curfew would have to be enforced the same for everyone after adoption. But existing lighting fixtures would be grandfathered in and would not need to be brought into compliance until replaced. The curfew does not impact sign lighting. It impacts parking lot lighting. It impacts building lighting except motion sensor light or lights of 60 watt equivalent or less. It does not impact lights at building entrances.

There were no changes to the definitions. Woodward clarified the need for the change in the off-street parking requirements of section 8.1 and site plan review application procedures of section 9.1 to be consistent with the proposed amendment. There were no changes to the suggested language for section 8.1 or section 9.1.

Meister was concerned about the need to meet the new requirements when a light fixture is replaced, and if this would necessitate a whole new lighting plan. Woodward said there is no limit on number of lumens per lot, and the change

would relate simply to choosing a new fixture with the correct shielding, placement, etc. The change would impact only that fixture, not all of them. Mahaney said it would be important to send a letter to all businesses letting them know of this requirement should it pass. Woodward was in agreement, and said it would also be published in the newspaper.

The Commissioners agreed on a change to 11.12.B.4 to say, "Gas lighting; glass tubes filled with Neon, Argon, or Krypton; and small decorative fixtures of 800 lumens or less (equivalent to a 60 watt incandescent bulb)", and to add a definition for "lumens".

The Commissioners discussed the issue of lighting at night related to security. Woodward clarified that the police have implemented a policy of turning off lights in some recreation areas at night to deter vandalism (so people will not be encouraged to congregate). Meister said he is comfortable with motion sensor lights for security, because they give someone a scare. It's also more noticeable when the light comes on when it's not supposed to be on.

*Commissioner Decision/Recommendation*  
*Moved by Sikkema, seconded by Milton, following a duly noticed public hearing, to approve the draft proposed Zoning Ordinance text amendment Case #ZA0002-13 Outdoor Lighting as changed (Section 11.12.B.4 ... "small decorative fixtures of 800 lumens or less (equivalent to a 60 watt incandescent bulb) and to add a definition for "lumens"), and to forward the proposed amendment to the County for comment and make a recommendation to the Board to adopt the proposed amendment.*

*Vote: Ayes: 5 Nays: 1 (Stanaway) MOTION CARRIED*

**VIII. PUBLIC COMMENT**

None

**IX. COMMISSIONER'S COMMENT**

Sikkema said MDOT received the conditional commitment for the resurfacing of the bike path on the east side of US-41 to M-28 which would be done sometime this summer.

**X. DIRECTOR'S REPORT**

Woodward met with the ORV group led by Tony Harry to receive a proposed plan for an ORV connection along selected County roads through Chocoley Township that would allow a link between the western U.P. trails and the eastern U.P. trails. Chocoley Township is their only missing link right now. The proposal will come to the Planning Commission next month when a public hearing will also be held. The Planning Commission would be asked to make a recommendation to the Board.

Woodward serves on a food policy committee as part of a regional effort in conjunction with the Food Co-op's Food Hub grant. She is working with other planners and area stakeholders to do due diligence on local regulations impacting food systems, with the goal of coming up with model regulations and educational materials to assist local government policy and regulatory decisions.

Woodward went to a FEMA meeting regarding a new study and updated maps for flood management. However, the Township has not received the study or updated maps for review as stated in the letter from FEMA (and neither had any other community in

attendance). She said there is a comment period on the data, but we haven't seen the data. We are also supposed to adopt new regulations related to flood management, but FEMA did not provide information on those required regulations.

The Tribe has changed the name of the road leading to the casino from Acre Trail to Zhooniyaa Miikana Trail.

## **XI. INFORMATIONAL ITEMS AND CORRESPONDENCE**

Planning & Zoning News

### **ADJOURNMENT**

Heinzelman adjourned the meeting at 9:10 p.m.

Submitted by:

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Planning Commission Secretary  
Andy Sikkema

# CHARTER TOWNSHIP OF CHOCOLAY PLANNING COMMISSION MINUTES

Monday, May 6, 2013

Cherry Creek School, 1111 Ortman Road

**I. MEETING CALLED TO ORDER BY:** Gary Heinzelman at 7:30 p.m.

**ROLL CALL**

*Members Present:* Gary Heinzelman (Chair), Andy Smith (Vice Chair), Andy Sikkema (Secretary), Tom Mahaney, Eric Meister, Kendell Milton, Bernie Stanaway (Board Rep)

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

**II. MINUTES – April 1, 2013**

*Motion by Sikkema, seconded by Milton, to approve the minutes as changed, page 6, B. “public hearing” was closed (not public comment).*

*Vote: Ayes: 7      Nays: 0      MOTION CARRIED*

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

*Motion by Sikkema, seconded by Stanaway, to approve the agenda as written.*

*Vote: Ayes: 7      Nays: 0      MOTION CARRIED*

**IV. PUBLIC COMMENT**

Tom Russo, 910 Mangum Road. Russo said he is new to the process and getting involved, and due to his naiveté, he needs to know what is the role/mission statement of the Planning Director. As a taxpayer, he would like to know. Heinzelman said that the Planning Director is a conduit between the Township Board and Planning Commission, and is an information source to the Planning Commission. Russo asked if the Planning Commission hired the Planning Director, and Heinzelman said the Township hired her.

Raymond Wood, 1777 M-28 E, asked the Commission how citizens can change zoning regulations pertaining to chickens. His daughter is in 4-H and would like to raise chickens. He understands that the current status is that you can potentially have chickens, but it may be a problem if there is a neighbor complaint per the animal control ordinance. He would like to see regulations that say you can raise chickens if you don't keep a rooster so that his daughter can participate in 4-H. He wants to know how this process works now that he has brought it to the attention of the Planning Commission. Heinzelman said it can't be discussed at this meeting, but it could become an agenda item to be discussed at an upcoming meeting. He said that Wood could make a personal request for a zoning change by contacting Planning Director/Zoning Administrator Woodward. Woodward said she advised Wood to attend and bring up the issue during public comment because there is a whole list of people interested in the same issue, and suggested it could be discussed during Director's Comments if there is time.

Public comment was closed. Heinzelman pointed out that there are three public hearings on the agenda, and a very large turnout, and the building was only rented until 10:30 pm, so to accommodate everyone people should keep their comments brief to three minutes.

## V. PRESENTATIONS

### A. Firewise Program, Brad Neumann, MSU Extension

Neumann works with local governments across the Upper Peninsula on topics related to land use, planning and zoning, and community development. One main audience for the Firewise program is property owners. Large wildfires are common in the Upper Peninsula. Marquette County is second in the State for number of wildfires. MSU Extension has educational resources to help.

Homeowners can reduce risk of property loss and damage by maintaining landscaping within 150 feet of the home (remember “Keep your landscaping LEAN, GREEN, AND CLEAN”). Examples of tips include pruning branches up to six feet in height, removing dead fuels lying on the ground, choosing less combustible landscaping and roofing materials (fire resistant plants bulletin at [www.firewise.msu.edu/resources/](http://www.firewise.msu.edu/resources/)), relocating woodpiles away from the home, enclosing openings in eaves where embers could enter, etc.

There are also tips for Firewise communities and subdivisions who can work collectively to prevent fire damage. Local governments have a role. In the April 2013 issue of Planning and Zoning News, Neumann offers zoning language relating to a wildfire hazard overlay district for high risk areas (where the topography and fuel types are good indicators of risk). These regulations may address construction standards. Education can be incorporated in the zoning process by handing out Firewise brochures to people seeking permits in high hazard areas.

Neumann can set up a booth to hand out information at Township events, or can provide materials for Township mailings. Sikkema suggested getting a link to the Firewise materials. Neumann said the County is starting a community wildfire protection planning process with funding from DNR and US Forest Service to look at hazard assessment and to map hazard areas. They will contact the Township about involvement in the process.

### B. T.E.A.M proposal for an east/west Chocolay Township ORV connector route utilizing County roads

Tony Harry, 6369 US-41S, is President of Trail Riders Enthusiasts of Marquette County ATV club (T.E.A.M.), member of SORBA ATV club in Munising, on the Board of Directors of the U.P. ORV Trail Development Association, member of MI Trails ATV Club in Ontonagon, and member of the Hiawatha Snowmobile Club in Marquette. Harry is trying to get a connector route for ATVs through Chocolay Township to create a U.P. wide trail from Ontonagon to the Mackinac Bridge. The trails would be marked and would have organized law enforcement. Harry started the club because people don't know where they can ride and are getting lost. The mission of the club is to play an active role in improving ORV conditions through legislation, publicity, and responsible members. Harry introduced Rob Katona who is a trails analyst for the Upper Peninsula District of the Michigan DNR.

Katona clarified there are State designated routes that are maintained by grant sponsors, such as ORV clubs that apply for grants through the ORV trail

improvement fund. These trails are typically off road and have true trail characteristics. They are not on roads. They are through the woods or on railroad grades, and are eligible for grants to fund maintenance and law enforcement. They are approved through the internal DNR approval process.

Non-state designated routes are corridors that are open to ATVs, and could be a forest service road, state forest road, county road, or even a trail that is not managed by the State. They are primarily located on County roads and serve as connector routes. In this case, this is an example of a club seeking to open a connector route. These are approved through a local ordinance. The process to open a non-designated route begins with citizens or a club approaching the DNR with a plan. The DNR provides guidance, and the initiators seek permission from landowners or the appropriate public authority. With support and approval from all parties, the corridor can be opened and enforced through a local ordinance. The U.P. Trail Development Association is working with clubs to develop a U.P. wide connector route. These can be combinations of designated and non-designated approved routes. Our area provides a large gap through which T.E.A.M. is trying to provide a connection.

This proposal is to open Mangum Road, Basal Road, County Road 480, a portion of Kawbawgam Road, and Cherry Creek Road between 480 and Carmen Road for ORV travel (on the paved portion of the road). There are some portions of the proposed connector route that involve other landowners and managers and require separate review and approval.

Katona said the benefits of opening select roads and enacting an ordinance is increased recreation for local residents, access to businesses, increased tourism opportunity, connectivity to other routes, and additional monitoring from responsible ORV users and club members along the routes. This could lead to decreases in trespassing, unauthorized youth operation, and property destruction. It creates the opportunity for enforceable regulations such as speed limits and hours of operation. Signage and information stations help educate users.

Katona addressed some concerns, saying there would be an increase in ORV traffic if Chocolay opens up some roads, but the use would be concentrated and better managed. Enabling of enforcement would help address noise and speed concerns (there are State regulations regarding sound emission and the local government could enact speed limits and put up signs). When limiting operation to the far right of the maintained portion of a road, there would be less damage to road shoulders, steep wet areas and driveways. Some funding from fines would be available to assist in restoration and maintenance. He said that ORV and vehicular accidents have been very minimal.

Ron Yesney of the DNR then explained their role. The DNR used to develop and maintain trails on their own. With staff decreases, the DNR now partners with others to develop and maintain trails, both motorized and non-motorized. The designated ORV route ends at the casino in Chocolay Township, and there is another trail that ends at the crossroads. A connection is needed between them through Chocolay Township. The governor supports interconnected trails between communities (Trail State) as good for the economy. A managed system is better

than a free-for-all where people don't know where they can ride. ORV clubs are good partners. The DNR representatives are present to hear what people have to say and to support T.E.A.M.

Mahaney asked if there any paved designated trails? Yes, there are, short segments to get around wetlands or accommodate road crossings.

Sikkema asked if this would be considered a long or short paved segment? Katona said this would be considered a long segment. State designation would require moving the trail off the pavement (off-road), even in the unpaved portion of the right-of-way.

Mahaney asked for clarification on funding for repairing road, shoulder, and driveway damage. An ordinance would allow civil infraction fines to be put into an ORV fund with a portion used for restoration.

Milton asked if the ORV definition includes jeeps and pickups. Yes, it does. Everything from full size vehicles down to motorcycles, including side-by-sides, quads, four wheelers, but not snow machines.

Sikkema asked about classifications of trails. There are several. An ORV route includes all vehicles; an ATV trail includes vehicles less than 50 inches in width; and a motorcycle trail is 24 inches in width and for motorcycles only. There are also ORV routes with specific restrictions.

Meister asked if the DNR has looked at alternate routes. Katona said they have, as far south as Trenary, working with the forest service. The watersheds south of Chocolay Township provide a barrier. This is really the only viable route at this time. The other considered routes were mostly roadways except for off-road trails through the Chatham area. There were problems with landowner permissions.

## **VI. OLD BUSINESS**

None

## **VII. NEW BUSINESS**

**A. Consideration** – Trail Riders Enthusiast Alliance of Marquette County (T.E.A.M) proposed plan for east/west Chocolay Township ORV connector route

### **Planning Director comments**

Woodward pointed out that the 2012 Annual Report for the Township includes descriptions of roles and responsibilities for Township Planning and Zoning staff and decision making bodies. She said her job as Planning Director is to bring items to the appropriate decision making body. This decision is being heard first by the Planning Commission who will hold the public hearing, and then may or may not make a decision this evening. Depending on the time, they may postpone a decision until the next meeting. But what they will work toward is making a recommendation to the Township Board on this proposal.

Woodward said she appreciates that T.E.A.M. is working through the appropriate public process with the Township and the DNR to promote responsible ORV

ridership and to educate people. She also praised the hard work of others to get together, find out what people want, and to present the information and submit petitions.

Harry had submitted a petition with 51 signatures (at least 35 residents of Chocolay Township) who want an ORV route through Chocolay Township. Staff advised Harry to submit a detailed plan for the route. Harry had informational meetings with various Township staff. The group does NOT propose opening all roads to ORV use, and does not support travel through neighborhoods to access the route. This is simply a connector route.

The staff report details applicable legislation and regulations in surrounding jurisdictions. Basically, the County ordinance opened county roads in all jurisdictions to ORV travel except those in the townships of Chocolay, Marquette, and Sands and the cities of Negaunee, Ishpeming, and Marquette. The cities of Ishpeming and Negaunee adopted their own ordinances opening most of their roads to ORV travel. The staff report includes input from the County Road Commission and County Planning, and County Sheriff's department. Police Chief Zyburt is also present to discuss his report.

Woodward detailed the applicable sections of the Community Master Plan that support quiet, rural lifestyles and more non-motorized transportation opportunities. The only direct mention of ATVs is a vision statement that says, "Recreational riders enjoy their ATVs in designated areas with well enforced laws". Woodward submitted setback and density calculations along the route for consideration.

Chief Zyburt said he met with T.E.A.M. and they asked his opinion on the route. He thought the route they chose would be the safest, but he is concerned about ATVs and motor vehicles mixing on the road for that long distance, and also concerned about kids on ORVs. There will be a problem with people riding their ORVs from their residence to this route instead of trailering. The four man department is very busy and this will tax their ability for enforcement. He spoke with Mike Lovelace about his experience in other areas, and he has similar concerns. The police department does have an ORV. Statistics from the last five years show a total of 99 complaints (not a lot), with a majority on the portion of the snowmobile trail which is closed to all wheeled vehicles. There was one fatal accident, and others involve private property damage. Mahaney asked if they have been able to ticket violators. Chief Zyburt said the majority do get away. They are hard to catch and there is a risk of injury in a chase. They can usually identify locals because it's ongoing and there may be a worn trail. Heinzelman asked if they do a directed patrol for ORVs. This is done on the snowmobile trail in the spring and summer.

Sheriff Mike Lovelace commented on problems in other jurisdictions. Chocolay's primary enforcement would be the local police department. The Sheriff would have deputies available for DNR designated trails. Sheriff Lovelace is opposed to ORVs on paved roads. He opposed the County ordinance along with the attorney and road commission. He is concerned about youth on ORVs who are not supervised by their parents and travel in packs down the middle of the road. He will not chase them because they will flee and lose control and get hurt. He says the tires are not



designed for travel on paved roads and they are not stable at high speeds. Even on roads that are not busy, the mix of traffic can create dangerous incompatibilities. There are not enough deputies to answer calls if there are problems.

Public hearing – instructions were given

Robert Taylor, 204 Jean St, owns the Adventure Center at the crossroads and promotes ORVs. He detailed the substantial income generated by ORVs for the State. He said there are more accidents on non-motorized units than motorized units. He prefers they not run down paved roads, but due to various obstacles, no other route has proven viable. The tire safety consideration is not applicable at the 25 mph speed limit. He also has a problem with unsupervised youth riders, but there are appropriate laws for this. He suggested approval on a test basis.

Mary Jane Lynch, 316 Kawbawgam Road, appreciates the work of T.E.A.M., but asks that an economic study be done because she thinks the impact is not significant. She is in favor of a well-designated, well-maintained, and well-signed trail but not in favor of the connector route because she thinks it is not necessary. She thinks it's wrong to prioritize ORV funds over safety and other people's needs.

Jennifer Tapolcai, 794 Mangum, said Mangum Road is peaceful, with young families, and four season non-motorized use – a strong community with strong friendships. She is concerned about ORV traffic on a small winding road with hills, especially in the winter. ORV traffic would have been a deal breaker for her when she was looking for a home in a quiet, peaceful area. Safety is a priority.

Tom Russo, 910 Mangum Road, says Mangum is a busy, dangerous road. The DNR did not partner with the residents or get their input. Residents want to be in the partnership. The DNR needs to find an alternate route. TEAM means together everyone achieves more (his interpretation). Safety should not trump the quality of life for residents. He is concerned about safety, and increasing the amount of traffic is irresponsible. Don't forget the residents of Mangum Road, they care.

Deborah Mulcahey, 633 Lakewood Lane, congratulates ORV people who safely operate. This is not always the case. She is concerned about ORVs operating on dunes and the beach. ORVs are not listed as a Township priority. She asked that the hearing be cancelled so everyone is not wasting their time due to two primary reasons, 1) Road Commission not allowing the connector on Cherry Creek Road, 2) DNR not speaking uniformly about the Lake LeVasseur connection. The land managers didn't know about the proposal until recently. There are serious accidents. Look from the user perspective of the land. The creation of the link will not solve the education problem. There will be no enforcement. Noise is an issue. There is a liability issue for the local club. She is opposed to the route.

Carol Lamirand, 452 County Road 480, invites people to have a lemonade and view the traffic in front of her home. She is concerned about children on motorized vehicles and thinks it creates disaster in letting them share the road with big trucks. She also worries about the method of road repair using loose pebbles and lack of repair. She doesn't want vehicles making a mess in front of her yard.

Dave Drummond, 805 Silver Creek Road, disputes some of the other concerns and thinks people blame 4 wheelers for problems they don't create. He is in favor of the route.

Cheryl Koski, owner of Creative Interiors on the corner of US-41 and Basal Road, is opposed to the connector route. Basal is narrow with no shoulders, creating a hazard for users of the road. ORVs travel in groups and disrupt business activity with their presence and noise. It is a dangerous intersection. ORVs don't have identification so they can't turn them in for improperly using their parking lot. It is a safety risk. The Township should provide adequate parking for the users to trailer their vehicles to access the trails.

Ray Wood, 1777 M-28 E, uses the roads frequently as a cyclist. The shoulders are in poor repair already and this would make it worse. He is also concerned about safety with mixed users. Mangum Road is narrow, winding, and has line of sight issues.

Skip Schulz, President of U.P. ORV Trail Development Association, hears the same frequent concerns from the minority. He disputes the basis for safety concerns based on the low frequency of incidents compared to the number of total users. To the residents along the road, he said, "It's a public road". If you want something different you can live on a private road. He supports a controlled and managed route that can be enforced. Otherwise, people will use it anyway. It's already against the law for youth to ride. People break the law. Motorists also break the law by speeding, but we don't make cars illegal. The sport will exist whether people like it or not. The majority of riders are 52 year olds on side-by-sides. This is one way to bring people to and through the community. It doesn't make sense that people can say they want to drive their car from here to Detroit but they don't want ORV people to ride from one end of the U.P. to the other. That's selfish. He promoted working together.

Leanne Hatfield, 724 Greenfield Road, mentioned the petition against the proposal in her neighborhood. She heard every family on Mangum Road is opposed. She mentioned the many non-motorized users and safety concerns on the road. She said the economy would be better if everyone in the room bought local and supported local businesses. The directly affected landowners are opposed.

Domenic Ori, 293 County Road 480, is concerned about the safety of non-motorized users utilizing the road shoulder. Is he supposed to jump in the ditch or in the road when meeting an ORV on the shoulder? He supported the bike connection between Lake Michigan and Lake Superior. He is not opposed to ATV people if they ride in the right place, but is opposed to them using the road shoulder.

Jerry Labine, 6408 US-41, suggested putting the trail on prison property.

Debby Mahin, 774 Greenfield Road, is concerned about safety. Residents contribute a lot to taxes, and she is not sure about the contribution from ORV users.

Katie Beerman, 150 Mangum Road, was born and raised there. She thinks regulations will not be enforceable. The packet does not mention that the Township is not immune from liability arising from gross negligence. If the Township does not listen to the safety concerns of residents, then it may constitute gross negligence. She doesn't care what other jurisdictions do – our Township is different and that's what makes it special, that's what brings tourism here. The Township Comprehensive Plan supports her position. She thinks the Planning Commission is the representative of the residents, and should listen to the majority.

Chris Hamari, 114 Mangum Road, worked very hard on the petition opposing the route. They have ORVs and enjoy riding, but trailer them to private property. They are not the minority position. There are not that many complaints simply because residents don't bother to complain, but that doesn't mean there aren't incidents. You can't see how old riders are with helmets on. Citizens should help the police by turning in complaints. She invited the Commission to speak for them.

Dale Hamari, 114 Mangum Road, tried to find a compromise. He noted there may not be problems with ORVs on the roads in other jurisdictions because they have other places to ride. When pedestrians hear cars coming behind them, they get off the road. ORVs won't be able to get off the road safely on Mangum because it's narrow with no shoulders. Be consistent with the non-motorized focus of the Township Plan. He submitted a plan for an alternate route to the Commission.

John Kurkowski, 249 W. Ridge St. Marquette, speaking on behalf of M.A.P.S. and Cherry Creek School, asks the Commission to consider the impact of the route on the school and the children traveling to the school.

Don Houghton?, 21 year resident on Kawbawgam Road, said there is ORV and snowmobile use already, you can't stop the traffic. His concern is that snowmobiles will go faster than ORVs.

Donald Dameworth, 550 Mangum Road, 96% of residents on the road oppose this route, not counting the connecting road residents that use the route on a daily basis. Some of the other 4% that did not sign were out of town.

Public comment was closed.

#### Commissioner Discussion

Mahaney said that of the signatures that were collected, there were approximately 189 residents opposed and 35 in favor. He notes the predominance of the opposition, and based on the information presented, he is opposed to the proposal.

Heinzelman also noted the overwhelming opposition from the affected area. He also noted the safety concerns of the Chief of Police, and he has personal experience in enforcement difficulties. Paved roads are not a safe environment for ORVs. There are enough concerns on the roads between motorists, pedestrians, bicyclists, and deer, and this will be that much more distraction. He also noted the vast variety of vehicles considered to be ORVs vs. ATVs. This should be more definitive. It's a hard sell for him especially with all the opposition.

Meister had some of the same concerns. He traveled the route and noted it's an extremely narrow road with no shoulder and no room to get out of the way. The first priority is to the residents of Chocolay and their quality of life, so he is opposed.

Sikkema asked the DNR to clarify that this trail, being on long stretches of paved surfaces, would not be a State designated trail and thus would not be eligible for funding through the ORV trail improvement fund, and would not receive paid enforcement by the County Sheriff.

Milton noted the confined space on Mangum Road, and felt adding ORVs would be a mistake. He can't support an ORV trail on Mangum Road.

Smith personally owns snowmobiles and is an active ORV user, and likes the idea of riding from his house to a trail. But as a Planning Commissioner he represents the Township. As a user, he just wants a place to ride, but doesn't think people will trailer to a trail. He knows the people on Mangum Road probably have ATVs and probably use them respectfully to ride from house to house. However, there is overwhelming opposition to a through traffic route, and so he can't support it.

Heinzelman addressed the liability issue and gross negligence, and says the Township might open itself to liability because there is always a lawyer willing to take a gross negligence case. He also noted it is unclear what a pedestrian should do when approached by an ORV on the shoulder. The Commission will submit the alternate route plan to the DNR and Township Planner.

Smith noted that from his experience, it takes time to work with the community and get trails open. He hopes this will open the discussion and more people will come forward with alternate routes. He appreciates all the work the club put into it.

Mahaney is an avid cyclist using the roads that are included on this proposal, and he has safety concerns along Mangum Road, including disrepair and sharp turns. He sees problems with the mix of users and is concerned about quality of life and the non-motorized focus. He thinks they should listen to the residents of Chocolay.

Heinzelman asked Woodward to verify the County Road Commission's position on the proposed route along Cherry Creek Road. She said that even if the Township approved the ORV route on Cherry Creek Road, the Road Commission has said that they will use their authority to negate that decision.

Commissioner Decision/Recommendation

*Moved by Milton, seconded by Mahaney, to recommend that the Township Board take no action on the T.E.A.M. proposal and maintain Chocolay Township's exemption from the County ORV ordinance that authorizes ORV access on County roads.*

*Vote: Ayes: 6 Nays: 1 (Stanaway) MOTION CARRIED*

There was a two minute break to accommodate those who wished to exit the meeting.

- B. Consideration – Proposed Conditional Use #CU13-02 for 110 Aspen Drive, Parcel #52-02-465-026-00, for a Group Day Care Home (will be State Licensed)

Planning Director comments

Woodward summarized the application. This was formerly the site of a family child care home (up to six children) run by a former resident. Woodward took photos of the outdoor play area. She noted the main consideration is that the Michigan Zoning Enabling Act designates this as a residential use of property that shall be issued a permit if it meets all of six standards. To address the six standards, the Commission needs to decide what it thinks is appropriate for fencing. The regulations of PA 116 of 1973 do not require fencing for the required outdoor play area. The Township Zoning ordinance also does not have a requirement for fencing for this use, but the Planning Commission could require fencing as a condition of approval. The applicant is present to answer questions about hours of operation. No signs have been proposed, but a sign would not be permitted other than the typical residential name/address sign. There is plenty of room for parking for the other employee.

The use must also meet the conditional use standards of our zoning ordinance. Staff made a determination that it does meet these standards, and that the improved availability of quality home child care proximate to other homes and places where people work is in the public interest per standard #4. Staff also finds that the State licensing process will ensure that the use continues to provide adequately for the services and facilities deemed essential to the use per standard #6.

Sikkema asked for verification that if the use meets all the conditions, it's basically considered a residential use under the Michigan Zoning Enabling Act (MZEA). He asked if you can require a conditional use permit. Woodward said the MZEA says a Township can approve this use through a conditional use permit with extra conditions, as long as the conditions are not more restrictive than the State licensing act. For example, you can't be more restrictive than the 16 hours maximum hours of operation. But you can approve the use even if it doesn't meet the conditions of the MZEA. You can limit night time hours of operation but not prohibit them. These things should be addressed as conditions in the decision, not just exist in the application. You can't be more restrictive than the state in number of permitted children. Conditions must support standards in the Zoning Ordinance.

The Commission verified the number of public comments received. Sikkema also verified that even though an additional "employee" would be required, this is designated by the MZEA as a "residential" use of property, not a home occupation.

Public hearing

Andy Wasilewski, 114 Aspen Drive, said the former child care home worked fine and the children were never a problem. He is only now learning about the increase from six to twelve children, which presents some concern to him. He had some questions related to the discussion. He thinks that a front yard fence would be a detractor for the neighborhood because it would be the only one. Sikkema asked for clarification that the speaker would not consider a fence to be detrimental. Wasilewski clarified that he thinks a front yard fence would be a bad thing, but a

back yard fence would not be a problem. Mahaney asked if Wasilewski was concerned about traffic with the increase in children, or the hours of operation. He was not sure how it would be now, but it was not a problem before. The other child care home closed last October.

Meister asked if Wasilewski thought a fence was needed for his protection. He said that the other kids played in the front yard and were closely monitored, but it was never a problem and they weren't near the roadway. He said it was a positive thing.

Public comment was closed. The applicant will join the Commissioner discussion.

#### Commissioner Discussion

Sikkema verified that the operation would include another adult if there were over six children in care. The applicant verified this and explained the adult/child ratio rules. Mahaney asked how this was enforced by the State. They perform unannounced inspections and pull the license if you have too many kids.

Sikkema asked the applicant's thoughts on fencing. The applicant saw no need for fencing based on her level of supervision. Heinzelman asked about the perimeter trees. Mahaney asked the applicant if she is aware of other neighbor impressions. She said the older neighbors across the street expressed that they love the atmosphere that the kids bring, and that it creates more of a neighborhood feel.

Sikkema asked about limiting hours of operation from 6 am to 6 pm. The applicant noted that they might not be able to limit to 12 hours when the state allows 16 maximum, but she doesn't generally anticipate exceeding these hours. The Commission discussed limited outdoor play hours.

Mahaney again asked about a back yard fence. The applicant would prefer not to install a fence for the kids. They put in a wireless fence for the dogs. They like the current feel of their backyard. The kids have organized activities.

#### Commissioner Decision/Recommendation

*Moved by Stanaway, seconded by Sikkema, that after conducting a duly noticed public hearing, and upon finding that the proposed use complies with all standards of Section 206(4) of the Michigan Zoning Enabling Act, P.A. 110 of 2006, and the Conditional Use Standards of the Chocoday Township zoning ordinance as noted in the staff report dated May 2, 2013, the Conditional Use request for parcel #52-02-465-026-00 located at 110 Aspen Drive to operate a Group Child Care Home is hereby approved subject to the following conditions:*

- *Limit hours of operation to 5:30 am to 10 pm.*
- *No outside activity prior to 9 am.*

*Vote: Ayes: 7 Nays: 0 MOTION CARRIED*

- C. Consideration – Proposed Conditional Use #CU13-03 for 801 Willow Road, Parcel #52-02-107-082-10, for a Group Day Care Home (will be State Licensed)

Planning Director comments

Woodward noted one public comment was received that day and submitted to the Commission.

Public hearing

No comments were received at this hearing.

Commissioner Discussion

Stanaway asked the applicant how far down Willow Road she lives. The condition of the road was discussed. It is a private road with no private road agreement. Two homeowners take care of the maintenance. The applicant has resided there for two years. She has a family child care home now, and other residents should be aware since they play in the front yard. Sikkema asked if there are any covenants that limit uses. The Township is not aware of any.

Commissioners discussed hours of operation with the applicant. She has someone considering working a night shift. Drop off would be 9:30 pm. Commissioners thought there would be two important concerns for neighbors in relation to hours of operation, including pick-up/drop-off times and outdoor play time. The applicant noted that hours of operation are reported in the state license application. Changes can be approved through an agency process.

Commissioner Decision/Recommendation

*Moved by Sikkema, seconded by Meister, that after conducting a duly noticed public hearing, and upon finding that the proposed use complies with all standards of Section 206(4) of the Michigan Zoning Enabling Act, P.A. 110 of 2006, and the Conditional Use Standards of the Chocoday Township zoning ordinance as noted in the staff report dated May 3, 2013, the Conditional Use request for parcel #52-02-107-082-10 located at 801 Willow Road to operate a Group Child Care Home is hereby approved subject to the following conditions:*

- *Pickup/drop-off shall be limited to the hours of 5:30 am to 10 pm.*
- *Outdoor activities shall be limited to the hours of 9 am to 9 pm.*

*Vote: Ayes: 7 Nays: 0 MOTION CARRIED*

**VIII. PUBLIC COMMENT**

Gary Walker said the Planning Commission did a very good job in a very difficult situation.

**IX. COMMISSIONER'S COMMENT**

Sikkema said MDOT is proceeding with the design of the resurfacing of the bike path on the east side of US-41 from M-28 to Terrace. There will probably be some changes in curb and gutter in front of a couple of businesses to enlarge the islands to accommodate the bike path. Contact Rob Dervo.

The Commission asked about the status of the unfinished zoning ordinance amendments. This list will be brought to the Commission at the next meeting to discuss potential further action.

The Commission discussed the current chicken regulations in the animal control ordinance, and lack of clear regulation in the zoning ordinance. Enforcement can really only come from the animal control ordinance which is enforced mainly through complaint. It is not fair for people to have chickens only if their neighbor doesn't complain. There needs to be consistently applied regulation and enforcement. The Commission will further discuss this at the next meeting, considering other animals and the impact of the Right to Farm Act. They could adopt a local food chapter for the Master Plan and then address regulations.

**X. DIRECTOR'S REPORT**

Woodward related thoughts and examples from the APA conference in Chicago. The Board adopted zoning amendments pertaining to Signs and Conditional Use Standards. Woodward noted the Board approved a change in the Conditional Use amendment, which the Planning Commission thought was problematic because there is a need to keep up with current law vs. the law at the time the permit was issued. Woodward presented the revised Sign application. Sikkema said the new trend is portable billboards.

**XI. INFORMATIONAL ITEMS AND CORRESPONDENCE**

Planning & Zoning News

**ADJOURNMENT**

Heinzelman 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, June 3, 2013

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

**ROLL CALL**

*Members Present:* Andy Smith (Vice Chair – Acting Chair), Andy Sikkema (Secretary), Tom Mahaney, Eric Meister, Kendell Milton, Bernie Stanaway (Board Rep)

*Members Absent:* Gary Heinzelman (Chair – resigned)

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

**II. MINUTES – May 6, 2013**

*Motion by Milton, seconded by Stanaway, to approve the minutes as written.*

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

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

*Motion by Meister, seconded by Sikkema, to approve the agenda as written.*

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

**IV. PUBLIC COMMENT**

None

**V. PUBLIC HEARINGS**

None

**VI. PRESENTATIONS**

**A. Chocolay Township Farm Incubator Project**

Kelly Drake Woodward introduced Natasha Lantz and Matt Gougeon from the Marquette Food Co-op, who spoke about the Co-op's involvement in the project to date. Gougeon, General Manager of the Food Co-op, gave a perspective on the impact of local food in our area as context for the presentation. He said from a business perspective, locally grown food and product has been the fastest growing category in their store for the last four year period, growing 60 percent during that time and representing half-a-million dollars of impact from food grown in the Upper Peninsula. He said the prospect for this local incubator farm is significant. They have seen that there is a growing interest in locally grown food, but there is a dearth of locally grown food. The U.P. has a third of the land mass of the state and only three percent of the population. Gougeon said that his organization, directed by his Board of Directors, has a vested interest in supporting the farm incubator project in Chocolay Township, because they have seen a real need for the education of new, young farmers and a need for an increase in capacity of locally-grown food. He said this is a tremendous opportunity for Chocolay Township and Marquette County to be seen as a leader.

Natasha Lantz works as Community Liaison for the Marquette Food Co-op. Up until two years ago she owned one of the local farms in the area, Dancing Crane Farms. Lantz is the co-leader of the U.P. Food Exchange project. This project coordinates local food activities across the Upper Peninsula. Lantz said they

conducted an Ag Assessment across the U.P., polled the retail stores, and talked to the community, and found that there is not enough local food being produced to meet the demand. Hospitals, schools, and restaurants try to purchase local food but can't because there is not enough being produced. The Co-op has obtained commitments that these institutions and businesses will purchase local food when it is available. She said when the opportunity came up to work with Chocolay Township on the incubator project, they assigned two of their hoophouse/gardening experts, Kelly Cantway and Abbey Palmer, to meet with Woodward on a significant level, which they have been doing for quite some time now. They will also involve other staff members who are "hands on the ground" working and training community members to grow food. Lantz said there is great potential for the farm incubator project because there are two different types of farmers that can be served – new beginning farmers, and current farmers who want to increase capacity. Both need a place to learn and try different techniques. This is an opportunity not only to train more people, but to create a model for others in the state and across the country. Lantz can answer questions about local food and has brought information on various classes and other events to give the Planning Commission an idea how this incubator project will dovetail nicely with programs already in place.

Woodward gave a presentation on the potential project starting with a history of how the project materialized. The property has been leased to a farmer from Skandia, but the Township was actually losing money on the lease. During the process of renegotiating the lease, the Board voted to let the lease terminate in spring of 2014. The Board indicated support for agriculture as an interim use of the property until it could be determined if expansion of the Recreation Area was warranted. Township Manager Steve Lawry discussed the prospects for retaining the grandfathered agricultural status of the land with Woodward. Woodward suggested that it might be feasible to use the land as a farm incubator to train new farmers who might then purchase farms in Chocolay Township or the region and contribute to the local food supply.

Woodward said the goal is to contribute to a vibrant and sustainable food economy, and to increase food security in the region. Chocolay Township would be working with local farmers, the Co-op, U.P. Food Exchange, and other important community partners to accomplish this goal. Existing challenges within the local food system include a dependence on far-away food sources. Woodward said the average pound of food travels 1,500 miles to reach your table. This is a concern in light of dwindling fossil fuel reserves and rising food prices. She also noted corporate control of seed supply and distribution systems, citing various statistics related to the processing and distribution of meat, precut salads, and milk by only a handful of companies nationwide. She noted the value of more resilient and diverse food systems. Other challenges are the disproportionate subsidies for large vs. small farms, food standards that create a hardship for small farms, and local regulations that don't support local food businesses.

Woodward noted the following benefits of strong local food systems: fresher, healthier food; fewer middlemen leading to greater incomes for farmers and lower food prices for consumers; more local jobs; greater productivity per acre; better conditions for farm animals, and increased food security. Woodward noted the

evidence of increased interest in local food as shown by the rising number of farmer's markets, winter markets, institutional purchases, and agri-tourism sources along with the participation of local health departments in support of local food.

Woodward highlighted the vision and some of the relevant goals and policies of the Marquette County Local Food Supply plan that could be addressed by this farm incubator project. She especially noted the goal of government providing an example of how to use land to increase the local food supply. Also, the County plan does include policies for supporting education, land-leasing and sharing (farm incubators), and cooperatives for food processing, storage and farm equipment. She noted the importance of community partnerships in the project.

Woodward said that there may be several different meanings for the term farm incubator. Some organizations use them strictly for education or for certification. However, this project is envisioned as a working farm, outdoor classroom, and entrepreneurial experience. There would be multiple lease holders that would pay for their own plots and supplies and participate in cost sharing. They would be assisted in creating business and marketing plans and tracking their profits. The project also promotes the sustainable use and stewardship of agricultural lands, and ensures community engagement in the food system. The project is envisioned as a bridge between internship at a farm like Seeds and Spores and the big step of full farm ownership. Most new farmers don't have the opportunity to learn from other family members or access land and equipment on their family's farm like they used to.

The Township would be the land owner, and there would be a need to create an entity like a Board of Directors for the operations management portion of the project. Other partners would supply mentoring, education, support, and other resources for the farm participants.

Participants would be expected to attend workshops and training, cover start-up costs, participate in a cost share program and shared work days, practice organic farming, and submit reports. Woodward discussed other farm incubators including Intervale Center in Vermont and Tilian Farm Development Center in Ann Arbor Township, Michigan.

Woodward conveyed the keys for success that were discovered at the first visioning meeting on May 28. Topics related to the site, production, distribution, management, program support, and participants. Other potential elements for inclusion are a large plot community garden, children's garden, native plant or permaculture demonstration garden, space for classes and demonstrations, packing and storing area, community orchard or bramble patch, hoophouses, on-site and off-site marketing, and agri-tourism. Woodward will have a meeting with area farmers to get their input, and will form work groups if we want to move forward. Project partners who have offered support thus far include the Marquette Food Co-op and U.P. Food Exchange, AgBioResearch Center in Chatham, MSU Extension educators, local farmers, local educators, and local citizens. Woodward said that with the blessing of the Planning Commission and the Township Board, she would be working with others to create a proposal for the project. She said there is a survey available at [www.chocolay.org](http://www.chocolay.org) to collect input.

Mahaney asked when the current lease expires. Woodward referred members to Board minutes on the topic. Mahaney asked if people could use the property year after year to grow food for their family. Woodward said this is what the large plot community garden site would be for, but the farm incubator would be intended to support the farmers for a period of time until they could graduate and buy their own farm. The time period might depend on the demand from new farmers to enter the program, because we would want to keep the majority of the site in production. He also asked about current farmers and how they might use the property. Woodward said they had envisioned it a jump-start for new farmers who don't have access to land, but they would expect existing farmers would be mentors. Existing farmers might also use a portion of the site to try out new products or techniques. Each farmer would either lease a portion of the site from the Township or from the non-profit fiduciary organization that oversees the project.

Smith confirmed that the site is 14 acres, and asked what is currently being grown. The answer was corn. The property was leased by the prison farm and then a farmer. The project would hopefully start next spring provided a proposal was approved by the Board. Woodward hopes to get grants or donations to help cover start-up costs, and to establish a Board to oversee operations.

Sikkema asked if there are models where the land is leased out to a non-profit and the non-profit runs the program. Woodward said that is the most common model. The Ann Arbor Township project is headed by a non-profit fiduciary, Steering Team, and Project Manager.

Meister asked about the possible expansion of the recreation area. Woodward said there are currently no plans for expansion, but they would plan for mobile structures so the site could be easily converted if needed. The communal elements could be located around the edges or away from the recreation areas.

Milton asked about the existing water supply on site (recreation area). The fields have their own sprinkler system and there is a pump house. Mahaney feels that the project should prioritize leasing the land to new farmers more than accommodating existing farmers.

Mahaney asked if it would be open to people other than township residents. Woodward said she anticipated it would need to be opened up to non-residents hoping that they might eventually purchase property here, but that the governing body could decide to give preference to local resident participation in their selection process. She noted that either way it would contribute to the local food system.

## **VII. NEW BUSINESS**

### **A. Election of Officers**

Meister nominated Smith as Chair. Smith said he would rather be Vice-Chair. After discussion, it was moved by Stanaway, seconded by Smith to nominate Sikkema as Chair.

*Vote: Ayes: 6 Nays: 0 MOTION CARRIED Sikkema was elected Chair.*

Moved by Meister, seconded by Mahaney, to nominate Smith as Vice-Chair.

*Vote: Ayes: 6 Nays: 0 MOTION CARRIED Smith was elected Vice-Chair.*

Moved by Sikkema, seconded by Stanaway, to nominate Meister as Secretary.

*Vote: Ayes: 6 Nays: 0 MOTION CARRIED Meister was elected Secretary.*

**B. Comments on Marquette County Local Food Systems Plan**

The vision statement was praised by Woodward and Stanaway. Milton suggested adding a policy to regulate the mining of topsoil through the use of mineral extraction rules. Stanaway supported this idea. Other members had concerns that topsoil is needed for many uses such as highway construction and landfill remediation, and has to come from somewhere. At the least, a remediation plan should be associated with the activity. There were questions about whether remediation would be covered by the County Soil Erosion regulations. Smith said this would be covered if more than an acre was disturbed or if the site was within 500 feet of a lake or stream. There were also questions about whether these rules would be pre-empted by the Michigan Zoning Enabling Act. Woodward said the township would be limited in local government control of extraction. The focus is to promote responsible removal of topsoil for commercial purposes, recognizing topsoil as a valuable agricultural resource. Responsible removal could include rebuilding the soil with organic materials. Stanaway suggested keeping this idea to guide Township policy, but not necessarily County policy.

Supporting the County Plan does not mean the Township would have to adopt this plan. However, the County master plan goals and objectives would be the basis for the advisory comments on any zoning amendments we would send to the County for review. There were no concepts in the County Local Food Supply plan that were not supported by the Planning Commission. Season extension infrastructure was recognized as important to more resilient systems.

Moved by Stanaway, seconded by Smith, to support the Marquette County Local Food Supply Plan as a basis to guide Township policy.

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

**C. Comments on the Chocolay Township Farm Incubator Project**

Smith asked about the revenue from the current lease. Woodward said the lease with Bergdahl's Inc. was for \$211 per year, but subsequently it was determined that the property taxes of about \$640 per year were not covered by the lease, resulting in over \$400 loss. She noted the details were contained in a March 6, 2013 Memo from the Manager to the Board, as provided to the Commission.

Stanaway said the farm incubator project is a good idea, but he is concerned about security for equipment stored there. This is not so much a problem if the Township doesn't purchase the tools. Sikkema noted it was preferable to have a non-profit taking ownership of the equipment, managing the project, deciding who is in the program, so it's not the Township having to invest in and manage the project. Meister said the Township should not have to administer the program. Many people think this is a good project, but taxpayers don't want to have another employee hired on Chocolay tax dollars. He'd like to see a separate group take it over, with the Township making the property available and having some input on

use, terms, structures, etc. The Planning Commission and Planner don't have time to take this on, but he does support the project as a good use of the land. Woodward said the concept included having a separate group to manage the project. Sikkema suggested having a Board that could include Township residents to work with the non-profit entity, but not to utilize Township resources. He said it's a great opportunity for a group to take on this business, especially this close to Marquette. Sikkema said it's a great use of the property, we just need to look at how it gets managed and operated. Stanaway and Meister concurred. Mahaney asked if the guidelines would come back to the Planning Commission for approval. Woodward said that right now she just needs approval of the land use concept and moving forward with an advisory Board, and also Board to approval of further investigation and creation of a proposal. Mahaney recommended the proposal come back to the Planning Commission to make sure it's in the best interest of residents. Sikkema suggested finding a group to champion the project, do the implementation and take the burden off Staff. Gary Walker concurred that the Planning Commission is a better body to vet ideas. Sikkema acknowledged the correspondence received from residents that Township dollars not be spent.

Lantz said the Co-op could provide technical assistance on things like hoophouse construction, crop planning, and hands on farming instruction. She said that at the new facility, the Co-op will have an aggregation site in the basement with dry and cold storage that could be utilized by participants. The Co-op is also doing a study on how to better utilize trucking to support regional distribution with backhauls. The Co-op and their other community partners can handle large pieces in support of this project, including helping Staff put it all together.

Mahaney supported the creation of a large plot community garden as well on this site. After the following motion was made, Gary Walker asked for clarification of whether the concept would go to the Board for a blessing before proceeding, and Stanaway said that was not his intent. The Commission advised that the concept move to the Board after the proposal was considered by the Planning Commission. This was clarified as keeping the concept at the Planning Commission level until they approve the next step, then sending it to the Board.

*Moved by Stanaway, seconded by Meister, to direct Woodward to investigate the forming of a committee or work with a current non-profit to proceed with the next step in forming the farm incubator project, and to present the draft proposal to the Planning Commission for recommendations.*

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

**D. Potential Changes to the Animal Control Ordinance**

Woodward said this came about due to enforcement difficulties for current regulations, and multiple citizen requests. She noted her memo response to Trustee Maki regarding chicken regulations. Woodward suggested two courses of action in clarifying the regulations relating to the keeping of chickens per citizen petition presented at the May meeting. One course is to address the animal control ordinance that currently bans the raising of certain animals in non-agricultural areas. The difficulty with this Ordinance is that it is only enforced by complaint to the police department. So people who have neighbors who don't

complain could keep chickens, and those who have neighbors who complain may not be able to, so it's not equitable or based on objective standards. The zoning ordinance is a better mechanism for regulating the activity beyond the basics of proper containment and animal behavior (nuisance provisions). The second and concurrent course would be to amend the zoning ordinance which currently only regulates this issue in a "backward way" (to quote the attorney). Attorney Zappa concurred there is room for improvement in the regulations, and the proposed procedures would be an improvement over current regulations. He said he wouldn't want to have to be in a position to enforce current zoning regulations related to agriculture, and it would be better to have more clear regulations for the keeping of chickens per zoning district. Woodward noted the limitations of the current regulations and the resulting imbalance in enforcement related to strict interpretation of the definition of agriculture. The Planning Commission is asked to consider the change related to the animal control ordinance tonight. Woodward noted that changes other than those being discussed tonight are necessary to bring the animal control ordinance up-to-date with current laws.

Stanaway expressed concern about opening up the regulations to allow chickens to be kept in his neighborhood in the R-2 districts where some lots are only 60 feet wide. He was concerned that if it was opened up for chickens, then other livestock like a pig might be allowed.

Sikkema noted the City of Marquette probably has no agricultural lands, so if they want to allow poultry, they have to allow them in a residential district. Whereas in the Township, we have options for everybody. If someone comes here and moves to residential, then later decides they want to have chickens, well, they should have moved over there.

Stanaway asked if it can be limited to a certain size parcel. Sikkema noted that people don't want to have to move from their homes after their desires change and they decide they want chickens.

Smith asked how the Right to Farm Act comes into play. Woodward noted there are many cases happening across the State and the impact is yet to be determined, however, we have one example case in our County that provides some direction that regardless of our regulations, there are some cases in which local regulations may be pre-empted by the Right to Farm Act. This would involve commercial farms that follow the Generally Accepted Agricultural and Management Practices (GAAMPS). The case was discussed briefly.

Woodward advised creating regulations that are appropriate in scale, setbacks, etc based on the different contexts within the Township after having obtained public input (not just Commission opinion). These regulations may still be pre-empted by the Right-to-Farm Act, but at least we will have clear regulations that citizens can understand before they move here, and they won't have to wonder if they are actually breaking the rule if they keep chickens.

Mahaney said he thinks Traverse City allows chickens. He thinks it's an important issue that we're getting many calls about, and he thinks it's time we deal with it. Stanaway said he wants to see some ordinances and do some more research on

the Right-to-Farm Act. Woodward noted an MSU Extension workshop on the Right-to-Farm Act on June 11, 6:30 – 9:30, at the NMU Olson Library, Room 109.

*Moved by Stanaway, seconded by Mahaney, to table this issue to the next meeting to allow Commissioners to do more research on this issue, and Staff to provide more information from Ordinances in other municipalities.*

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

## **VIII. UNFINISHED BUSINESS**

### **A. Board request on proposed Zoning Ordinance Amendment Case #ZA0001-13 Notification Distance relating to posting of sign on property for public hearings**

The proposed amendment changes the notification distance for written correspondence to all properties within 500 feet, instead of the current 300 feet.

Gary Walker said this issue has come to the Planning Commission as a result of a Township Trustee suggesting that in addition to the other required notices, a sign be placed on the property. The question is does the Planning Commission think that is appropriate or not. Proposed language for consideration is “Where a public hearing of the Planning Commission or the Zoning Board of Appeals is required in relation to an individual parcel in the administration of this Ordinance, notice of said hearing shall also be given by posting a sign not to exceed six (6) square feet in area on the subject parcel at least ten (10) days before the public hearing. This requirement may be waived if the sign would not be visible from any adjacent roadway when placed within the property boundaries, or if excessive snow or frozen conditions interfere with visibility or placement.”

Meister asked who would be responsible for posting the sign, the applicant or the Township? Milton said he thinks Google maps is useful for finding the location, and he doesn't think a sign on the site is necessary. Smith verified that surrounding properties will be notified in writing of the public hearing.

Woodward read Deborah Mulcahey's comments on this issue as submitted to all Planning Commissioners since she was the citizen who requested a notification change to start with. Mulcahey thinks the proposed changes are not acceptable. She suggests a notification distance of 1,250 feet instead of the 500 feet proposed by the Planning Commission (currently 300 feet is the State requirement). She said the proposed language regarding the posting of a sign is also unacceptable because the proposed period of posting of 10 days should be 30 days since people travel for work, take holidays, and might not be aware of a proposal that is posted for only 10 days. She also does not agree with the waiving of the requirement as proposed since she says it offers the community no protection of notice. Comments include, “The fact that the requirement to post notification in the area where the sign will be placed can be waived if there is excessive snow or frozen conditions interfere with visibility or placement is subjective. What exactly does excessive snow mean, or frozen conditions interfering with visibility? Frozen conditions can make it difficult to post a sign; but the reality is that if someone wants to put up a sign they will do so through frozen conditions. Therefore, the individual or business that wants the sign should be required to put the notification sign up and no waiver should be granted for this. Further, there is not mention of dealing with signs being posted along seasonal roads and the ability to post, or the



public's opportunity to review.”

Woodward said the Commission needs to verify their recommendation on the notification distance, and consider whether posting of a sign is necessary or not, and if so, decide on details such as time of posting, size, etc. The Board or Staff could figure out the details on how to purchase or make the signs.

Stanaway said he still thinks 500 feet is sufficient notification distance in most of the area. He agrees Google maps is a good tool. He doesn't think people who are a greater distance away will care about the issue. If they are not directly affected, most people won't care. He doesn't think a sign needs to go up.

Smith said they are already increasing the written notification distance, and he is also not for placement of a sign. Mahaney asked Woodward if she is aware of any other communities that post a sign on the property. Woodward said she did not know. Walker said an older Township zoning law 20 years or so ago may have had a requirement for posting a sign but that is no longer there. He doesn't know if other Townships retain that practice.

*Moved by Stanaway, seconded by Milton, that the Board adopt #ZA0001-13 Notification Distance as previously submitted without the requirement for posting a sign on the premises for the following reasons:*

- *Properties are easily found*
- *We are providing greater notification than what is required by the Michigan Zoning Enabling Act.*

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

**B. Recommended resolution of unfinished historic zoning ordinance amendments**

The Commission discussed the zoning amendments that were never finalized but were placed in the public zoning ordinance. Woodward recently corrected the Zoning Ordinance to reflect official processes. If these unfinalized amendments still merit consideration, the process must begin again.

The Commission went through the entire list and decided on whether to take further action as follows:

#34-08-03 Floor Area Ratio - Need more information on the exact text and what was intended. Staff will provide more information at the next meeting.

#34-08-04 Setback changes in the MFR district – this was originally denied by the Planning Commission and there was consensus no further action is warranted.

#34-09-05 Change in lot size and width in the MFR district – this was originally approved by the Planning Commission but there was no Board action. The Commission wishes to take action on this amendment. Sikkema said this was a correction they were trying to do and should be reopened.

#34-09-06 Outdoor Wood Boilers – the Planning Commission approved the language, but there was no record it went to the Board for consideration. However, significant undocumented changes were made to the Zoning Ordinance that didn't match the language approved by the Planning Commission. This language was recently corrected to reflect official proceedings. Smith says he has

the draft at home. The Planning Commission decided to reopen this issue.

#34-09-07 27' Commercial vehicle parking in residential districts – This was to reinstate language that existed before the 2008 amendment. It was approved by the Planning Commission, and approved for a first reading at the Board, but was tabled at the 2<sup>nd</sup> reading. There was consensus no further action is warranted.

#34-09-08 Change to nonconforming uses and structures – deleted all language pertaining to nonconforming uses which were confused with use variances. This change was denied by the Board, but text was deleted from the Zoning Ordinance anyway. This language was recently corrected to reflect official proceedings. There was consensus no further action is warranted.

#34-09-09 Definition of park – The Board had approved a definition at a first reading but then didn't bring it for a second reading or approval. In the meantime, the Planning Commission created a new definition. Neither definition was approved but the Zoning Ordinance was changed according to the first definition. Currently there is no definition of Park in the ordinance, and parks are approved as conditional uses except in the MP district where they are permitted uses, and in the C and I districts where they are not permitted. After much discussion, there was consensus no further action is warranted.

#34-09-11 Flags – Approved by the Planning Commission and first reading of the Board but never adopted. The same basic language is now contained in the recently approved sign ordinance thus, "flags other than those representing corporate or commercial entities are permitted in all residential districts provided the support structures comply with the setback and height provisions of that zoning district." Smith said this amendment originally was intended to address very large US flags. Gary Walker said that might be a free speech issue. There was consensus no further action is warranted.

#34-09-12 Definition of flags - Approved by the Planning Commission and first reading of the Board but never adopted. There is currently no definition of flag in the Ordinance. There was consensus no further action is warranted.

#34-09-13 AF district nonconforming lot – An attempt to correct an ordinance problem. However, it's the consensus of staff and the attorney that this was not needed. The intent was that people can still build on nonconforming lots in the AF district. There are already provisions for this. There was consensus no further action is warranted.

#34-09-14 Flag – The Planning Commission approved it, the Board approved the first reading, but there was no second reading or adoption. This was related to a provision in the sign ordinance. There was consensus no further action is needed.

#34-09-16 Outside Wood Boilers use provisions. This was approved by the Planning Commission but not addressed by the Board. The idea is that if you meet all the setbacks, why do you need a 5 acre minimum? The Planning Commission decided to reopen this issue.

#34-10-16 Swimming pool regulations – This was never finalized by either the Planning Commission or the Board. But it was thought this was dropped because the County has regulations for swimming pools and the Township doesn't need to regulate them. Swimming pools are not currently addressed in the ordinance. There was consensus no further action is warranted.

#34-10-18 Height – Approved by Planning Commission. Not taken up by Board. The Planning Commission had considered a formula to increase the setback for higher accessory buildings. It had to do with energy truss systems. There was also an issue with how the height was measured. The Planning Commission decided to reopen this issue.

#34-11-06 There was consensus no further action is warranted.

*Moved by Stanaway, seconded by Meister, to revisit previous zoning ordinance amendments #34-08-03, #34-09-05, #34-09-06, #34-09-16, and #34-10-18 and to take no further action on all the others.*

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

#### **VIII. PUBLIC COMMENT**

None

#### **IX. COMMISSIONER'S COMMENT**

Smith asked on the progress of purchasing the property to the west to allow for better access into the Township office complex. Gary Walker reported no further progress. Sikkema said progress is moving forward on the bike path project. The Township will approach some of the land owners because there is a need to increase the width of some of the islands to accommodate the 10' wide path with 2' borders.

#### **X. DIRECTOR'S REPORT**

Woodward noted the opportunities for the Right-fo-Farm-Act workshop and Citizen's Planner certification. She asked Commissioners to let her know if they are interested. Stanaway is interested in the Citizen Planner program.

#### **XI. INFORMATIONAL ITEMS AND CORRESPONDENCE**

Planning & Zoning News

Correspondence received from Deborah Mulcahey and Wayne Dees.

#### **ADJOURNMENT**

Sikkema adjourned the meeting at 10:10 p.m.

Submitted by:

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Planning Commission Secretary  
Eric Meister

# CHARTER TOWNSHIP OF CHOCOLAY PLANNING COMMISSION MINUTES

Monday, July 1, 2013

**I. MEETING CALLED TO ORDER BY:** Andy Sikkema at 7:31 p.m.

**ROLL CALL**

*Members Present:* Andy Sikkema (Chair), Eric Meister (Secretary), Tom Mahaney, Kendell Milton, Bruce Ventura

*Members Absent:* Andy Smith (Vice Chair), Bernie Stanaway (Board Rep)

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

**II. MINUTES – June 3, 2013**

*Motion by Milton, seconded by Meister, to approve the minutes as corrected, page 4 “The property was leased by the prison farm and then a farmer.”*

*Vote: Ayes: 4 Nays: 0 Abstain: 1 (not present at meeting) MOTION CARRIED*

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

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

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

**IV. PUBLIC COMMENT**

Dick Arnold, 312 West Branch Road, asked about the status for the change relating to nonconforming lots in the AF district. Per a FOIA request, he reports there are 841 parcels in the AF district, and of these, 512 are nonconforming lots less than 20 acres. He said his understanding is that nonconforming lots can only have permitted uses so they cannot have conditional uses as listed. He thinks dealing with this issue is more important than putting up community gardens. He suggests we should not change the AF district, but just look at the permitted uses for a conforming lot and nonconforming lot. He was concerned about the lack of height restrictions other than distance from property lines because that could result in excessive heights. Also he is concerned that there are no restrictions on the size of accessory buildings or the number of accessory buildings. He wants to protect the residential neighborhoods and doesn't want a 100' x 200' building 40' high across from his house because it limits his view and decreases property values.

**V. PUBLIC HEARINGS**

None

**VI. PRESENTATIONS**

**A. Marquette County Brownfield Inventory**

Presentation by Dotty LaJoye of Marquette County Planning. Marquette County started a Land Bank which receives tax reverted properties and provides

advantages for redevelopment such as title clearing and redeveloping according to a plan. There are more properties for redevelopment than there are redevelopers in the County. The County obtained an EPA assessment grant to start baseline environmental testing as a catalyst for redevelopment. They will then go for a cleanup grant. Brownfields include many types of properties such as blighted, functionally obsolete, and those in the land bank. There were 2012 and 2013 changes to P.A. 381 that now include parking, multi-level parking, urban stormwater management systems, and historic resource redevelopment as eligible projects. There are more eligible activities allowed in core communities which include the cities of Marquette and Ishpeming, or those that are in a land bank. Brownfield redevelopment authorities use tax increment financing and revolving loan funds to reimburse the costs of eligible activities and get sites ready for redevelopment.

Marquette County is giving the community a chance to help identify and nominate brownfield eligible sites and comment on the preferred use. It is important that these findings are validated in the Master Plan and Recreation Plan. The County will prioritize sites for redevelopment according to the following factors: they are identified by the community, public health impacts, hazardous material use on site, and redevelopment potential.

Sikkema asked questions about tax reverted properties and how they are put in the land bank. Ventura asked questions to confirm that the County wants Chocolay Township to help identify sites and that the County may then take steps to redevelop. LaJoye said the projects need to be included in a plan that is usually written by a consultant and sent to the local unit of government for approval. Meister asked who evaluates the properties that are in the land bank? LaJoye said the County Treasurer visits all sites and does an assessment of potential. The Wahlstrom's property is in the Land Bank and therefore qualifies for all eligible activities and expenses, including site and infrastructure improvements, demolition, cleanup, etc as addressed in a Brownfield plan. The goal is to get the property back on the tax rolls, but to get community input on the land use.

## **VII. NEW BUSINESS**

### **A. Welcome new member Bruce Ventura**

Sikkema welcomed Bruce Ventura to the Commission and thanked him for his willingness to serve.

## **VIII. UNFINISHED BUSINESS**

### **A. Unfinished historic zoning ordinance amendments**

#### **1) #34-08-03 Floor Area Ratio**

Woodward said she could not find any more information on this proposed amendment, it's purpose, the proposed text, etc. There was only a cryptic reference in one month's planning commission minutes. Ventura

asked Woodward to define what is meant by Floor Area Ratio. Woodward said this is a way to control the size of development on a parcel. It's the ratio of the area of all floors of a building to the area of the parcel. Chocolay does not currently have controls in place to limit the portion of a lot that can be covered by buildings. Some communities have maximum lot coverage, maximum impervious surface ratio, or minimum open space requirements, etc.

Meister said he's not sure he wants to address this if there hasn't been a problem thus far. Sikkema said we only have one area with small parcels and there hasn't been a concern over inappropriate density. Ventura said it would potentially come up more with a multi-family development than with single-family. The Commission agreed to let this issue drop.

2) **#34-09-05 MFR Lot Size/Width**

Woodward said this amendment was proposed to reduce the minimum lot size for the multi-family district from 20 acres to 2 acres, and to add a minimum lot width requirement of 200 feet (currently there is no minimum lot width). However, Woodward pointed out that other uses are also permitted in multi-family districts, including schools and churches, and the minimum lot size would also apply to them. But the other consideration is that this zoning district currently only includes areas that are already developed as mobile home parks or apartments or condos. There are no undeveloped properties in this zoning district. Woodward said this is a bigger issue than minimum lot size. She would like to see the Commission get rid of the Multi-family district, and address multi-family development as a conditional use in appropriate districts. This would give more flexibility in where these kinds of developments could locate. Woodward said that multi-family development should be encouraged in areas with public sewer availability, such as the current commercial district and adjacent areas. This is similar to the method used by Negaunee Township and Marquette Township. The Master Plan supports the development of diversity in the housing stock, housing affordability, and satisfying the needs of more residents.

Sikkema asked about the definition of multi-family. The current definition includes many housing types with two or more dwelling units, such as apartments, boarding houses, fraternities, dormitories, townhouses, etc but not hotels, hospitals, or nursing homes. It does not include Bed & Breakfasts. It does include duplexes.

Sikkema asked if the Commission wants to support creating more multi-family development, and if so, an amendment would be needed. Milton

asked how the current multi-family developments ended up in the multi-family district. Ventura said it looked like spot zoning was done just to accommodate the existing multi-family uses. Meister wasn't sure a multi-family use would be appropriate or have resident support in the R-1 district in places like Briarwood or areas along Ortman Road by Cherry Creek School. He is concerned that if multi-family is made a conditional use, it could go in where it is not appropriate. He said there is a strong tradition in the Township of not having multi-family development, although he's not saying he agrees with it, but there must have been a reason.

Woodward mentioned that they are not currently allowed in any of the Commercial or Harvey areas where sewer is available. Meister reiterated that there is currently no opportunity for future multi-family development. Milton said there is encouragement for mother-in-law flats or accessory dwelling units to address this issue, but the problem is they later become rental units, and he asked if we are trying to encourage this. Meister said he thinks apartments should be more like transitional uses on the edges of the commercial district. So he wants to know if a conditional use would allow some location criteria to achieve this.

Milton said another problem with mother-in-law units is that people may want to split the lot later. Ventura said in the current ordinance, accessory dwelling units are required to revert back to single-family when not in use. Woodward clarified that we don't currently allow detached accessory dwelling units that could later turn into rentals. They must be attached to the home and theoretically all the kitchen facilities for the separate unit must be removed after the use terminates, although she said this is an enforcement difficulty.

Sikkema asked if the only way for someone to build a multi-family development currently is as a PUD? Woodward said the other option is a rezoning. The Commission felt this would be like spot zoning. Woodward pointed out that there is a minimum lot size for PUD's and particular objectives that must be met.

Sikkema again asked if the Commission wanted to try to find a way to allow more multi-family development in the Township. Gary Walker mentioned the limitation of availability of public utilities, unless the citizens would support the extension or development of more public utilities. Mahaney asked if anyone has approached the Township to put in multi-family development. Meister said the units in the medical office redevelopment were rented right away, so that demonstrates demand for rental properties. Sikkema proposed the option of just opening up the

area with sewer facilities to development of this type. Meister mentioned the tradition of having apartments above businesses as an alternative to apartment complexes.

Milton mentioned that density is also controlled by Health Department requirements. Woodward mentioned there are engineered methods that can help satisfy these requirements. Milton said he thinks the 20 acre minimum may be excessive.

Sikkema asked if there is a general consensus to create more multi-family opportunities. This was agreed. The Commission agreed to table the issue for more discussion at the next meeting. They are tasked to think of more areas where multi-family development as currently defined in the Ordinance (including duplexes) would be appropriate and the regulatory methods for approval.

3) **#34-09-06 Outdoor Wood Boilers**

Sikkema said he knows there is one commission member who is particularly concerned about these regulations and he is not in attendance, so he suggests tabling until the next meeting. Ventura said that the packet materials presented information that he could not make sense of due to contradictions, so work is needed.

4) **#34-09-16 Outdoor Wood Boilers in Use Provisions**

Tabled for the above reasons in item #3.

**B. Workshop and Attorney input on the implications of the Right-to-Farm Act**

Woodward referred to the MSU Extension decision matrix on the Right-to-Farm Act (RTFA) as provided in the packet. The matrix leaves you with the question of what local governments CAN regulate in relation to agriculture. Woodward met with the Township attorney to determine their level of comfort with risk associated with the RTFA, and also discussed the issue with Supervisor Walker. For example, box 5 in the decision matrix asks if local government regulations restrict farms or farm operations to certain zoning districts, at which point you have to decide on a level of risk that your community finds acceptable in acknowledging that local regulations may be legally challenged and pre-empted. The attorneys agreed it is worth having some local regulations because not every operation will fall under jurisdiction of the RTFA. Woodward discussed her belief that we should allow some appropriate scale of these activities to occur, assuming that if the regulations are reasonable and publicly accepted, there may be fewer reasons for people to challenge the regulations under the RTFA. Currently, people don't want to break the rules, but the rules are unclear. The intent is to create regulations that will stand up to scrutiny under the RTFA. However, we should understand that there may be cases where the RTFA will apply, so Woodward suggested making sure



the Nuisance Ordinance is updated to protect against nuisance claims arising from agriculture so that a complaint could be filed with the State and therefore the process would begin to determine if the operation complies with Generally Accepted Agricultural & Management Practices (GAAMPS). Woodward is not aware of any local ordinances that are not challengeable, so her intent was to create something innovative to address the issue.

**C. Approach to regulations for Accessory Homesteading Activities**

Mahaney asked if this is all tied to regulating chickens. Woodward said it addresses the raising of other animals like rabbits too. Woodward wanted to avoid having to make a determination of whether an activity is commercial or not due to enforcement difficulties and a wish to focus more on the nuisance impacts and compatibility among uses. Mahaney's impression is that the proposed language goes beyond just the chicken issue. Ventura said that the RTFA is a State law that supercedes almost anything the Township can do. Woodward said this is why she tried to create standards that are related to "accessory homesteading activities" as differentiated from "farms" or "farm operations" as defined in the RTFA. Anything that doesn't fall under those categories would need conditional use approval. Walker said that Woodward is trying to set the Township up so that we can keep reasonable decisions local, and not have decisions automatically fall under the jurisdiction of the RTFA; to do what we all believe is necessary to protect the context of our neighborhoods and yet not run "afoul" of the RTFA. Walker says basically it's brand new, no one's really thought this stuff out, we're going to see some ridiculous results before the legislature goes back and fixes it (RTFA). He said Woodward's intent is to have the Commission determine what is appropriate in the Township, and with the Attorney's help, try to make that happen.

Mahaney said we could have an ordinance allowing people to have only 4 chickens, and if they have 20 they could fall under the RTFA jurisdiction and be allowed. Woodward said they could, but they might think twice about challenging the regulations if ours are reasonable. The proposed regulations were briefly discussed in detail. Woodward sent the proposed regulations to the food policy group which includes an MSU Extension land use educator and had received no feedback yet. All potential regulations discussed at the RTFA workshop were felt to contravene the RTFA, except an approach to deal with these animals as "pets", and perhaps Traverse City's approach of regulating only "non-commercial" operations that by definition don't fall under RTFA jurisdiction. Woodward wanted to avoid having to make the "commercial" determination as part of enforcement, and felt it goes without saying because if they are commercial they could be protected under the RTFA anyway.

Sikkema said the way it is written, you wouldn't have to be commercial and could still have the animals, and you wouldn't have to follow GAAMPS and could still

have the animals. Meister said it restricts how many animals and types of animals. Mahaney said the chicken regulations he had researched limit it to four chickens. Woodward said these ordinances randomly limit the number of animals without consideration of the size of the parcel or the context. Mahaney said most ordinances also say they have to be fenced in and no roosters allowed. Woodward said her regulations were meant to be related to something rational and reasonable, such as available pasture area, and also to be publicly acceptable, because some people won't want to see certain animals in their neighborhood. Mahaney said he agrees, some things aren't appropriate in a residential area. Sikkema said that raises the questions of what is a residential area. He says people may invest \$250,000 or \$300,000 in a house and the next thing they know they have a goat or cow next door. He understands this could happen anyway with the RTFA, but he thinks these regulations would open it up so you wouldn't have to have a farm operation but could still have a cow, pig, or sheep. Proposed regulations were further discussed.

Woodward suggested this goes back to what people used to do at their homes, raise a few animals for their family's use. She asked about the difference between having dogs and sheep. Sikkema said he doesn't know if they want to go so far as to have farm animals in residential neighborhoods, even though it could happen with the RTFA. Woodward said that is what you will force people to do, is to seek RTFA protection to have their animals.

Mahaney said the issue now seems to be chickens. It doesn't seem like people are pushing to have sheep, cows, and goats in residential back yards. So he wondered if we could put in an amendment just for chickens. Milton said he likes the animal unit method. The Commission discussed the scope of regulations they want to tackle. Woodward said she was just trying to cover all possibilities in the draft regulations. Sikkema said he grew up in a neighborhood where people had cows, chickens, rabbits, and it's not a big deal to him but he knows there are people who probably wouldn't appreciate that. He doesn't see a big problem with chickens because people will likely get tired of them, but people may have a bigger problems living next to swine. Meister said 4 chickens won't bother anyone if there are no roosters. Ventura said that deer and raccoons that come into his backyard are a bigger problem to him than 4 chickens in the neighbor's yard would be, but you can't do anything about that.

The Commissioners again discussed the approach. Milton said he thinks it's meant to be like "heading it off at the pass", trying to get prepared for some of the challenges that could come up. Walker said adopting an amendment for chickens would probably satisfy things for the moment, but he thinks what Woodward is attempting to do is 1) be innovative, and 2) be prepared for RTFA issues. You could solve the chicken issue and then hope not to see challenges later. Ventura

suggested they move forward with the proposed regulations, dealing only with the 0.1 animal unit equivalents now, making it easier for a future amendment if needed. Meister didn't see a problem with someone in the R-1 district with 40 acres having a variety of animals. Sikkema said then they could have 30 head of cattle, but anyone with that many animals would probably be a commercial operation anyway, and be covered under the RTFA. Meister said there were complaints about arbitrary zoning district boundaries related to having animals, such as on one side of a particular road you could have horses, and on the other side you couldn't, even if you had many more acres than the other property.

Sikkema asked the Commission's intent, whether to work on Woodward's draft but making revisions, and whether to do it now or as homework. Meister likes Woodward's general format but wants time to consider. The Commission was directed to mark up their draft for a good discussion at the next meeting.

Woodward was directed to contact Andy Smith before the next meeting in preparation for the Wood Boiler discussion.

## **VIII. PUBLIC COMMENT**

Arnold asked if the Right-to-Farm Act is a State or Federal Law, and whether State representatives should be contacted to say he doesn't like it. Sikkema said he grew up on a blueberry farm/orchard in an area that experienced changes over the years, and was surrounded by residential development. The neighbors tried to shut the farm down and not let his Dad sell his produce because of the road dust generated by farm visitors. The RTFA rightfully protected this farm that had been there since the 1940's. Ventura said the Act was predicated on issues with an existing pig farm that became surrounded by development, then the new residents tried to shut down the farm that was there first. The reasoning behind the law is to protect the farmers that have been there a long time. It came from downstate pressures. Woodward said agriculture is Michigan's second largest industry and is therefore important to legislators. Meister said the RTFA also protects the farmer who must innovate to stay profitable, because previously if they wanted to change crops, they would lose grandfathered status. Walker said the issue really is change, and whether you come to the nuisance and think you can complain. Woodward said she felt it was wise for the region to come together to write to legislators and let them know the difficulties the RTFA is creating for local zoning, and how it is contradicting the ability of people to raise food in their own back yard if they want to. It's really only protecting the big farmers if it makes local governments think they have to allow all or no agriculture and not regulate anything in-between. But Sikkema said the RTFA does allow some farms out of context and that creates problems. Arnold asked if someone could actually farm in Marquette. The Gwinn RTFA case was discussed in which the farmer prevailed.

**IX. COMMISSIONER'S COMMENT**

None

**X. DIRECTOR'S REPORT**

Woodward said the Board passed the Outside Lighting amendment and the zoning ordinance has been revised. She will send a letter to businesses informing them of the change. The amendment on notification distance awaits a second reading but no changes were made at the last Board meeting.

Woodward asked who wished to attend Citizen Planner training this fall. Meister would like to attend. Ventura wants training in Township procedures this year, perhaps the Citizen Planner program. Sikkema and Milton would like to take the Citizen Planner Training next year.

Woodward said an NMU professor had developed a permaculture plan for the farm incubator site, incorporating water catchment and other ecosystem ideas which Woodward hoped to include in the proposal. This site plan was developed by the group and instructor of a permaculture design certification program. Woodward talked to some Chocolay farmers at the farmer's market, and they are very interested in helping with the project and gave some helpful tips.

**XI. INFORMATIONAL ITEMS AND CORRESPONDENCE**

Planning & Zoning News

City of Marquette Planning Commission minutes

**ADJOURNMENT**

Sikkema adjourned the meeting at 9:10 p.m.

Submitted by:

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Planning Commission Secretary  
Eric Meister

# CHARTER TOWNSHIP OF CHOCOLAY PLANNING COMMISSION MINUTES

Monday, August 5, 2013

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

**ROLL CALL**

*Members Present:* Andy Sikkema (Chair), Andy Smith (Vice Chair), Eric Meister (Secretary), Bernie Stanaway (Board Rep), Kendell Milton, Bruce Ventura

*Members Absent:* Tom Mahaney (excused)

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

**II. MINUTES – July 1, 2013**

*Motion by Ventura, seconded by Milton, to approve the minutes as corrected, page 1, last sentence of public comment, “it” instead of “if”.*

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

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

*Motion by Meister, seconded by Smith, to approve the agenda as corrected, adding the items “Planning Director comments”, “Public Hearing”, and “Planning Commissioner discussion and decision” under New Business item VII.A.*

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

**IV. PUBLIC COMMENT**

Deborah Mulcahey, 633 Lakewood Lane, commenting on the Right to Farm Act information presented in the packet on page 7-8. She said there is no Supreme Court ruling or published Court of Appeals decision and no legal precedent. She thinks it's overreaching for a zoning ordinance to take away what she considers to be her rights to sue for public nuisance. She cited two Attorney General opinions from 2006 and 2011 and read a statement from an attorney. She said there is controversy but the two informal opinions say that if there are relevant GAAMPS then the Right to Farm Act pre-empts the local ordinance. The site selection GAAMP requires facilities to be zoned agricultural. She said that public nuisance is a serious matter. She doesn't think the Planning Commission is trying to make it difficult for citizens, but is looking to not get itself in trouble. She doesn't think we want to add trouble for the common citizen. She doesn't think the intent of the legislation is to say farming can be everywhere.

**V. PUBLIC HEARINGS**

None

**VI. PRESENTATIONS**

None

## VII. NEW BUSINESS

### A. Conditional Use Permit for 1875 M-28 East, Birney, Parcel #52-02-112-017-00

#### 1) *Planning Director comments*

Woodard said this is a conditional use permit application under the Lake Superior Dune Protection Overlay District, and it's come to the Planning Commission because the applicants want to make earth changes to the dune, including taking four feet off the top of the dune. The overlay district was approved in 2002. The owners of the property to the west (1871 M-28 E) removed the dune sometime between 1997 and 2002 before the overlay district was adopted.

Woodward read correspondence from Jeff Neuner, current owner of 1871 M-28 E. Neuner wanted it known that he is not the owner that removed the dune. He purchased the property in 2004 and he has worked with the DNR to mitigate the damage caused to the dune. His main point was that they are not opposed to the proposed changes on the Birney property if the modifications are made as indicated. They are worried that taking four feet off the top of the dune will cause the west dune to collapse, so they'd like assurance that this would not occur. He says the entire tall dune falls into the area extending 20 foot in each direction from the side property line which, according to the ordinance, is untouchable. Woodward mentioned previous cases that were approved within the Dune Overlay Protection District involving similar changes.

#### 2) *Public Hearing*

Mr. Birney had talked with Mr. Neuner and told him they weren't going to touch the west dune. He described the proposed location of the home. He said they were going to retain the big pines on the dune except one that is leaning toward the house. They want to maintain the integrity of the dune.

John Okonkowski, 1879 and 1881 M-28 E, said his house was built many years ago on top of the dune. He said the dune is really stable there, and his concerns about erosion were satisfied after he saw the plans. He felt that taking four feet off the top of the dune would not destabilize it. His understanding was that the Birneys would keep the area natural and retain all the trees between the properties. He had no objections.

Deborah Mulcahey, 633 Lakewood Lane, objects to the dune being cut and to the requirement for a 1:3 maximum slope. She said cutting the dune causes ongoing erosion, such as that experienced at 1871 M-28 E next door. She said the owners never had a view anyway. She doesn't think using the foundation to stabilize the dune is a good idea because the dune will impact the building since sand moves a great deal. She gave examples of earth changes in the area over time, with dune movement as much as 61 feet, and disappearance of a large pond. She

does not feel it is an energy efficient proposal to take away trees that block the north wind. She urged the Planning Commission to look at other things that can be done with the property, because she thinks that every day will impact the dune.

Pat O'Boyle, project contractor, corrected an earlier statement, saying the property that is setback similarly with the proposed development is owned by Manoskey, not Neuner.

The public hearing was closed.

3) *Planning Commission discussion and decision*

Meister asked for clarification on the setback of the house in relation to the dune. Sikkema asked about the vegetation that would be used to replant the dune.

Ventura said it has been his experience in working with properties along Lake Superior that the wind will undermine structures, including boardwalks. He has seen foundations exposed as much as six to eight feet. The sand will move, and there's no stopping it. He said that putting in a boardwalk will create an invitation to further movement. The only thing that stabilizes sand is vegetation with plugs planted close enough together to create a mat under the sand, however, even that is not permanent. He thinks it's imperative to implement re-vegetation immediately. Birney said the dune face is well vegetated. Ventura said the sand will also obscure windows because it sand blasts the glass. Ventura asked about the re-vegetation requirements of the ordinance and whether it is consistent with what is recommended by the Superior Watershed Partnership. Woodward said there was some indication in the minutes that the Partnership was involved when the standards were adopted.

Sikkema noted that the owner, Mr. Birney, needs to sign the application, not the agent, Mr. O'Boyle.

*It was moved by Stanaway, seconded by Meister, that after conducting a duly noticed public hearing, and upon finding that the proposed use complies with the Conditional Use Standards of the Chocolay Township zoning ordinance as noted in the staff report dated July 26, 2013, the Conditional Use request for parcel #52-02-112-017-00 located at 1875 M-28 E to perform construction within the Lake Superior Shoreline/Dune Protection Overlay District is hereby approved subject to the following conditions:*

- 1. A twenty foot undisturbed buffer shall remain in place on the dune along side property lines.*
- 2. Slopes for dune cuts shall not exceed one foot vertical to three feet horizontal.*

3. *The limits of clearing, grading, and vegetation removal will be clearly indicated to avoid accidental damage to slopes and vegetative roots that support slopes, and discourage materials being stored outside the planned impact area.*
4. *Disturbed areas will be minimized, and the applicant will utilize all applicable temporary slope stabilization measures during construction.*
5. *The applicant will minimize tree and vegetation removal. If removing trees, stumps and roots will be left in place to stabilize soils and slopes unless they would interfere with the building foundation.*
6. *The development area will be re-vegetated in stages as soon as possible as portions of the site are complete utilizing native vegetation. Disturbed areas of the dune will be rehabilitated with dune grass plantings at a rate of one culm (clump) per square foot of disturbed area (can also include other native vegetation).*

Vote: Ayes: 6                      Nays: 0                      MOTION CARRIED

**VIII. UNFINISHED BUSINESS**

**A. Unfinished historic zoning ordinance amendments**

**1) #34-09-05 MFR (Multi-Family Residential) District Lot Size/Width**

Woodward said the last meeting ended with a discussion on where new multi-family development might be accommodated since the zoning district is currently configured only to include existing development. She obtained input from the Marquette County Health Department which will assist with the decision. She said she has been tasked with completing a strategic master plan update within two months, and there is some urgency on addressing future land use. She suggested holding a special meeting to further discuss these decisions. She would like to see the master plan adopted before taking on this amendment.

Milton asked about the history of accessory dwelling unit regulations in the Township which resulted in not permitting detached accessory structures. Woodward said that would take some research, but usually communities are worried about these units turning into rental properties. She said this could be mitigated somewhat by requiring the parcel to be owner-occupied. The other concern could be additional density and traffic concerns. She pointed out the benefits of accommodating extended family members who may need care.

Stanaway recommended holding a special meeting, anticipating a long discussion.



*It was moved by Stanaway, seconded by Ventura, to table the discussion to a special meeting.*

Vote: Ayes: 6            Nays: 0            MOTION CARRIED

The special meeting will be held on Monday, August 26 at 7:30 p.m.

2) **#34-09-06 and #34-09-16 Outdoor Wood Boilers**

Smith gave a history of the proposed amendment. The most important difficulty with the current ordinance is trying to figure proper chimney height by considering the height of structures within 1,000 feet, especially considering terrain differences. Smith did research with area distributors regarding the usual complaints. The most common complaint for outdoor wood boilers is that people burn improper materials such as green wood, garbage, leaves, and debris. Smith researched regulations from other Townships and determined that 300 feet was a more reasonable radius for determining minimum chimney height (based on the chimney being two feet higher than the nearest structures within 300 feet). Smith said standard chimney height is six to eight feet, so fifteen feet is considerably higher anyway. The current requirement of having a fifteen foot minimum chimney height or a height two feet higher than the nearest neighboring principal dwelling within 1,000 feet, whichever is higher, is prohibitive.

Smith said the EPA has new standards for outdoor wood boilers, and the new ones (Phase II) burn cleaner than the old ones (Phase I). Because of this, the recommended standards reflect reduced setback requirements. The recommended standards also reflect a potential requirement to raise the chimney height upon development of a vacant neighboring lot, if warranted by the standards. Standards for commercial size appliances were discussed and supported. Also the reasoning behind the moratorium on burning during the summer months was explained (to reduce nuisance impacts while people are outdoors). The previous decision to eliminate the minimum five acre requirement was discussed. Smith said you can't over extend the chimney height because the boiler won't work properly (creates too much draft) and it's also not attractive.

Meister is in favor of re-approving the previously approved amendment provided the wording is properly recorded (there were some previous problems). The Commission reviewed the wording and asked Woodward to work up a draft for the next meeting.

It was decided that outdoor wood boilers should be a permitted use in the AF district and a conditional use in all other districts (R-1, R-2, WFR, MFR, C, I, MP), however, all appliances in all districts have to meet the stated regulations.

The Commission discussed the method for determining building height in

relation to chimney height. In response to a question, Ventura said mechanical codes require a chimney to be two feet higher than any point of the roof within ten feet. Commissioners want the smoke from the wood appliance to draft up over the house, not halfway up the roof (if we base building height on the average height between the eaves and the peak). The Commissioners decided it is really about the wood appliance chimney being raised above the elevation of highest point of the nearest residences within 300 feet. This elevation can be determined within a foot or two using Google Earth (add the building height to the given elevation) or through an elevation survey. Chimney heights for Phase I are to be a “minimum chimney height of 15 feet, measured from grade to chimney top; or 2 feet higher than the elevation of the highest point of the roof of the nearest neighboring principal dwellings within 300 feet, whichever is higher”.

For Phase II appliances there are no proposed chimney height requirements since they burn cleaner.

The Commissioners intend that property owners may need to raise the chimney height if, after the wood appliance is installed, someone builds a new residence within the 300 foot radius and the chimney height of the appliance is insufficient to meet the standards. This will need to be run past the attorney. Eliminate proposed I.d as it is redundant with I.c. The proposed standards will be renumbered to make sense.

There was a discussion about prohibiting these wood appliances in front yards. This creates problems with the lakefront properties, because most of them have deep front yards (fronting the road) with the home hidden from view, and most wouldn't want the appliances in their back yard which faces the lake (the residents typically consider this to be their front yard). The Commissioners added wording that exceptions could be granted during the conditional use review in the WFR (Waterfront Residential) district. Corner lots were discussed. The wood appliances would go in the side yard of corner lots.

Change wording to say only “granting of a permit”, not “granting of a zoning compliance permit”, because some will be conditional use permits.

The prohibited fuels and standard for conformance with EPA burn practices will remain unchanged to address potential complaints.

Correct the word “plum” to be “plume”. Woodward had concerns about enforcing the provision relating to smoke plumes crossing onto adjacent properties for 12 minutes or more in an hour (does she have to stand there with a stop watch?). Does the plume have to be in the air, along the ground, etc? It is meant to address smoke within the height of the residence, making it difficult for people to enjoy their own property.

Commissioners left the standard in to address real nuisance problems. The prohibition on using wood appliances from May 31 to September 1 remains unchanged, along with the requirement for spark arrestors. The requirements for commercial appliances with thermal outputs greater than 350,000 Btu remains unchanged. The five acre minimum will be removed.

*It was moved by Stanaway, seconded by Ventura, to have staff submit a zoning ordinance amendment application covering former amendments #34-09-06 and #34-09-16.*

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

*After a draft is approved, it will be sent to the County to determine consistency with their applicable requirements.*

**B. Approach to regulations for Accessory Homesteading Activities**

Woodward received comments from the attorney regarding the draft regulations. He said in principle the draft tries to supplement, and not conflict with, the Right-to-Farm Act (RTFA). The attorney recommended adding the words “of a non-commercial nature” to the definition of Accessory Homesteading Activities so as avoid conflict with the RTFA. He understands the Planning Director’s preference to avoid distinguishing between commercial and non-commercial activities, and to focus on nuisance factors, but he noted that one commonly used definition of “commercial” includes activities done “PRIMARILY for sale or profit”, so occasional sales may not trigger the RTFA definition as long as the PRIMARY use is for residential consumption. He noted that the meaning of “fiber activities” might not be clear. He also suggested clarification that the animal equivalent allowances are intended to be prorated for smaller parcels. It should also be clarified that the permitting process applies only to Accessory Homesteading Activities including animals, not plants.

The attorney clarified his position that if we retain our current standards, it could be argued that gardens would be a customary accessory use in any residentially zoned district, but the raising of animals would not be a customary accessory use and would only be permitted (by negative inference) in the AF district. To permit chickens or other animals in residential districts, he believes the proposed Accessory Homesteading Activities provisions with the above recommended changes accomplish that objective without serious risk of pre-emption under the RTFA.

It was clarified that the site selection GAAMP which says that a new or expanded operation has to meet zoning district requirements doesn’t apply until 50 animal units as defined by the Michigan Right-to-Farm Act, so there is controversy over pre-emption of zoning. Brad Neuman of MSU Extension forwarded interpretations by attorney Catherine Kaufman who does training for the Michigan Township Association that include the idea that local governments cannot distinguish

between types of farms/farm operations allowed, cannot require minimum acreage for farms/farm operations unless the regulations don't conflict with GAAMPS (per RTFA definitions), and that farm/farm operations have to comply with ordinances that do not conflict with GAAMPS (such as setbacks and height for agricultural buildings). Neuman said that the local Circuit Court ruling that allowed pre-emption of zoning is only applicable (precedent setting) to our circuit.

Ventura pointed out that the pasturing area as defined in the provisions need not be fenced for animals that are in cages, such as rabbits or chickens.

Sikkema discussed the intended scope of the regulations (chickens or beyond)? Woodward presented two case studies that illustrate potential impact on two different size parcels in the R-1 district. Meister thought animal allowances should be related to reasonable family, not commercial, consumption. Stanaway felt that allowing chickens will open the door up for other animals. Woodward said that these questions arise often in the daily operation of the Township anyway.

Sikkema said the Commission needs to agree on a direction and then write the regulations to fit. Walker asked if it would make more sense to determine areas where animals should be allowed and then zone it appropriately? Woodward said this might look like a checkerboard since there are widely varying lot sizes and character areas in the Township, but that is why she associated permitted activities with the size of the pasturing area – this will limit activity in the subdivisions anyway to probably only the smallest animal equivalents such as chickens. The definition and rules for pasturing area was discussed. For example, the area within setbacks would not be included in calculations for pasturing area. The Commission anticipates strong feelings both ways, but they anticipate that people in subdivisions won't want farm animals in their neighborhood. Animal noise was discussed. Sikkema said we need to be sensitive to this and get a lot of public input. Woodward asked "what is rural character"? Does it mean pristine country estates or areas where you can practice traditional rural activities in a reasonable way? It was noted that in our Township there are probably people who embrace both perspectives.

Stanaway suggested holding a public hearing on the regulations to determine public opinion. He said ultimately we are here to serve the people of the Township, so let's have a public hearing to get input. Ventura said there would be two very vocal groups show up so it might be hard to balance. Sikkema said the other problem with public hearings is that only one side might mobilize while the other doesn't show up, so the view is skewed. Woodward noted the importance of this issue to local food systems.

Citizen Dick Arnold said it might be harder to sell your house if you live next to someone with cows or chickens unless they have a farming attitude.

Gary Walker suggested a survey to get public opinion. The Commission discussed how to get good feedback. Sikkema said the regulations are innovative

and he's not opposed to them but he thinks we need public input. Walker said the Board could be asked to approve mailing of a survey to all households, asking their general opinion on applicable concepts, not the draft regulations.

Gary Walker commended Woodward on trying to anticipate everything, although he said that can't be done. Woodward said she can develop the survey for Planning Commission review at the Special Meeting (to be distributed in September). The Commission wants to get the regulations to the point that they're accepted within the community and don't harm people. Ventura said that dogs and cats are also kept in residential neighborhoods and cause nuisances such as noise, smell, killing of birds, etc, and asked why we are segregating farm animals. Commissioners cited probable lack of public acceptance for similarly limiting dogs and cats. Woodward said the animal control ordinance deals with dogs and livestock, but doesn't allow livestock anywhere but non-residential areas.

**VIII. PUBLIC COMMENT**

None

**IX. COMMISSIONER'S COMMENT**

Stanaway is moving to a home in another jurisdiction, and will attend the Special Meeting but will have to resign his position after that. Sikkema said the paving of the bike path (10 feet wide from Holiday to Terrace Street) will happen this fall or spring. The DNR is repairing the Soo Line bridge.

**X. DIRECTOR'S REPORT**

Woodward asked about participation in the Citizen Planner program. Meister and Ventura confirmed. There was a question about Mahaney and Woodward will contact him. Woodward updated the Commission on the Montessori School that was approved by conditional use permit. This use will locate within the Commercial district instead. The Commissioners asked when that conditional use permit would expire. Woodward said the approval runs with the land and probably does not expire.

**XI. INFORMATIONAL ITEMS AND CORRESPONDENCE**

Planning & Zoning News  
City of Marquette Planning Commission minutes

**ADJOURNMENT**

Sikkema adjourned the meeting at 9:35 p.m.

Submitted by:

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Planning Commission Secretary  
Eric Meister

**CHARTER TOWNSHIP OF CHOCOLAY  
PLANNING COMMISSION MINUTES  
SPECIAL MEETING**

Monday, August 26, 2013

**I. MEETING CALLED TO ORDER BY:** Andy Sikkema at 7:35 p.m.

**ROLL CALL**

*Members Present:* Andy Sikkema (Chair), Andy Smith (Vice Chair), Eric Meister (Secretary), Tom Mahaney, Kendell Milton, Bruce Ventura

*Members Absent:* Bernie Stanaway (Board Rep)

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

**II. MINUTES**

**August 5, 2013**

The minutes were not included in the packet.

*Motion by Ventura, seconded by Smith, to table acceptance of the minutes to the next meeting.*

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

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

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

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

**IV. PUBLIC COMMENT**

Deborah Mulcahey, 633 Lakewood Lane, commented on fire safety. She is concerned about the fires people can have at their residences that are not regulated and pose a significant hazard to the community. She gave a recent example of a fire on the beach that consisted of a pile of debris about 12 feet by 12 feet and one story high containing brush, trees, wolmanized wood, styrofoam, etc. The police instructed the responsible party to remove the things that are not supposed to be burned like the treated wood and styrofoam. You are allowed to burn a campfire with permission of the State of Michigan. In her opinion, this was not a campfire. There is no definition of campfire in our ordinance or in State law. She requests that we evaluate this while planning. The Department of Environmental Quality and Michigan Township Association in July 2011 created an Outdoor Burning model ordinance. The police can't write and cite in this situation. An unattended fire is not a violation unless it causes problems. She's trying to prevent problems.

Smith said when he gets permits to burn brush, it can't be in a City, it has to be in a Township, and it has to be attended 100 percent of the time or he gets a fine. He calls the Township fire department and the DNR before the burning. Woodward noted that Chocolay Township does have outdoor burning regulations in the zoning ordinance.

**V. PUBLIC HEARINGS**

None

**VI. PRESENTATIONS**

None

**VII. NEW BUSINESS**

**A. Approve 2013 Master Plan & Recreation Plan Survey for distribution**

Woodward asked the Commission for feedback regarding the draft public opinion survey. The Township will provide respondents with the character area category for their property as part of the address label. Respondents will then be asked to check the appropriate box in their survey to identify their character area. Results for each character area will be tabulated separately for some land use related questions. Online respondents can identify the character area of their property from a map or from the mailing.

Milton asked what will prompt people who take the survey at home to mail it back. Woodward said if they want their voice to be heard, then they can either mail it in or bring it to certain locations for pickup. Woodward said there is not enough money in the budget to pay for return postage for the entire mailing, especially since many will not respond to the survey or will take it online instead. If they take the survey online, it will be automatically tabulated and will save the Township time and money because Staff won't have to manually enter their responses. Milton thought it would be better to encourage people to take it online, and mail the survey only to those who choose not to take it online. He suggested sending everyone a post card notifying them of the survey. Multiple members of a household can take the survey. Sikkema noted we are going on the honor system that no one will "stuff the ballot box" and skew the results. It was suggested that people be notified of the survey by posting information on the sign at Township Hall.

The Commission reviewed the survey for suggested changes. Meister wanted to move the question relating to the keeping of animals to the beginning of the survey because that is the primary impetus for the survey, and so that people don't think it's just a general survey. Sikkema suggested revisions to the introduction so that it mentions the Master and Recreation Plan updates but also indicates potential changes for accessory homesteading activities involving animals. Ventura suggested adding a Table of Contents or general listing of topics to the introduction. Sikkema allowed public comment on each question.

The Commissioners discussed the question about "rural character". Ventura said it seems to be a comprehensive list, and people can also write in comments. Woodward said the 2010 survey identified "rural character" as being important to people, but there were no questions to clarify perceptions of what constitutes rural character. This question is meant to rectify that. The Commission discussed the purpose of the question. After discussion, the Planning Commission decided to add an explanation about the 2010 survey and the purpose of the question, and to have the question read, "In terms of Chocoley Township, what does rural character mean to you?" Mahaney suggested adding "access to hiking/biking trails" as a

choice for the meaning of “rural character”. Ventura suggested instead a more general question about “access to outdoor recreation”. This was agreed.

On the survey, the Commissioners decided to eliminate the names of the Character Areas and include only the number for simplicity. Ventura suggested having a peel off label with the character area number for the respondents to attach to question #3 to identify the character area. Woodward will look into this. The Planning Commission decided to use the word “neighborhood” instead of “character area”.

For question #4 regarding appropriate uses for each character area, the Commission decided to substitute the word “neighborhood” instead of “character area”.

Dick Arnold brought up a concern regarding the number of accessory buildings permitted on a property. The Commission decided this issue was more suited to question #15 about the level of support for various regulations. They added a choice of “Limitations on the number of accessory buildings” to question #15.

For question #5 regarding current recreation opportunities, Commissioners were concerned about the term “need” vs. “use”. They recognized that there might not be a household need for a particular current facility, but a household might still recognize a community need for that facility. Also, a particular household may not have a current need, but as people evolve in life cycles their needs could change. Is it about the need for facilities to be available in Chocolay Township vs. Marquette or somewhere else in the region? Or is the intent of the question to determine if people currently use the facility? There was also confusion about the indication of support for funding the facility. The willingness to fund may indicate verification of a community need. Also, people may not understand that funding can be accomplished by grants and other methods. Woodward said there are people outside the community that use some facilities, so the survey which is distributed only to local addresses, who may not even respond, will not indicate total use anyway. Commissioners decided to substitute the word “community” need for the word “household” need.

For question #6, Commissioners discussed the phrase “has a need” for the recreational opportunities. They changed the sentence to read, “Please indicate if you or any member of your household **anticipates a use** for the recreational opportunities ...”

No changes were made to question #7 regarding the priority of funding improvements to parks and recreation facilities.

Question #9 concerns accessory homesteading activities. This question will be moved to the beginning of the survey. The Commission changed the wording of the following sentence, “Please indicate your opinion about whether the following activities should be allowed in your **neighborhood** (instead of **character area**). They also decided to change the wording of the final item to “Do not permit the raising of animals”.



Smith indicated the former intent for the Township to conduct an ORV survey. The former planner was going to conduct the survey on this issue, but this did not happen. Smith would like to ask a separate question on this survey relating to ORV travel on County roads (while explaining applicable State and County rules). Meister thought this would be useful. Mahaney was hesitant to stir the issue up again. Smith indicated that a citizen had submitted a petition with 250 signatures and was told a survey would be conducted. Mahaney thought the community response to a potential designated route at the hearing in May was definitive. Smith said the hearing was about a specific route. People may not be against another route. Ventura suggested asking the Police department about their view before putting it on the survey, because they are the ones who will have to enforce the provisions and deal with related accidents. The Commissioners decided to gain input through question #6 which asks whether there is a need and desire to fund "additional motorized trail connections".

The Commission added an additional item to question #10 (important issues) to read, "Lower taxes and decrease services".

The Commission added two additional items to question #11 (potential new public improvements/amenities). They are, "Underground utilities (electric, telephone, cable) along US-41" and "Underground utilities (electric, telephone, cable) with new development". It was noted that there is a high cost associated with implementing underground utilities. Ventura wanted to address multiple exits for residential developments in the survey. Many developments only have one access route. It was agreed to identify necessary additional access roads as projects during the Master Plan process. Ventura related communications with the Iron Ore Heritage Trail authority regarding the potential of paving the existing aggregate trail, or of adding a pedestrian/bike path east of Kawbawgam (as a dual trail paralleling the ORV trail). It was decided to gain input about additional non-motorized trails through the existing question #6, "additional non-motorized trail connections", and then address desired improvements appropriately in the Master Plan goal setting process. The Commissioners discussed how funds are raised for public improvements such as public water supply.

The Commission added one additional item to question #12 (appropriate uses for Township property), which is "sell excess land".

It was clarified that the Township Board requested question #13 which asks whether people would support the placement of a cell phone communications tower at the Silver Creek Recreation Area. This is in response to a business proposal, which may no longer be valid. Township staff added the other question relating to the placement of a tower near Green Garden Road (where the Township owns property).

The Commission discussed the intent of the items in question #15 regarding the accumulation of inoperable cars, scrap parts, and accumulated equipment and junk. No further changes were made to the question.

The Commission added an additional item to question #16 (views toward Township taxes and services) to read, "Lower taxes, which may require reducing public

services". No change was made to question #17 regarding how people get information on what is happening in the Township.

The Commissioners discussed the County Broadband Survey which will also be distributed and conducted as a separate survey.

**B. Identification of growth sectors based on Character Area Inventory**

Woodward indicated that the Character Area inventory was meant to provide information to the Commission to help them determine where they would like to indicate areas of intended growth, managed growth, redevelopment or infill, working lands, and conservation. The Commission viewed the placement of the character areas on the map. Mahaney asked for a map with a close up view of the Harvey area. Meister asked how this relates to the discussion of allowing more multi-family housing. The survey will also indicate public opinion regarding future land uses which will be applicable to the discussion.

Commissioners decided to wait for the results of the survey before having this discussion regarding growth areas. Ventura said the market will also determine areas of growth and uses. Woodward said that the natural resource maps will also contribute to the discussion (areas of prime farmland, wetlands, etc). Meister also wants to view the results of the 2010 survey again (it is available on the website).

**VIII. UNFINISHED BUSINESS**

None

**VIII. PUBLIC COMMENT**

None

**IX. COMMISSIONER'S COMMENT**

Smith again inquired about the purchase of the property to access the Silver Creek Recreation Area. Woodward will pass along the inquiry and ensure the action is mentioned in the Recreation Plan.

**X. DIRECTOR'S REPORT**

None

**XI. INFORMATIONAL ITEMS AND CORRESPONDENCE**

None

**ADJOURNMENT**

Sikkema adjourned the meeting at 10 p.m.

Submitted by:

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Planning Commission Secretary  
Eric Meister

# CHARTER TOWNSHIP OF CHOCOLAY PLANNING COMMISSION MINUTES

Monday, September 9, 2013

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

**ROLL CALL**

*Members Present:* Andy Sikkema (Chair), Eric Meister (Secretary), Kendell Milton, Tom Mahaney

*Members Absent:* Andy Smith (Vice Chair), Bruce Ventura (excused), Bernie Stanaway (Board representative - resigned)

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

**II. MINUTES**

**August 5, 2013**

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

*Vote: Ayes: 4 Nays: 0 MOTION CARRIED*

**August 26, 2013**

*Motion by Milton, seconded by Mahaney, to approve the minutes as written.*

*Vote: Ayes: 4 Nays: 0 MOTION CARRIED*

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

*Motion by Milton, seconded by Meister, to approve the agenda as written.*

*Vote: Ayes: 4 Nays: 0 MOTION CARRIED*

**IV. PUBLIC COMMENT**

Deborah Mulcahey, 633 Lakewood Lane, commenting on the draft Master Plan survey. She noted a problem because the character area ID was not included on the post card and residents may not be able to determine where they live. They are confusing their section number with character area number – they are not looking at the legend on the map. Also the postcard indicates that September 30 is the deadline to complete the survey. She went to the website and there are two other surveys that are due by September 15. Based on the agenda items, she is confused about the purpose of the survey. She thought it was to get updates on farming activities and to get information for the Master Plan. She doesn't understand the why the farm incubator project is on the agenda.

Also, she wondered why we would consider putting the farm incubator adjacent to a recreation area. How did the Township acquire the land? Why go forward with the project? She associated the survey questions on accessory homesteading activities with the farm incubator project.

**V. PUBLIC HEARINGS**

None

**VI. PRESENTATIONS**

None

**VII. UNFINISHED BUSINESS**

None

**VIII. NEW BUSINESS**

**A. Review and comment on draft Farm Incubator proposal**

Woodward noted additional materials relating to input received from interested citizens and resource people. This includes comments from Natasha Lantz of the Marquette Food Co-op, a letter of support from Ashley McFarland who is the Coordinator for the MSU Upper Peninsula Research and Extension Center in Chatham, MI, comments from Gary Shaffer who is a local certified organic farmer and Gary Wiater. The proposal needs to go to the Board for land use approval. Some details may more appropriately be provided by the project Leadership Team once the project is approved. Woodward would welcome cost information from Planning Commissioners as well. Anjila Johnson has indicated she will provide assistance with a site plan drawing. If not, Woodward will provide a site plan.

Sikkema opened this item up for public comment. Natasha Lantz said she had the opportunity to work with Woodward on this project from the beginning. She attended the public meeting for the Marquette County Local Food Supply Plan, which was passed by the Planning Commission and is going to the County Commission for approval. She said in her work on local food, Chocolay Township is being recognized in a positive light in their approach to agriculture. She talked with the Ag Commission of the State, and the issue of backyard chickens was mentioned as well as incubator farms. She said it's nice to know that Chocolay is always referred to as on the leading edge in being progressive and taking a proactive approach to these issues. She said the Marquette Food Co-op and the funded partners are involved in projects such as this, and she is glad we are looking at these issues.

Mahaney noted the proposal is not labeled a "proposal". Sikkema inquired about the current zoning of the parcel. Woodward said it is zoned "Municipal Properties" but agriculture is a grandfathered use. She reminded the Commission that the Township manager had suggested a strategy to maintain the grandfathered use as a good interim use since there were no current plans to expand the recreation area. She is trying to accomplish this goal as well as open the land for public benefit.

Mahaney asked if there is any issue with Mulcahey's comments regarding the purchase of the land. Woodward said that there were no DNR funds associated with the purchase or subsequent use of this parcel, so there are no applicable complications or restrictions for use.

Sikkema asked what type of farming activities could occur with this proposal. Woodward said she had envisioned organic vegetable or grain production. Sikkema suggested this needs to be clarified in the proposal with the addition of a section on "Proposed Activities" specifying type of agriculture. He is concerned that the parcel is bounded by some small parcel residential uses and that animal agriculture may not be appropriate. Woodward suggested that any planning for animal agriculture should take place after the Planning Commission finished its analysis on accessory homesteading activities. Sikkema said that as a grandfathered use, the parcel could probably currently include any agricultural activity, including animal agriculture, so he thinks this should be specified. Woodward said she would specify that activities are envisioned to include organic vegetable and grain production, and any animal agriculture activities would be determined after the Planning Commission addresses regulations for animal agriculture in the Township.

Meister said the Planning Commission had previously determined that an outside group should administer and fund the project, and he didn't think this was clear in the proposal. He thought there is enough interest in this project that the Township can find someone to take this on. He thinks it's an excellent use of the property and he's in favor of it, but he doesn't think the Township should administer and fund it. Woodward thought this was addressed in the proposal, but it wasn't clear to the Commission. The proposal suggests there will be a volunteer Leadership Team to administer the project. It was suggested that the Township would only pay for the permanent site improvements such as the well and electricity, and for the initial soil test. All other funding would be generated from other sources such as grants and donations. Woodward said no one can really start searching for funding opportunities until the project is approved by the Board. Woodward also clarified that the project is envisioned as including three separate elements: 1) the large plot community gardens, which would be administered by the Chocolate Community Garden Board, 2) the Farm Incubator which would be administered by the volunteer Leadership Team and advisory Resource Team, and 3) the public elements, which would be administered by Township staff just like any other Township facility.

The well was discussed. Woodward said she was told the well at the existing Beaver Grove Recreation Area is being used at maximum capacity for irrigation, and that any new well could also benefit the Recreation Area.

The concept of tax payer dollars and special interest groups was discussed. Mahaney thinks it is a good use of the property, but thinks the Township should be reimbursed for any start-up costs. He cited reasons that the project does not necessarily favor Township residents (Woodward said the Management Team will choose the incubator participants based on the strength of the application). The Commission wants the project to be financially self-supporting.

The Commission feels that this is such a popular project that there should be no problem in finding a group to get the project off the ground. Sikkema said a Charter needs to be developed for an outside group to have an agreement with the Township. The outside group would come in and develop the plan and the site, and the Township would oversee the project agreement.

Mahaney asked how long an individual farmer can stay on the site? Woodward said that would be a topic for the Leadership Team. The Township won't necessarily know the individual needs, but should only be concerned that the entire site is kept in production or appropriately managed.

Sikkema asked about the composition of the Leadership Team. Woodward said residents can be included on the Leadership Team, but she can't solidify who is involved until the use is approved. Sikkema asked how the Leadership Team would report to the Township. Woodward said that was a good question, and she would have to ask the Township Manager how this should work. Meister said this would be spelled out in the Lease agreement with the project group. Sikkema said that a tremendous amount of planning goes into a project like this.

Sikkema asked if there was a consensus on the use of the property for a project like this. All members said yes.

Sikkema asked if the proposal is meant to be given to the outside group to form the basis of the project. He wondered who would provide the other project infrastructure listed in the proposal. Woodward said those items would be provided when money became available from grants, donations, user fees, and other sources. But the well would be utilized for the other separate elements such as the community garden and public elements, so this was envisioned as a Township expense. Lantz said there are grant writers willing to help.

Sikkema mentioned a lease idea in which an outside group might provide the start-up infrastructure and be given the use of the property for a specified number of years. If the Township asked them to leave before the end of that term, then the group would be reimbursed on a prorated basis for the improvements.

Woodward asked what the Commission anticipates will happen to the revenues from the project? Meister said the lease could specify that the project group has to make a certain portion of the project available for community gardens and make the well available to them and for the public areas. Mahaney asked who would own the well? Milton said the Township should own the well, because if the project is discontinued, the well can still be used for the Recreation Area.

Sikkema said there is good information in the proposal that justifies the use of the property for the project, and there is consensus on that. But there are specific

management, ownership, and funding issues that need to be worked through. It will take a lot of research and planning.

Sikkema asked for a motion, and took comments from each Commissioner to be used in a motion. Milton said it's a good proposal. He is under the impression that the proposal provides for a separate management group other than the Township. This could be a non-profit.

Eric said it's an excellent use of the property. It could be administered and managed by a separate entity because there is a lot of interest in the community.

Mahaney said it's an excellent use of the land. He is concerned about having Township residents on the Leadership Team so that resident interests are taken into account. Before the Township turns over the land to a separate group, there should be a structure including operating procedures as a part of the lease agreement.

Sikkema said it needs to be determined how the group will report back to the Township (define the Township oversight).

Walker suggested the project Leadership Team would ultimately report back to the Township Board, however Staff should be the intermediary because some issues may need to be resolved and both the Township Board and Planning Commission only meet once a month. These Boards don't need to discuss daily operations.

Sikkema also noted there should be limitations on the farming activities since the parcel is adjacent to small lot residential uses.

Dick Arnold commented on the survey in relation to this project. He asked about the cost of the well, and suggested the discussion be postponed until after the survey results are in. He doesn't want dangerous animals in residential areas and thinks there are enough acres designated as AF. Meister said the survey isn't meant to address the farm incubator project. Lantz said there was a separate farm incubator survey, and there were at least two public meetings on the project. She understood that the accessory homesteading activities being discussed in the current survey are a separate issue. The incubator project has been underway for several months, and the idea for the current survey originated with the Planning Commission's need to get input on the accessory homesteading activities. She understood from the proposal that the Leadership Team was a separate entity that would manage the project with the permission of the Township. So maybe the duties could be more clearly defined.

Jim Goodman, Orchard Lane, Skandia, within Chocolay Township taxing authority. He thinks not one penny of taxpayer money should go to the project.

Summary

1. The project is an excellent use of the property.
2. The project should be administered and managed by a separate entity through a lease agreement or charter with the Township.
3. Township residents should be included on the Leadership Team that reports back to the Township.
4. The Township's oversight role should be defined.
5. The agreement should define the acceptable agricultural activities.

*Motion by Mahaney, seconded by Milton, to approve the land use as contained in the proposal along with the comments as written in the Summary above.*

*Vote: Ayes: 4 Nays: 0 MOTION CARRIED*

**B. Review and comment on Jennifer Thum's draft Master Plan Goals/Objectives section**

This is an attempt to get Planning Commission input on a portion of the draft in preparation of a new draft. Sikkema noted some material is dated and needs to be brought to current. He mentioned the strategies that suggest purchase of additional property. He said there should be some criteria regarding purchases. He also noted some recreational property is donated to the Township. Mahaney suggested this discussion wait until the survey results are in. Woodward said this is just the start of the discussion, but the final version will not be solidified until the survey results are in.

*Motion by Mahaney, seconded by Milton, to table this item until the results of the survey are available.*

*Vote: Ayes: 4 Nays: 0 MOTION CARRIED*

**IX. PUBLIC COMMENT**

Gary Walker said that some of Jennifer's comments in the Master Plan draft should be more aspirational because, as they are stated, it seems like we have already achieved them, which we obviously haven't. Woodward added, in Thum's defense, the draft does state in the beginning that readers should transport themselves mentally into the future. Walker thinks people will miss that statement and thinks the statements should be rewritten as aspirations – things we would like to see, not things that have been achieved.

Woodward said she would like to see the goals organized around specific growth areas and related to specific projects instead of being organized around topics.

Walker said we should plan for an expansion of the business district with businesses suited to the area and which can serve needs for the Township. But he thinks we are hampered by the lack of availability of public infrastructure, and this poses a limitation for development. However, the public infrastructure would require a large capital



outlay which we are currently unable to meet. He is not certain there is citizen support, and not certain the Township would reap the benefits of this development based on what is happening with taxing of big box retail stores.

Laurie Krzymowski, 741 Lakewood Lane, was the resident who first brought attention to the concern regarding recreational fires. There was a large fire at her neighbor's house containing illegal materials. She called 911 because she could not get hold of the DNR. The Chocolay Township Police asked the party to remove the unlawful materials prior to the burning. But this warning was not heeded. However, they couldn't cite the party because all the materials (evidence) had been burned. She called again because the large fire was never extinguished and was allowed to burn unattended for four days. This situation could not be prevented because fires on the beach are labeled recreational. She wants safety to be addressed as part of the Master Plan, especially the provision for unattended fires. There needs to be limits on recreational fires, which she defines as fires you can safely sit around. Limitations should include how to prepare the materials, how to control/attend/extinguish the fire, limitations on the size, etc. She is concerned that unsuspecting people on the beach can get injured when people extinguish their fires with sand instead of water. The fire will continue to burn under the sand for days. Her second concern is that Chocolay Township should regulate pornography. There is an increase in crime associated with these uses. The Township can't ban these uses, but through zoning, they can control where they locate, such as distance from schools and churches.

Dick Arnold, 312 West Branch Road, thinks the Township should consider adding a road from Holiday to Snyder's so that residents can avoid the hazard of going back out onto the highway near a difficult intersection to go next door.

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

Mahaney told Woodward she did a nice job on the farm incubator proposal, and he does think it's a good use of the land. He would like to see the project happen.

Sikkema asked for a spreadsheet to be available as part of each packet to track unfinished business such as ordinance amendments and other important issues such as multi-family lot size and widths, outside wood boilers, accessory homesteading regulations, property purchase at Silver Creek, private road ordinance, blight ordinance. This will help with determining future planning commission agendas. It is expected that the next agenda will be dedicated to the survey results and the master plan. The Commission also wants to hold the public hearing on the amendment pertaining to outside wood boilers. Mahaney asked when they will proceed with accessory homesteading regulations. Woodward suggested they not move forward until the Master Plan is approved.

Milton cannot attend the next meeting.

## **XI. DIRECTOR'S REPORT**

Woodward said that Mulcahey's concerns regarding the survey and identification of character areas is justified. The character area numbers were somehow inadvertently omitted from the address line of the mailing. She was unaware how the mistake occurred. She said residents can determine their character area by looking at a copy of the database on the website (character area by address), looking at the map in the office or online survey, or calling or stopping by the Township. The Commissioners said it would be worth sending the postcard out again to ensure greater participation and accurate results. It is vital to their work.

Woodward noted that Meister and Ventura were successfully registered for the Citizen Planner program, and the Township did receive an MMRMA grant to defer most of the cost.

## **XI. INFORMATIONAL ITEMS AND CORRESPONDENCE**

Planning & Zoning News  
City of Marquette Planning Commission minutes  
Character Areas Worksheet  
Character Area map – Harvey Area  
Character Area map – Township  
Draft Master Plan Chapter 4  
Zoning Practice publication on Urban Livestock

## **ADJOURNMENT**

Sikkema adjourned the meeting at 9:30 p.m.

Submitted by:

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Planning Commission Secretary  
Eric Meister

# CHARTER TOWNSHIP OF CHOCOLAY PLANNING COMMISSION MINUTES

Monday, October 7, 2013

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

**ROLL CALL**

*Members Present:* Andy Sikkema (Chair), Andy Smith (Vice Chair), Eric Meister (Secretary), Tom Mahaney, Bruce Ventura

*Members Absent:* Kendell Milton (excused), Bernie Stanaway (Board representative – resignation accepted, not yet replaced)

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

**II. MINUTES**

**September 9, 2013**

Ventura commented that although he was not at this meeting, the minutes reflect a good summary of what happened and are very complete. He said, “Good job”.

*Motion by Meister, seconded by Mahaney, to approve the minutes as written.*

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

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

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

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

**IV. PUBLIC COMMENT**

Deborah Mulcahey, 633 Lakewood Lane, has concerns with the public input survey response rate and how the data was reviewed. She was also concerned that the results were only available before the meeting as part of the agenda packet. She thought there might be some comments from non-residents. She also viewed some parts of the summary as a manipulation of data. She doesn't think it's right to have a summary that presents the “yes” and “maybe” responses together.

She said the 2010 and 2013 results show that people want regulations for junk and she doesn't think the Planning Commission has addressed this identified priority. She asks the Commission to consider if the survey is a good representation of the community. She doesn't feel the rush to get public input is warranted. She wants the Commission to take the time to read the public comments.

**V. PUBLIC HEARINGS**

None

**VI. PRESENTATIONS**

None

## VII. UNFINISHED BUSINESS

### A. Public hearing on proposed Zoning Ordinance Amendment ZA0003-13 pertaining to Outdoor Wood Boilers (OWB), Section 6.5 and Sections 4.1, 4.2, 4.3, 4.5, 4.6, 4.7 and 4.8

#### 1. *Staff Report*

Woodward noted that the amendment changes existing regulations and uses per zoning district. Major changes include allowing OWB as a permitted use only in the AF district, and a conditional use in all other districts. There are new provisions for chimney heights and setbacks, and regulations acknowledging new technologies such as Phase II EPA approved units which burn cleaner and are less polluting. There is an exception for the restriction on placement of OWB in the front yard in the WFR district. Tonight the Commission will hold a public hearing, review Attorney comments, and discuss any changes.

#### 2. *Public Hearing*

No comments. Public hearing was closed.

#### 3. *Review of Attorney Opinion*

Woodward summarized the comments from Attorney Roger Zappa from October 3, 2013. The first concern is that the proposed standards have setback requirements for Phase II units (which burn cleaner) but none for Phase I units. This difference could be interpreted as “arbitrary and capricious” by a Court. Woodward noted this could have been an oversight. But if this was implemented, the Attorney cautions that Phase I units could be set very near the property line in some zoning districts and have chimneys that could fall on adjacent properties.

The Attorney also noted that requiring taller chimney heights could render the appliances ineffective. The requirement for chimneys to be 2’ higher than the highest elevation of nearby residences could yield excessively high chimney heights in relation to the maximum building height of 30 feet, especially with terrain differences. Tall chimneys could be aesthetically unpleasant or unsafe.

The Marquette County Building Code Official enforces a chimney height that is approved by the manufacturer of the appliance.

The Attorney pointed out the difficulties with requiring compliance not only at the time of installation, but after a residence was built on an adjacent vacant lot. Possible implications are a requirement for the owner to move the unit after installation in order to comply with new conditions, or possible revocation of the permit due to the inability to meet regulations based on new conditions.

The Attorney also cautioned against using coal as a permitted fuel because it is highly polluting. He pointed out enforcement difficulties with the 12 minute per

hour smoke plume rule.

4. *Planning Commission Discussion and Decision*

Smith recalled a 75 foot setback for both Phase I and Phase II units. This is consistent with current regulations.

Ventura said that mechanical code regulations require consistency with the manufacturer's recommendation, so installation cannot deviate from this and be legal according to Michigan's code. If we set regulations that are contrary to this, we could be inconsistent with Michigan mechanical code. Because of this, he thinks we need to control the smoke dissipation through setbacks rather than chimney height. He thinks setbacks are also more easily measured for owners and those who enforce the regulations. Measurement of chimney height as written could require specialized equipment. He noted that Phase II units are supposedly 90% cleaner in relation to particulate matter. He suggests regulating the setback to eliminate the need to move the unit if a residence is built on an adjacent parcel after installation.

Sikkema said that if you set the stack height as high as you can to disperse particulates instead of releasing them close to the ground, setback becomes irrelevant. You have to get the smoke up to disperse it. He noted that terrain would impact the ability to disperse. He thinks there are many properties that could not have these appliances because of neighbor nuisance impacts. He's not opposed to OWB, but he has experience with a neighbor's unit that creates smoke in Sikkema's house every time the wind is in a certain direction, year round. He said zoning is about creating zones for particular uses, and OWB aren't appropriate everywhere.

Ventura noted that under certain atmospheric conditions the smoke may not disperse, and said perhaps the 75' setback is not enough to compensate. Changing the setback to 200 feet or even more will eliminate the ability for some residences to have OWB but it would also protect the neighbors.

Smith said he thought the 15' chimney height suggestion was based on model ordinances he discovered during his research. Woodward noted the Marquette County Building Code official said that the units are usually 8' tall with a stack height around 6', so the 15' height is probably consistent with manufacturer's recommendations. Several Commissioners noted that it is important that the units function properly, and function is related to appropriate chimney height.

Sikkema said he thinks the setback requirement should be consistent across districts, but that it should be quite large to minimize nuisances. This may be restrictive to people outside the AF district. He thinks OWB make the most sense economically for people who cut their own wood, so maybe this restriction

won't mean much to those who would have to purchase the wood elsewhere since they don't have the timber resources onsite.

Woodward noted the Marquette County code official said that only about 15 percent of existing units were installed with permits, so if there is a problem with a unit we should check with the County to see if a permit was obtained (ensuring proper installation).

Smith said that in his research he discovered that most of the problems with OWB come from people burning inappropriate materials, and when that is remedied, the problem is solved.

Ventura said many OWB are oversized for the structure, and that the Phase II units will smoke just as badly as the Phase I units when they are throttled back. He said the standards of the testing agencies are based on the units running at optimal conditions, and most people don't run them at optimal conditions so more particulate matter is released.

Smith said the issue was initially brought up by citizens who wanted to know what could be done to accommodate these appliances, and he agreed to look into the matter.

Meister suggested that more restrictive provisions for Phase I units might force people in residential neighborhoods to install cleaner Phase II units. He also thinks the summertime burn ban will help.

Sikkema suggested a change in the summer restriction period to October 1 through April 30. Mahaney said it wouldn't take too many OWB in certain neighborhoods to cause problems. He asked if a larger setback is needed.

Sikkema suggested the problem cannot be solved for everyone due to differences in terrain and placement of homes in relation to the lot line. OWB may not be appropriate in subdivisions.

Ventura said there is precedent in the Country for bans on OWB in urban areas. Meister said that large setback requirements would preclude installation on smaller lots such as subdivisions, but still allow them on larger lots. Sikkema said it is still important to make them a conditional use in residential districts so that context can be considered – for example, a larger parcel could be surrounded by smaller parcels and greater density.

The Commission discussed measurement of setback from either the property line or an adjacent residence. Implementing a setback from another residence reintroduces the concern about neighboring parcels that are vacant at time of installation and the OWB needing to be changed or moved upon construction on

the vacant parcel. Meister suggested we have long, narrow parcels where someone might be able to locate the OWB optimally considering the length of the lot and but might have difficulties meeting side setbacks.

Sikkema said at the 200' setback from property lines, it is unlikely that anyone with fewer than 4 acres would be able to have OWB unless they were granted a variance. Smith objected to increasing the setbacks over current requirements because the whole idea was to help people who wanted to save some money, and there have been no complaints at the current setback requirement of 75'. However, the Commission doesn't want to encourage nuisance impacts. They would like to encourage people to install the cleaner Phase II units, perhaps through the possibility of reduced setbacks for those type units. The differences between Phase I and Phase II units were discussed.

There was a discussion whether to leave the provisions as they are or continue. There are trade-offs in permissiveness vs. restrictiveness. Consensus was to continue.

There was consensus also for two different setbacks for Phase I vs. Phase II units. Ventura pointed out that the smoke problem would be worse when it's not very cold outside and the units aren't burning hot.

After further discussion, the Commission decided on 200 foot setback for Phase I units and 150 foot setback for Phase II units (to the property line). For seasonal limitations B(7), they revised the amendment to read "may only be used from *October 1 to April 30* each year." The Commission eliminated "coal" as a permitted fuel per Section B(1). It was uncertain whether coal can be used in the OWB anyway, because most OWB have steel fireboxes.

Eliminate A(1a), A(2b) and A(2c). Eliminate provision A(3) pertaining to vacant lots. Modify A(1) to read that the setback for Phase I units is "a minimum setback of two hundred (200) feet from any and all lot/property lines, easements, and right-of-ways". Modify A(2a) to read that the setback for Phase II units is "a minimum setback of one-hundred fifty (150) feet from any and all lot/property lines, easements, and right-of-ways". Eliminate Section B(6). The Commission decided to have an additional public hearing because of the changes.

*Motion by Mahaney, seconded by Ventura, to direct Staff to implement the recommended changes to the amendment ZA0003-13 pertaining to Outdoor Wood Boilers, Section 6.5 and Sections 4.1, 4.2, 4.3, 4.5, 4.6, 4.7 and 4.8, and to hold another public hearing at the next meeting and send to the County for review.*

Vote: Ayes: 5    Nays: 0            MOTION CARRIED

## VIII. NEW BUSINESS

### A. County Brownfield site nomination

Woodward asked Commissioners to review potential sites for nomination to the County Brownfield inventory. There could be a chance these properties could receive funding to assist in redevelopment. Nothing would be done without owner approval. The following were suggested for submittal:

- Parcel #52-02-106-044-00, 4067 US-41S (vacant residence which is a non-conforming use in the Commercial district – redevelopment potential)
- Parcel #52-02-107-007-00, Wahlstrom's (tax reverted, vacant commercial improved, purchased by Andrea Beckman, slated for redevelopment)
- Parcel #52-02-110-083-85 and #52-02-110-083-50, 1500 M-28E, Varvil Center (vacant commercial improved) Per inspection, Ventura reports the structure is sound but the infrastructure is not.
- Parcel #52-02-254-003-00 and #52-02-254-004-00, 4021 US-41S, Harvey Motors building (known contamination, vacant commercial improved)
- Parcel #52-02-251-012-00 and #52-02-250-001-00, 2801 US-41S, Walt's Auto (potential contamination, occupied commercial improved)
- Parcel #52-02-252-005-50, and #52-02-252-011-00, and #52-02-252-012-00, 3061 US-41S, Silver Creek Project LLC (vacant commercial lot)
- Parcel #52-02-106-023-10 and #52-02-106-023-20 (vacant commercial lot at the Rock Cut)

The Planning Commission suggests that the owners be contacted and notified of the Planning Commission recommendation that could someday assist them in redevelopment. Woodward will also obtain more information about potential contamination.

### B. 2010 and 2013 Master Plan survey results and implications

Woodward noted that the Planning Commissioners were given the complete raw and summarized survey results in a binder. This includes results from both the 2010 and 2013 surveys. The 2013 results include results in aggregate and also results as filtered by Character Area. All raw results and summaries are also available online.

Mahaney inquired about the former Planning Commission decision to resend the postcards since the Character Area was inadvertently not printed on the postcard as planned. Woodward said that there was not enough money existing in the budget to resend the postcards. However, residents were either personally assisted in determining Character Area for their property (paper surveys), or could locate their property on a map that was in the online survey, or could locate their property address and Character Area on a published list (website).

Mahaney noted that only 600 people took the survey. Woodward noted this was about 100 more than took the 2010 survey. He also wondered if the survey should



have continued for a longer time period. Woodward noted the survey is meant to be taken as a representative sample and as a basis for discussion and one guideline for policy. Further public input will be obtained for proposed plans and regulations. It's not the only opportunity that citizens will have for public input. Mahaney asked about the advertising of the survey. Woodward said it was advertised in the Mining Journal (and of course by direct mailing to every address).

Ventura noted some skewing based on age and length of residency, which he thinks is more significant than the number of respondents. We did not get young people's opinion and recent residents. Woodward noted that surveys were hand-delivered to all residences in the mobile home parks and tribal housing to try to get renters. Youth were not singled out especially. Ventura noted this may be representative of the actual age distribution. Sikkema said residency is pretty stable here without much turnover. So this may also be representative.

Ventura compared the number of survey respondents to the number of residences in the Township. Mahaney noted multiple responses were allowed per residence. Sikkema said their purpose was to find out more about a general consensus on issues. He also noted that just because someone doesn't live here doesn't mean we don't value their opinion. To sustain the Township, we also have to consider what future people want.

Ventura said that the people that made the effort to respond might be the people we should listen to if the rest don't care. Meister said we can't assume they don't care. Sikkema said a lot of effort went into obtaining the data and we should use it. Even though we may be concerned about the number of responses, at least it gives some idea on what to do and what to consider moving forward. It should be kept as a reference book as agenda items are considered. Woodward said she felt it was great that so many people took the time to answer a very long survey, and that we should honor the effort that was put into it by taking it into consideration. She suggested there were many cool ideas in the public comment and Commissioners should take the time to read them.

Sikkema asked for public comment. Dick Arnold said he filled out the survey four times, so how is it valid when you can stuff the ballot box? Sikkema said, "Shame on you Dick." Arnold also said that at 167 questions it was way too long. He said he got about halfway through and was ready to quit. Sikkema said, "Then you changed your mind and did it 3 more times."

Mulcahey again objected to the contents of the summary. She cautioned against using the results to justify spending of taxpayer money because we don't know if the people who commented live in the community.

**C. Work session on Master Plan**

Woodward said the beginning of the plan articulates important community values and where they come from (such as public input). Values include *Community Character*, *Healthy & Livable Community*, and *Sustainable and Resilient Community*. Particularly, Woodward would like the Commission to reach consensus regarding the priority decision criteria that are based on these values. These may be used by departments, community groups, and commissions/committees to determine the important projects on which to focus. This sets the stage for the rest of the plan.

Sikkema noted we really don't have an identifiable business district. Commercial was built around the highway. The area didn't develop as a village. He thinks we need to support a commercial area, but the Township will probably continue to be rural in nature and not contain a traditional business district. However, he thinks there are things we could promote that would make the commercial area more attractive over time, such as larger setbacks, green space in front, etc. Smith noted a need for better access between Holiday and adjacent development.

No modifications of the text were noted in the first section. Ventura said it was a good summary of community character. Woodward noted that there has been some talk of aging in place and taking care of our seniors, and said that while doing that, we also make things better for other people at the same time, so it's not about catering to one population segment. Ventura thought it's a good point to refer to sustainability and resilience because every community experiences changes, and those who don't accept change die.

Sikkema noted the guiding principles for sustainability and resilience were to be drivers for decision making, along with the priority decision criteria that are based on risks and opportunities. Woodward suggested that projects that don't meet certain criteria might still be pursued, but they would receive lower priority than those with higher scores based on these criteria. She asked Commissioners to envision how possible projects would be considered against this criteria to see how it works.

Sikkema asked for an update of history from the 1920's at least until the 1980's, mainly related to the progress of development (particularly residential neighborhoods as opposed to strictly agrarian). Commissioners suggested highlighting recreational opportunities such as trails as examples of resilience. Mahaney suggested mentioning the overlooks on M-28 under regional context - geography, tourism, and transportation, because they draw tourists. Woodward noted the lack of handicapped accessible beaches as mentioned in the survey comments. Ventura mentioned the lack of signage for the Great Lakes Circle Tour.

Ventura noted the college is no longer called Bay De Noc Community College, but as simply Bay College. Commissioners also wanted to mention Michigan Tech which is in the western U.P. region. Sikkema noted many people come to Chocolay Township for hunting and fishing (especially the Chocolay River).

Ventura said this is a good start to the plan. Sikkema asked Commissioners to send any additional comments to Woodward within the next couple days.

**D. Review summary of amendment history and progress report and set priorities**

Sikkema said the “X” represents completed items, and “O” represents open items. Commissioners went through the open items to set priorities. Continue with Agricultural Regulations. Finished County Brownfield Inventory. Continue with the multi-family amendment although this isn’t a high priority (noted by Ventura this would be consistent with survey results because it was not a priority among residents either). Continue with proposed amendment for outdoor wood boilers. Finished with Master and Recreation Plan survey except for continued discussion. Ongoing Master and Recreation Plan as a high priority.

Firewise zoning was suggested for inclusion in the Master Plan, but no current implementation. The purchase of Silver Creek access property is included in the Recreation Plan. Woodward noted that a citizen had suggested she could submit sample regulations for fire safety regulation, and some of the materials included for OWB also had model regulations for fire safety. Commissioners suggested Woodward check with Chief Zybert to see if there are ongoing complaints about fire safety and discuss this in the next Director’s report. Fireworks regulations were brought up by Greg Seppanen – include this in the Director’s report as well.

Necessary changes to lot split and land division ordinances – noted as a need by the Assessor. The Commissioners agreed to add this to the open list. They also wanted to add an item to consider minimum lot widths for potential changes in the Zoning Ordinance, per suggestion of Township Supervisor Gary Walker.

Commissioners noted that the junk car and blight ordinance should be the next priority after some others are finished. Continue with all open items as identified in the Annual Report priorities. Woodward noted the priority list can be updated with the Annual Report for 2013 (2014 priorities). Woodward noted we can’t do a grant for playground equipment until the Recreation Plan is adopted. She also noted we tried to get funding through Marq-Tran for the transit center, but it didn’t work out this time. We will find other options.

Next meeting will include the second public hearing on OWB, review of more of the Master Plan, and begin to address historic amendment #34-10-18 pertaining to the

definition of height for accessory buildings. The Commission directed Staff to send an e-mail with the amendment history to Commissioners in case research is needed for the meeting.

**IX. PUBLIC COMMENT**

Mulcahey discussed the fire safety issue that prompted the concern. She reported that Chief Zyburd had told her he was surprised that Lakewood Lane hadn't burned already because of all the jack pines. She agrees with the focus on junk car and blight and thinks this should have been done earlier. She suggested that we can't decrease minimum lot sizes because the area along the water bodies is already built up, and if you increase building you increase pressure on resources. She suggests we consider Recreation Passport funding for parks. She doesn't think the local food concept is supported that well.

**X. COMMISSIONER'S COMMENT**

Mahaney was shocked only 600 residents responded, and he is thinks in a way it's a joke when a person can comment 4 times and skew the results. He is disappointed the post cards were not re-sent. The Township spent a lot of money on this and we don't know how reliable or good a representation the results are.

Meister said the Citizen Planner Program is well-worth it and puts a lot of things in perspective. Smith said someone should be assigned to actively pursue better access to the Township Hall/Fire Hall through property acquisition. He wants someone to actively move this forward.

Sikkema said there were successful bids on the bikepath improvements and work will start in the spring. On completion ownership of the path will be turned over to the Township.

**XI. DIRECTOR'S REPORT**

None

**XI. INFORMATIONAL ITEMS AND CORRESPONDENCE**

Skandia notice of intent to plan

**ADJOURNMENT**

Sikkema adjourned the meeting at 9:55 p.m.

Submitted by:

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Planning Commission Secretary  
Eric Meister

# CHARTER TOWNSHIP OF CHOCOLAY PLANNING COMMISSION MINUTES

Monday, November 4, 2013

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

**ROLL CALL**

*Members Present:* Andy Sikkema (Chair), Andy Smith (Vice Chair), Eric Meister (Secretary), Kendell Milton, Bruce Ventura

*Members Absent:* Tom Mahaney (excused)

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

Sikkema asked if we have heard about a Board member replacement yet, and Woodward said the Board would appoint someone as a Planning Commission representative at the November Board meeting, but indicated that Richard Bohjanen, who was in attendance, is the new Township Trustee and a possible appointee. She also reported that Tom Mahaney had called to say he would not be able to attend because he is out of town.

**II. MINUTES**

**October 7, 2013**

*Motion by Ventura, seconded by Smith, to approve the minutes as written.*

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

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

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

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

**IV. PUBLIC COMMENT**

None

**V. PUBLIC HEARINGS**

None

**VI. PRESENTATIONS**

None

**VII. UNFINISHED BUSINESS**

**A. Public hearing on proposed Zoning Ordinance Amendment ZA0003-13 pertaining to Outdoor Wood Boilers (OWB), Section 6.5 and Sections 4.1, 4.2, 4.3, 4.5, 4.6, 4.7 and 4.8**

**1. Staff Report**

Woodward noted that the materials reflect the changes from the last meeting to eliminate chimney height requirements, eliminate coal as a fuel, and eliminate the smoke plume provision. She said that the Manager suggested the Commission clarify whether the provisions apply to food cooking devices such as

smokers. She provided a definition for consideration that would clarify this issue. This could be added to Article II. This meeting includes a public hearing on the revised amendment. The County is also reviewing the amendment this week.

2. *Public Hearing*

No comments. Public hearing was closed.

3. *Planning Commission Discussion and Decision*

Ventura suggested a change in Section 6.5A 1 & 2 to eliminate the words “easements and right-of-ways” in relation to required setbacks. He said that if a utility easement crosses the middle of the property, the current language would indicate someone would have to maintain a 150 or 200 foot setback from that easement as well as the property lines. Milton had concerns about permanent structures being built in drainage easements. Woodward clarified that the structures wouldn’t be allowed to be built in the easement, but the proposed revision would indicate the structure could be adjacent to the easement and not have to meet the 150 or 200 foot setback as from property lines. Consensus approval was indicated on this change.

Ventura also addressed a proposed change for Section 6.5B.2 which would indicate “coal” as a prohibited fuel (in addition to the previous revision which deleted “coal” as an acceptable fuel).

Section 6.5C, Ventura suggested adding (f) which is “recommendations for proper firing and maintenance of the unit” to control more than just installation. Sikkema suggested that is part of the “Best Burn Practices” but there was concern this did not apply to commercial units. Meister indicated Section 6.5B is meant to apply to ALL outdoor wood boilers, but Ventura felt this is not clear. The Commission decided to make an addition to Section 6.5C in the introductory paragraph for Commercial Outdoor Wood Boilers to say that they shall also follow all provisions of Section 6.5B in addition to Section 6.5C.

Ventura also suggested that all portions of Article IV District Regulations be changed to say “outdoor wood boilers” not “outside wood boilers” for consistency.

Sikkema confirmed everyone is in agreement with Ventura’s suggested changes. Woodward asked if the Commission wants to add the suggested definition per the Staff memo as well. The definition reads, “Outdoor Wood Boiler: A fuel burning appliance that (1) the manufacturer specifies for outdoor installation or in structures not normally occupied by humans (e.g. sheds) or is an indoor-rated device housed in a modular or containerized structure; (2) is designed to transfer or provide heat by burning approved solid fuels; and (3) heats space or water, or both, through the distribution, typically through pipes or ducts, of a fluid or air heated in the device. Also known as hydronic heaters or outdoor wood furnaces.

Does not include outdoor smokers or wood-fired stoves for cooking food; fire pits; or chimineas.” This was approved.

*Motion by Meister, seconded by Ventura, that after holding two duly noticed public hearings, the Planning Commission hereby approves proposed amendment ZA0003-13 pertaining to Outdoor Wood Boilers as changed (delete “easements and right-of-ways” in Section 6.5(A) 1 & 2; add “Coal” to Section 6.5(B)2; indicate that commercial outdoor wood boilers shall follow all provisions of Section 6.5(B); correct wording in Section 4 from “Outside” to “Outdoor”; and add the definition for Outdoor Wood Boilers) based on the following findings of fact:*

*The proposed amendment accomplishes the following:*

- *Simplifies administration*
- *Addresses nuisance impacts through setbacks and seasonal limitations on use so that chimney height can be consistent with manufacturer’s specifications and thereby meet Marquette County Code requirements*
- *Accounts for technological improvements that affect nuisance impacts*
- *Is more appropriate in relation to zoning district provisions*
- *Provides an exception in the waterfront residential district which may permit outdoor wood boilers to be located in the front yard*
- *Has more stringent requirements for commercial appliances*

Vote: Ayes: 5    Nays: 0            MOTION CARRIED

## **VIII. NEW BUSINESS**

### **A. Site Plan Review #SP13-02, My Way Enterprises Inc, Parcel #52-02-121-002-50**

#### *1. Public Comment*

Kevin of GEI Consultants spoke for the engineer of record, George Meister, who could not attend. The plan is for three large storage buildings, a small office, and five retention basins. In addressing staff comments, he said the lighting would be designed by the electrical contractor in accordance with the Ordinance and if necessary the contractor can bring in the electrical details to the Township for approval. The proposed distances for plantings are based on appropriate distances for the specific plants. They felt our Ordinance provisions would result in overplanting. He also said the storm and erosion control measures would be constructed prior to construction of the drive areas.

Sikkema asked if these statements would satisfy Woodward’s concerns. She indicated that the lighting spec sheet did offer a houseside shield and a photoeye that would help satisfy Ordinance requirements. The lighting design probably eliminates most concern over type of bulb or wattage as long as the lighting is directed away from adjacent properties and toward the development.

Woodward indicated concern with the locations of the three access drives in close proximity (this property and two adjacent). Sikkema asked about the current driveway location. Chuck Genshaw, property owner, said the driveway

for neighboring property G.T. Sales is basically on the property line and goes along the entire frontage but also exits on Mangum Road. He said his driveway design would depend on MDOT's requirements. Sikkema indicated there would be two commercial driveways about 10 to 15 feet apart, and asked Genshaw if he could work out a shared driveway arrangement with G.T. Sales. Genshaw said he had spoken with Mr. Stanaway once and he seemed agreeable with their plans as was the adjacent residential property owner. His intent is to work with them to satisfy any concerns within reason.

Genshaw indicated he had talked with Jeff Ratiola of MDOT who said he didn't see that there would be a problem. Ventura said "the fewer access points, the fewer accidents". Genshaw said he had been told that a service drive was not possible. Ventura said he did not envision a steady stream of traffic in and out once people have their things in the buildings and Genshaw agreed, saying with mini storage uses there are not usually many people onsite.

Sikkema asked if Genshaw is opposed to trying to work out a shared driveway. Sikkema is concerned with conflicting turn movements into the two commercial uses, even though the chances of an accident are pretty slim. Genshaw said that he guesses it would not be a problem to blend the two driveways in together, but he's not sure the adjacent owner would agree to a parking lot reconfiguration. Sikkema would like to at least see the two commercial driveways combined into a true shared use driveway with a formal shared use agreement (an example of which can be provided by MDOT). Woodward noted that G.T. Sales is in the process of submitting paperwork for a site plan review to add an office building, so perhaps these details could be worked out further with that site plan review.

Sikkema said as it is now, it won't work well, and he would like to see both properties move their driveways onto the property line as a common driveway.

Sikkema asked Woodward if the landscaping plan is acceptable. She said it's not according to the Ordinance, but she assumes there is some expertise in the family (referring to Eric Meister, Commissioner). Meister said he feels he has to abstain from the decision since his son created the plans, but he said lilacs can get to be six to eight feet wide.

Ventura said the lilacs are gorgeous in the spring, with nice foliage in the summer, but what about winter? Would they provide much screening? He would like some evergreens to be mixed in with the lilacs at least on the residential side to provide more buffer. This is agreeable with the applicant.

There were no further public comments.

## 2. *Planning Commission Discussion and Decision*

Sikkema summarized the previous discussion, which includes:

- Require a lighting design to be submitted prior to obtaining a zoning compliance permit. So as not to hold up the permitting process, it was



decided that the lighting specifications should be turned into the Zoning Administrator prior to installation.

- Joint use driveway with G.T. Sales. Sikkema asked the opinion of the Commission on requiring a joint use driveway. Ventura said he is in favor of it but doesn't think they can require it. He thinks they can recommend that the applicant pursue it, but can't withhold the permit if an agreement can't be reached. Woodward said Chocolay Township does not have a regulation that can be cited to require the shared driveway, because this property is not within the Access Management Overlay district. Sikkema said that MDOT can also make the recommendation, but cannot withhold the permit. Sikkema said if the property owners can't reach a shared driveway agreement, then this driveway needs to be completely separate because it is not acceptable to have a 75 foot wide apron. Either it needs to be a narrow driveway that is visibly distinct from the adjacent driveway, or there needs to be a shared driveway. Genshaw said he is willing to discuss it with the adjacent property owner and to present him with a proposal for a shared driveway. He asked if he could just amend his plans to move the driveway next to the property line. He doesn't want to delay construction for months. Sikkema would like a plan to be presented to the adjacent property owner to see if they can agree on and implement the plan. Smith asked how the Commission is going to handle all that tonight. Woodward cited a section of the Zoning Enabling Act that says a site plan shall be approved if it meets the conditions of all applicable Ordinances and statutorily adopted plans (the Master Plan). It was decided this issue would be handled in the form of a recommendation.
- The other issue is to add evergreens to the landscaping plan.

*Motion by Milton, seconded by Ventura, that after review of Application #SP13-02 My Way Enterprises, Inc for parcel #52-02-121-002-50, the site plan dated 9/27/13 be approved having met all requirements of the Ordinance and based on the Findings of Fact contained within the Staff Report dated 10/24/13, with the following noted clarifications:*

- *Complete details for a lighting design consistent with provisions of the Chocolay Township Zoning Ordinance are to be presented to the Zoning Administrator for approval prior to installation;*
- *The Applicant will pursue a possible shared use driveway with the adjacent commercial business, or upon failing to achieve such agreement shall construct a completely separated driveway;*
- *Applicant shall incorporate evergreens in the indicated planting screen per the standards of the Zoning Ordinance Section 11.3 as approved by the Zoning Administrator.*

*Vote: Ayes: 4 Nays: 0 Meister abstained for conflict of interest. MOTION CARRIED*

Ventura made a comment to the designer. He appreciates the quality of the work on the Plan which shows the contours, drainage and storm calculations and thinks it was very professionally done.

**B. Work Session on the Master Plan**

The packet includes updates to the Draft Master Plan and a memo with questions that Woodward would like addressed relating to the former draft Future Land Use Plan and implications of survey results in relation to animal regulation, growth sector areas, housing, connected greenways, etc.

Woodward summarized the changes that had been made to the Draft Master Plan, including the addition of an introduction with a detailed summary of changes since the last Master Plan, and progress toward the recommendations of the 2005 Comprehensive Plan. This should give the Commission an idea of the issues that still need to be addressed. She updated the Historic and Regional Context sections based on input from the last meeting.

The Commission reviewed the former Future Land Use Plan draft. Woodward inquired about the statement regarding more intensive use along the major corridors and arterial streets based on availability or economy of public services. She would not want this to translate into commercial strip development as opposed to commercial clustering around nodes. This should be clarified in the development plan.

Sikkema said that Chocolay had a distinct business district, and over time many of the businesses were abandoned, but the property has not gone back on the market. He wonders how to encourage redevelopment on underutilized parcels along the central business corridor. Woodward said that a zoning change (mixed-use) might encourage more options. She said the Township isn't necessarily in a position to offer development incentives such as tax breaks. The property behind the McDonalds development was discussed. A new connecting road might be helpful. Smith noted the presence of a creek and wetlands in the area as well as steep terrain.

Per discussion, it was noted that a connecting road is needed adjacent to the Varvil Center to provide additional access to the Timberlane subdivision.

Sikkema asked the Commission to address the section on non-residential Commercial land use. He suggests the Commission identify strategic locations for commercial expansion. There is a draft section that reads, "Expansion of nonresidential tax base should only be permitted along US-41/M-28 from the west township line to the intersection of these two roads and to 500 feet either side of the intersection, with the exception of possible small expansions along M-28 in front of the Casino and adjacent to the Varvil Center on M-28, and at Kassel's Korner (corner of US-41 and CR 480)." Meister said this seems a bit confining.

Sikkema suggested that most are in agreement with the US-41/M-28 corridor development, but how far from that intersection do you want to promote new non-residential development? Sikkema is concerned that expanding the area for non-residential development may result in sprawl instead of infill development. Ventura said that if the Township limits commercial expansion, it will encourage more infill development in existing commercial areas. If the Township makes more land available south and east for development, developers will take advantage of those opportunities and create sprawl. He said if we want infill we should somewhat limit new land that is available for development. This will increase the value of existing underutilized commercial properties. The opposite is happening in Marquette Township where they keep making more land available for commercial development, and new development is marching west, yet there is a mall on the west side of Marquette that is almost empty.

Sikkema said he also doesn't want to make all the land close to Harvey commercial so that residential just keeps getting shoved further out. There are services here that would support a walkable community, but if we make it all industrial or commercial no one will want to live there. He said we might be missing some opportunity related to low-impact light industrial uses that are compatible as well. Our industrial area is very limited, and we might need to deal with the blight that is there to make it more appealing to business. We should try to attract businesses to create more local jobs.

Milton asked if the Township has to allow industrial? Woodward said they can't be exclusionary of a particular use. Sikkema said staff could look into resources for industrial parks and how to establish them.

Ventura said you could approach this differently through form-based zoning. Instead of having separate industrial and commercial areas, you regulate a building form that could accommodate those uses but is compatible from the street and doesn't impact the neighbors. You regulate the building form rather than the use. He thought this might work in a limited area in Chocolay Township. Meister said people seem to think that you have to totally separate commercial and residential, but with the new developments, they put them together and it seems to be what people want. Smith said all of Third Street in Marquette is a combination of uses. Apartments on upper floors were discussed. Ventura said we have a lot of commercial uses in houses along the corridor anyway. Milton said whatever form we come up with, we will always be hindered by fire protection and water in mixed-use applications. He thinks we should think about where an elevated water storage tank could be, because he thinks eventually we will need one. Sikkema said if you want to create a more vibrant business district, you probably do have to assess the challenges. Smith indicated Building Code requirements for 6" lines for fire protection would be challenging. Sikkema didn't think we have the level of community services that would attract those wanting to live in apartments over

businesses, for example, transportation into Marquette. Woodward noted that more and more people are getting priced out of the residential market in Marquette and are looking for housing near the jobs in Marquette.

Sikkema said we have to decide what we want it to look like and then figure out what to do to make it happen such as public water supply, etc. It might take a Planning Consultant to figure that out. Smith thinks Chocolay's existing character is related to those missing services, and the character would be much different had those services existed in the past. He thinks it's too hard to meet Code.

Meister asked why we should be opposed to apartments over businesses. It might help the business be more economically feasible, and shouldn't be objectionable to a person who would choose this lifestyle. Sikkema said we could put a goal in the Master Plan to explore how to redevelop the corridor into mixed use, and then recommend a Planning Consultant be hired to figure out how to make it happen. Then the Township would have to decide which of those things it's willing to do. For example, there are grants for water supply systems, but the Township may not qualify because of the median income levels here. It may not be realistic to expect the developer would pay for it when they can go to another Township where they don't have to.

Woodward said that in creating the development plan, we could involve area developers and local property owners to get more information on the challenges and realistic opportunities. She said with so many properties in transition, it's the right time to plan.

Meister said we should look at what can we do with what we have now, and have someone tell us what we need to do to make other things happen. If the cost of sewer and water is going to be more than the Township can afford, then we should figure out what to do with what we have.

Smith asked how the Township would go about building the connector road that has been discussed in the Plan. He thinks it would benefit a lot of people. Sikkema said it's a marriage between property owners and the local unit of government. The property owners donate easements, the government creates TIF districts, they get matching funding for grants, etc. He said we don't have enough development inertia to start that kind of process. Woodward said funding could also come from a special assessment. Sikkema also said private individuals have built roads and the local government has taken over maintenance.

Sikkema said we should have a goal to redevelop the underutilized commercial areas, and answer the questions, 1) what can we do with our current infrastructure, and 2) what is needed to accomplish our vision.

Meister said 60% of survey respondents said they'd like to see more jobs in the community, and so building commercial/industrial uses are important. Sikkema said he doesn't see heavy industrial as being suitable or possible, but high tech, low impact industries might be.

Sikkema said the vision might require doing a study to see how to incorporate commercial and residential mixed-uses in Harvey that are consistent with community character, because the Commission isn't aware of all the requirements.

Woodward said some communities are hiring consultants to create a development plan along with a form-based code to implement the plan. Sikkema said the proper zoning can also give property owners the assurance that their investment is protected from incompatible future development. The discussion turned to residential development.

Ventura said that the survey results were pretty definitive that the people who responded only want single-family homes. Meister said people do want more senior housing although they may not want apartments. He thinks people may be opposed to multi-family, but not senior multi-family. Milton said health department regulations also have an impact on the number of units built, because over a certain number of units they have to get an operator's license. Woodward said there are existing developments that do meet these requirements in Chocolate Township, it's just more expensive. Milton said they can share operators to save costs.

Woodward said there are other ways to do single-family housing and still support housing affordability and housing for seniors, including allowing tiny homes, cottage communities, accessory dwelling units, etc. Sikkema said people may accept a smaller scale multi-family versus a large-scale multi-family development. If the units are separated into multiple small buildings versus one large building it might be more acceptable. Meister said that for seniors, we need housing that is easier to manage. Woodward said that it's useful to think about the scale of the firehall, and how many multifamily residential units could fit into that structure which doesn't seem inappropriate on the corridor.

The Commission generally supports multi-family residential as a conditional use with controls on the scale of development, and allowed in transition areas between commercial or mixed-use and residential. They also support a mix of light industrial and commercial in some areas.

For regulations regarding special areas of concern, Woodward suggested we could have more regulations to discourage development in floodplains or for wellhead protection, but probably could not enforce extra regulations for wetland protection or endangered plants and animals. For cultural areas of concern, Woodward

would like to see a plan for connected greenways to allow wildlife movement. Ventura said we have a start on that with the Iron Ore Heritage Trail. He suggested the non-motorized trail could be expanded all the way to the County line, but this would involve addressing the issue of motorized versus non-motorized traffic where motorized is currently allowed. Smith said in that area there is an old County road that parallels the Iron Ore Heritage Trail that could be used to create a parallel trail for motorized users. It was previously used for snowmobile traffic when the railroad was active on the grade, and is more fun to ride than the rail grade. Milton said the North Country Trail also meanders through that area.

Woodward asked if the Commission wants to expand the access management areas beyond the current overlay district, as is suggested in the draft. Sikkema said it's not real applicable in residential areas, but is somewhat important in commercial areas. He said the real value is in preventing new driveways when properties are split. This forces a shared driveway arrangement in order to get the split approved. Smith said that the State DNR enforces similar regulations in limiting trail crossings.

The Varvil Center was discussed in relation to mixed-use. It is currently zoned industrial, but some commercial uses are permitted. Sikkema said owners of some residential properties in that area have wanted to be rezoned industrial, but it wasn't approved. Smith said that was because there wasn't a plan, they just wanted to sell the property. Meister said he thought it would be appropriate for a restaurant to be there. It was suggested to rename the district to more accurately reflect the mix of commercial and industrial uses.

Milton asked if CR-480 would become a State highway. Sikkema said not any time in the near future; he doesn't see it happening. Sikkema would like to see a zoning map for the next meeting so their future land use decisions don't create a bunch of nonconforming uses.

The Commission stopped at the section on "Infrastructure Management" to continue at the next meeting. They will also get a draft of Section 4 for the next meeting, sent electronically more in advance of the next meeting.

## **IX. PUBLIC COMMENT**

Richard Bohjanen said he typically would rather not speak, however, he wondered if the Planned Unit Development zoning would be a good management of the transition areas that the Commission has been discussing. It requires input from the neighbors. There was a requirement that made it not too useful before, related to parcel size, but this could be changed.

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

Meister said he thinks the firehall looks great, and Sikkema agrees. Milton said he

would like to have the zoning of adjoining parcels noted on the site plans. Ventura agreed.

## **XI. DIRECTOR'S REPORT**

Woodward said she was contacted by Carol Fulsher about some three sided sign kiosks she wanted permitted at the trailheads for the Iron Ore Heritage Trail, and some MDOT wayfinding signage. Sikkema said local communities can develop a wayfinding sign program that can be permitted with MDOT, but the Iron Ore Heritage Trail Authority would have to work with the Township to get it permitted with MDOT. Woodward asked about the sign for the Bayou Restaurant. Sikkema said that is a TOD sign (tourist oriented directional sign) which is developed with a private company (Michigan Logo) contracted by MDOT. The company contracts for the signs with MDOT under a general permit. Smith said the current sign provisions under the snowmobile program are very generic for trail signs. Smith suggested talking with Ron Yesney of the DNR to see if they've made exceptions for these types of signs.

Woodward asked Commissioners to send comments on the draft recreation plan to Dale within a couple weeks.

## **XI. INFORMATIONAL ITEMS AND CORRESPONDENCE**

### **ADJOURNMENT**

Sikkema adjourned the meeting at 9:40 p.m.

Submitted by:

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Planning Commission Secretary  
Eric Meister

# CHARTER TOWNSHIP OF CHOCOLAY PLANNING COMMISSION MINUTES

Monday, December 2, 2013

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

**ROLL CALL**

*Members Present:* Andy Sikkema (Chair), Andy Smith (Vice Chair), Richard Bohjanen (Board), Tom Mahaney, Bruce Ventura

*Members Absent:* Eric Meister (Secretary), Kendell Milton

*Staff Present:* Kelly Drake Woodward (Planning Director/Zoning Administrator), Dale Throenle (Community Development Coordinator)

**II. MINUTES**

**November 4, 2013**

*Motion by Ventura, seconded by Smith, to approve the minutes as corrected (correct spelling of "sited" to "cited" on page 5, 2 incidences).*

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

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

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

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

**IV. PUBLIC COMMENT**

Dick Arnold, 312 West Branch Road, said he would like a better description of the topic in the agenda. Public comment was closed.

**V. PUBLIC HEARINGS**

None

**VI. PRESENTATIONS**

None

**VII. UNFINISHED BUSINESS**

None

**VIII. NEW BUSINESS**

**A. Work Session on the Recreation Plan**

Dale Throenle presented a copy of the previous draft recreation plan to the Commission. It was thought this plan had been submitted to the DNR (after it was approved by the Board), however this was in error and our Recreation Plan is currently expired. Throenle presented a completely revised draft.

The goals of the plan are to support recreation grant requests, fit within the budget, and create a recreation directory to aid citizens and visitors. The format is designed according to DNR specifications, with some additions. It is intended that this plan be



reviewed annually.

Throenle reviewed the outline of contents of the plan, including a *Community Description, Recreation History and Timeline, Administrative Structure, Recreation Inventory, Resource Inventory, and Description of the Planning and Public Input Process* (including goals, objectives, action program, and plan adoption documents). Appendices include *Maps, Recreation Locations, Site Information, Recreation Coordination, Risk Management Assessment, Summary of Survey Questions, and Self Assessment Grants*.

The Recreation Inventory is divided into four components including *Chocolay Township properties* (owned and maintained by the Township), *cooperative facilities* (public/private ownership partially or wholly supported/maintained by the Township), *other public facilities* (other public ownership not maintained by the Township), and *private facilities* (privately owned and privately maintained). Examples of *cooperative facilities* include the Chocolay Community Garden and Kawbawgam Ski Trail. Examples of *other public facilities* are the Cherry Creek Fish Hatchery, Cherry Creek School, DNR Chocolay River Access site on M-28, Jeske Flooding, MDOT turnouts, NMU Golf Course, and the MDOT Welcome Center. Examples of *private facilities* are the Gitchee Gumees RV Park, Homestead Golf, and Lakenenland.

There is also a brief section on *Regional Recreation Facilities* (such as trails) and *Grant-Assisted Facilities*. *Grant-Assisted Facilities* is a detailed outline of recreation grants that have been awarded to the Township in the past from sources such as the 1988 Recreation Bond Fund, Clean Michigan Initiative Recreation Bond Fund, Land and Water Conservation Fund, and the Michigan Natural Resources Trust Fund.

The *Resource Inventory* will contain information on the natural resource assets of the Township, such as natural areas and rivers, state natural forests, farmland, floodplains, groundwater recharge areas, rare species, scenic areas, and wetlands.

The *Public Input Process* will include methods for reaching decisions, and will be rewritten. The Census data will be rewritten.

There are five stated goals for the plan. Recreational opportunities will reflect the lifestyles of residents, will serve all age groups and people with disabilities, and will attract visitors. Risk management and maintenance policies and procedures will be developed for recreation facilities. There are ten policies and ten implementation strategies meant to support the goals of the plan. There are additional responsibilities assigned to Township departments and staff to support the plan.

The *Action Program* is created for the next five years. It begins with general implementation strategies and concludes with site specific implementation strategies. Strategies are assigned for each year. There is also a summary table for all years and all facilities indicating the assignment of action items or evaluation/ongoing maintenance activities.

The Plan concludes with a detailed table summarizing all project descriptions by site

and year, including costs, participants, and funding sources. This is meant to provide direction to the Board. Some costs will be indicated as “to be determined”.

*Appendix B* includes detailed information for each facility with map and GPS coordinates to help users locate the facilities. Basic access and asset features are described. There are also coordinates for the water features in the Township.

*Appendix C* includes supplemental designs, drawings, specifications, and documents pertaining to specific facilities. Throenle described those available for the Brower Recreation Area.

*Appendix D* will describe the collaborative recreational activities in which Chocolay Township participates.

*Appendix E* contains results of the Risk Management Assessment performed on all Township properties in June of 2012 in collaboration with the MMRMA.

*Appendix F* contains a summary of public survey questions and input.

*Appendix G* contains the Self Assessment Grant forms completed by the Township.

Throenle noted that survey results indicate that people first want the Township to maintain what we have and do it at a reasonable cost rather than focusing on new facilities. He said respondents prioritized trails and passive recreation. Throenle noted that there were very few younger respondents to the survey, so he has tried to anticipate and accommodate their needs as well. It was found that Township recreational opportunities are not well known, so education and promotion is needed. Throenle said the only property that the Township could sell (is not grant funded or otherwise encumbered) is the Wick property by Kawbawgam Lake on the north shore of LeVasseur Creek. It is land locked and an easement across private property would be needed for access. If a kayak/canoe launch could be established by Kawbawgam Road, a water trail to the property could be created.

Throenle said the Kawbawgam Pocket Park was once the launch site for the Kawbawgam Ski Trail. He wondered about re-establishing this launch site for both the ski trail and ATV/ORV trail.

Recreational partnerships will be pursued. Examples include the Chocolay Community Farm project, improved fishing access, and a possible cross-country ski trail on the golf course.

Throenle asked for Commission comments. Ventura said the plan is very comprehensive and thanked Throenle. Ventura noted the golf course will not expand beyond 18 holes as noted in the plan, and it is used informally now for cross-country skiing (would be a good site). Ventura also noted the Brower property is not well marked.

The Voce property was discussed. There is a 66' wide access easement from US 41, but no parking and no identification. Sikkema said for some of these properties the most you can really do is identify them for passive recreation use.

Throenle noted that better access to Silver Creek Recreation Area is a priority. This could involve property acquisition. This would support expansion.

Sikkema reiterated his view that the priority is for recreation to serve residents. He doesn't necessarily think we should develop facilities for other people to come here and use. He is in favor of multiple smaller scale recreation sites near population centers. The Commission had previously identified road easement parcels along Lakewood Lane that run between US 41 and Lakewood Lane that might serve as pocket parks. Resident buy-in could make possible the creation of small scale pocket parks. He thinks this is a priority as an amenity for young families.

Mahaney asked if there was thought to closing down Lion's Field and putting another field at Beaver Grove for easier maintenance. Throenle noted that he is an umpire for the leagues that play at those fields, and many people like the location of Lion's Field. He's not sure if maintenance would be that much easier since you would still be maintaining two fields. He also noted that Lion's Field is to be a trailhead for the Iron Ore Heritage Trail, and that the paved hockey rink is now located there. Throenle also noted there could be resistance from the surrounding neighborhood to the removal. Woodward noted that the Lion's Club has invested a lot of time and resources in the park. Throenle noted that if you move the field to Beaver Grove you'd have to start from scratch, and he doesn't think there is enough projected growth to warrant an additional field. Mahaney asked because of the extensive facelift that seems to be planned for Lion's Field in 2014 in the Plan. Ventura said he thinks it's better to keep multiple facilities closer to where people are living. Mahaney asked if the hockey rink could be moved to Silver Creek where there is already infrastructure. Sikkema noted you can really only get to Lion's Field by car. Throenle noted you can get there via the Iron Ore Heritage Trail, and the back portion of the park can be developed. Mahaney said people will drive to hockey because of the equipment anyway. Throenle said the paving of the hockey rink is already complete.

Throenle mentioned that a resident of Marquette told him there is a group of people who haul their bikes to the Beaver Grove Recreation Area and use it as a launch site for bike tours of the rural roadways. This resident said the Township should create some bike trail maps and encourage greater use.

Woodward asked the Commission's opinion on the plan recommendation of bike lanes on US 41 (shoulder). Sikkema said MDOT does not allow this because that would indicate there is no parking of vehicles on the shoulder, but parking is allowed. A bike lane indicates a travel lane. However, he said everyone knows they can use the highway shoulder for biking, so you wouldn't gain anything by marking it.

Bohjanen said there is a mistake on page 95 of the Plan – the Kawbawgam Pocket Park is on the left side of the road when heading south, not the right.

Ventura also noted necessary changes to the population information.

Sikkema asked about the nature of the “MDOT” cooperative facility listed on page 23. It is unclear that this references the multi-use paths in the highway right of way. He wanted it made clear that these multi-use paths will be turned over to Township ownership & maintenance responsibility when complete next summer.

Sikkema said the DNR owns the rail grade that is used for a snowmobile trail, and there are many potential uses that could be accessed from this trail, perhaps in the Bayou or along the Chocolay River. Throenle discussed the plans for the park strip along Green Bay Street, including parking. Sikkema said people should avoid referring to it as the snowmobile trail; it is the Iron Ore Heritage Trail.

Sikkema wanted the Commission to understand that the Beaver Grove Agricultural Area was being presented as a new recreation area with a work plan recommended by staff. Woodward said it was not just a staff recommendation – there were many meetings with the Planning Commission and the Commission recommended the project as a good use of the property. Sikkema said he thinks it needs to be clear that this project was recommended based on an outside group doing it. Ventura is in favor of the content being in the plan; the plan doesn’t specify who is going to be doing and financing everything, that can be determined later. Ventura suggested clarifying that this is a proposed project to be done jointly with an organization that would be created to oversee it rather than being run by the Township. In previous action, Ventura thinks the Planning Commission supported this project to the point it can be included in the plan. Bohjanen said the development plan can be put into slow motion – you don’t have to be very specific early on.

Mahaney asked about things that are in the plan but may not happen? Throenle said the plan can be modified over time.

Sikkema asked about next steps. Woodward wanted the Commission to focus on the goals and implementation strategies on page 54 and 55 and the action program beginning on page 56. The next step for the master plan is to prioritize the strategies from this plan according to the Priority Decision Criteria in the Master Plan. Smith said the Commission previously discussed their top 5 priorities with some being common among the majority. Woodward will look for those. He thinks it involved playground equipment at Silver Creek Recreation Area (Lowe’s grant), a bigger parking lot at the Chocolay River boat launch, etc.

Ventura noted that without the costs, priorities might be difficult to assign. Smith said some priorities will be indicated by the survey results. The plan is to review the final draft no later than January so it can be moved to the Board for approval. The Commission said the priorities can be determined after this plan is approved, as long as the important items are included. Woodward said the priorities need to be consistent with the Master Plan. The Commission wants to make sure costs are available for the top priorities with the rest to be determined.

**B. Work Session on the Master Plan**

Woodward asked Bohjanen if he thought it would be preferable for the Board to review the Master Plan in phases or as one complete document. He said it's difficult to read a document that big thoroughly, so segments would be better. Woodward suggested that if the Commission could approve Chapters 1 through 3, she could include those in the next Board packet for introductory review.

Woodward explained the format of Chapters 4 through 5. Chapter 4 is a review of resilience from the perspective of four elements including community (public) systems, private businesses and households, natural systems, and social systems. Within each of these systems, risks and opportunities are identified for subtopics like critical infrastructure and services (transportation, water, waste, public safety, energy, food), housing, public health, etc. Chapter 5 contains the functional strategic plans for future land use and development, fiscal sustainability, transportation, capital improvements, energy, food systems, economic support, health and quality of life, ecosystem support, disaster and risk management, collaboration, and zoning.

Woodward asked for any comments or changes for Chapters 1 through 3. She revised the summary of major changes since the 2005 Plan based on input from Board minutes, so it is more comprehensive. She asked about the Commission's preference for the placement and readability of the section detailing progress toward the recommendations of the 2005 Plan. Consensus was that this is an important section. There were a few comments/changes. Sikkema, page 10, said the Township has accomplished more for alternative transportation, including the MDOT carpool lot and the Altran/Marq-Tran transfer at Jacks. This may be more appropriately included in accomplishments. He also noted that under economic development (page 10) there has been retail expansion with the strip mall at the intersection of US 41/M-28. On page 11, Sikkema was not sure about the wording under Community Center, and whether it really is still work to be done. He hasn't seen it come up as a priority according to the survey results. The Community voted it down twice, so he's not sure it's something the community is looking for. The Plan makes it sound like we didn't accomplish it, but he's not sure it's something the residents wanted. Bohjanen was on the Ad Hoc committee for the community center. He said he thinks people wanted it, but didn't want to pay for it. Sikkema said if they don't want to pay for it, that means they don't want it. Bohjanen offered some background on the issue. Before the school was purchased, money was put aside for this purpose in an amount which was almost enough to purchase the school. He said this indicated consensus on working toward a community center. However, the school ended up being more expensive to operate than anticipated. During the brief time of operation, there were many activities going on in there. There were two choices for financing, including user fees and/or a millage. The Board decided to go for a millage, and the millage failed twice (it was combined with other things and the people didn't want to pay for it). Then the Township sold the school. But he said the facility was heavily used while operating.

On page 11, regarding Township Office expansion, Sikkema said that the offices were expanded, so this may be an accomplishment.

Bohjanen noted on page 21, 2<sup>nd</sup> paragraph, it should say “transportation corridor of *natural* and international significance”, not “transportation corridor of *natural* and international significance”.

Ventura noted on page 13 in the bullets, “proximity to cell towers” etc is mentioned under supportive principles for healthy communities. This is the only negatively worded item. Woodward said she would reword it to say “Separation from cell towers”, etc.

*Upon there being no other comments on Chapters 1 through 3, Bohjanen moved, and Ventura seconded, to present Chapters 1 through 3 of the Strategic Master Plan with changes to the Board for review.*

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

Sikkema asked for comments on Chapter 4. There was consensus to revise the format to include all the risks and opportunities together per topic, instead of keeping all the risks for all topics together, followed by all the opportunities for all topics. There was consensus to leave the action strategies in a separate section, with references at the end of each topic in Chapter 4 to the appropriate action items in Chapter 5. Woodward said she might put each element of Chapter 4 in a separate Chapter, resulting in four additional chapters.

Some changes were suggested to the tone of the energy section. The Commission wants the information to directly relate to the Township, sharpening our focus on things within our control. Woodward said she does think energy is going to be one of the defining issues of our long term future. Sikkema said it is somewhat out of our control – we’re not going to drive energy policy here. Woodward agreed it’s somewhat out of our control, but felt we need strategies to deal with energy issues. The quote “necessity is the mother of invention” was referenced by Sikkema. He said we should focus on things within our control – for example, we can’t determine if people use electric vehicles or not, but if it becomes an issue, we could install infrastructure to support them such as that in Marquette. Bohjanen said that some things that haven’t traditionally seemed to be within our control might be a valid future local government role. Energy rates were discussed. Sikkema said electricity costs for some residents are expected to increase 25% over the next 3 years, which Ventura said will still be 60% less than those who are served by Alger Delta.

The plan was tabled to the next meeting.

**IX. PUBLIC COMMENT**

None

**X. COMMISSIONER’S COMMENT**

Sikkema welcomed Bohjanen to the Commission. Bohjanen said if he had one

comment or position, it would be to prevent ordinances. There was laughter in the group.

Ventura said he agreed with Sikkema that there is some editorial comment in the plan, especially regarding energy, and he understands the problems but doesn't think this is the place to promote it.

**XI. DIRECTOR'S REPORT**

Woodward said that if you read energy and sustainability plans from other communities, this is a real topic of discussion. She wants the Commission to keep this in mind, even though this might not be the right time to talk about it. She said she included the information because she does care about the future of the Township and is doing her best to anticipate things that will be of importance.

Sikkema mentioned the Township does have a pretty good network of natural gas, which is something people consider when they build. Woodward noted that there were survey comments from people who can't get natural gas. Smith said that Wintergreen Trail and Autumn Trail can't get natural gas because the infrastructure wasn't put in by the developer (would have cost \$40,000). Now it would cost \$7,800 per household if you could get 28 of the 35 residences to participate in putting in the infrastructure. He has to use propane, and is also on Alger Delta electricity. His roads are also not plowed. Some wells are failing to meet capacity (180 to 160 feet).

Sikkema encouraged everyone to stick to the outcomes in the plan, and not include text that would make some people disregard it.

**XII. INFORMATIONAL ITEMS AND CORRESPONDENCE**

None

**ADJOURNMENT**

Sikkema adjourned the meeting at 9:48 p.m.

Submitted by:

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Planning Commission Secretary  
Eric Meister