

CHARTER TOWNSHIP OF CHOCOLAY PLANNING COMMISSION MINUTES

Monday, January 21, 2019

I. MEETING CALLED TO ORDER BY: Tom Mahaney at 6:04 p.m.

ROLL CALL

Members Present: Tom Mahaney (Chair), Donna Mullen-Campbell (Secretary), Susan Maynard, Don Rhein (Board), Kendell Milton, Ryan Soucy

Members Absent: Cory Bushong

Staff Present: Dale Throenle (Planning Director/Zoning Administrator), Lisa Perry (Administrative Assistant), and Tony Carrick (Chocolay Township Police Sergeant).

II. ADDITIONAL AGENDA ITEMS / APPROVAL OF AGENDA

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

Vote: Ayes: 6 Nays: 0 MOTION CARRIED

III. MINUTES

December 17, 2018

Motion by Milton and seconded by Maynard, to approve the minutes as written.

Vote: Ayes: 6 Nays: 0 MOTION CARRIED

IV. PUBLIC COMMENT

None

V. PUBLIC HEARINGS

None

VI. PRESENTATIONS

None

VII. UNFINISHED BUSINESS

None

VIII. NEW BUSINESS

A. Election of Planning Commission Officers

Staff Introduction

Each year, the Planning Commission must elect new officers as directed by Section VI in the Planning Commission Procedures and Bylaws.

“The officers of the Chocolay Township Planning Commission shall consist of a

Chair, Vice-Chair, Secretary, and Vice-Secretary. The Executive Committee shall consist of Chair, Vice-Chair, and Secretary. Said officers shall be elected by the Chocoday Township Planning Commission from among its members, at its January Meeting, and shall serve for a period of one year. (Amended 2-17)”

Members eligible to be elected as officers is outlined in the same section. Don Rhein, who is the Board-appointed representative to the Planning Commission, is eligible to be elected to all officer positions except the Chair.

Commission Decision

Motion Number 1

Rhein moved, Milton seconded, to elect Mahaney as the Chair of the Planning Commission.

Vote: Ayes: 6 Nays: 0 MOTION CARRIED

Motion Number 2

Mahaney moved, Rhein seconded, to elect Maynard as the Vice-Chair of the Planning Commission.

Vote: Ayes: 6 Nays: 0 MOTION CARRIED

Motion Number 3

Maynard moved, Rhein seconded, to elect Mullen-Campbell as the Secretary of the Planning Commission.

Vote: Ayes: 6 Nays: 0 MOTION CARRIED

Motion Number 4

Rhein moved, Mullen-Campbell seconded, to elect Bushong as the Vice-Secretary of the Planning Commission.

Vote: Ayes: 6 Nays: 0 MOTION CARRIED

B. 2018 Planning Commission Annual Report

Staff Introduction

As required by the Planning Commission By-Laws, an annual report is to be prepared and presented to the Board.

Commissioner Discussion

Soucy commented that the report was helpful coming on board, he felt it was a good synopsis and professionally done and thanked Throenle for that.

Commission Decision

Rhein moved, Milton seconded, that the 2018 Planning Commission Annual Report be forwarded to the Board as written.

Vote: Ayes: 6 Nays: 0

MOTION CARRIED

C. Proposed 2019-2020 Planning Commission Priorities

Staff Introduction

Each year, Planning Commissioners should review the priorities established for the Planning Commission to determine if those priorities are still valid for the upcoming year. Attached is the current priority document, and a document outlining the proposed 2019 – 2020 priorities.

Commissioner Discussion

Throenle commented that he changed the priorities from 1, 2, 3 to High, Medium, Low to allow the distinction of importance. Throenle also commented that he moved the *Firewise* project to a High priority due to the fact the Township is pushing fire protection.

There are seven new priorities that were not on last year's list but he wanted the Commissioners to know that all the priorities are for 2019 and 2020, not just 2019. Whatever is approved this evening will be presented at the Joint meeting with Township Board in February. Mahaney was glad for the clarification of the calendar year as the heading was confusing.

Throenle stated that one of the priorities that has not been done in the past and is the responsibility of the Planning Commission is to establish a Capital Improvement Plan. The Township has the budget but not the plan. This would require the Planning Commission to look at the budget and establish a five year plan for the assets the Township has.

Mahaney asked if the Planning Commission would be choosing the priorities of the Township and would the Board reveal a budget number? Throenle commented yes, there would be a simple format of the budget and the Planning Commission decides which priorities to allocate money to for the next five years. It shouldn't be difficult as the Capital Improvement budget is there already and is spread out over five years. Basically this is review at budget time to see if it makes sense.

Mahaney asked if this was done one year at a time and Throenle said the Capital Improvement it was for a five year scenario with an annual review.

Soucy stated he thought it was actually a six year plan according to the statute and Throenle commented yes it was.

Maynard asked if this is something that the Planning Commission has not done in the past. Throenle stated that was correct, the more he gets into the position, the more he finds has not been done. This is something that is in the Planning and Enabling Act, and The Planning Commission needs to do this as it is a legal requirement. However, the State has not come back and told us we have to do something. Mahaney commented he did not remember doing this in his time on the Planning Commission.

Mahaney asked if the budget amounts would change year to year and Throenle stated this depends on many things like tax income and other revenues and expenditures.

Mahaney asked if this would have to go to a public hearing, Throenle stated no, it would be a budget plan that is forwarded to the Board for approval.

Milton asked if this includes vehicles and was told by Throenle yes this would be recommended by the Planning Commission according to priority and where the money is allocated.

Mahaney asked if this would be a one or two month item and Throenle stated he would take the budget and put it in a format where the priorities are and present to the Planning Commission for their comments. Mahaney asked if the Township Board would have the final say and Throenle stated they would.

Throenle also stated the *Recreation Plan* was not completed in 2018, so we do not have a Recreation Plan on file with the DNR right now. This makes us non-compliant and unable to get funding from the DNR right now.

However, if this budget plan is filed with the DNR by May, we would be eligible for passport grants from the DNR this year.

Rhein asked where Planning Commission is with the *Recreation Plan* and Throenle stated he was about two-thirds of the way through it. There was not a good response of residents taking the survey. There were roughly 1,500 notifications sent out and to date there are approximately 65 surveys returned. The deadline has been extended until the end of March and he may extend it until June.

Throenle has also moved the *Chocolay River Watershed Plan* up on the priorities as the plan has not been updated since 1999.

He said the *Shoreline Stewards Plan* goes along with the *Firewise Program* and the *Community Rating System in priority*.

He pointed out the Marijuana Ordinance would be discussed later this evening in the meeting.

Mahaney asked for clarification on the wording for opting in on the County ATV Ordinance. He asked if it should just say "to consider opting in" versus "develop the process for opting into". Throenle stated he worded it this way as it was a recommendation from the Planning Commission to opt in on certain roads. Mahaney and Maynard felt it was misleading and felt it sounded like they were opting in for all roads in the Township. Throenle asked if they would like it to read "Consider process for opting into the County ATV / ORV ordinance for proposed routes on Kawbawgam

Road, East Mangum Road, and Sand River Road”. Mahaney stated ONLY those roads and thanked Throenle for the clarification.

Mahaney asked the meaning of “Rewrite the Zoning Ordinance”. Throenle answered it would be the entire ordinance, and he said it can be done in sections. Throenle continued that there are items in the ordinance that need updating and may have not been discussed in a long time.

Commission Decision

Maynard moved, Rhein seconded, that the priorities for the Planning Commission for 2019 - 2020 be published as changed, and forwarded to the Board for consideration at the joint Board / Planning Commission meeting in February of 2019.

Vote: Ayes: 6 Nays: 0 MOTION CARRIED

D. Marijuana Facilities Ordinance Consideration

Staff Introduction

On November 6, 2018, Michigan voters approved Proposal 18-1, which legalized recreational marijuana and created the Michigan Regulation and Taxation of Marihuana Act (MRTMA). On December 6, 2018, the act became law, and as a result of this act, each community is now required to decide if it is going to allow or prohibit state-licensed recreational marijuana establishments.

Staff has reviewed the act, and is recommending the Township opt out of the act for the following reasons:

- Allowing recreational facilities in the Township does not necessarily increase the income for the Township. Conversations with law enforcement indicates that most, if not all, revenues received will be redirected to law enforcement related to the establishments.
- State law is in conflict with current Federal law at this time in relation to the drug status of marijuana nationally.
- Law enforcement officials have gone on record (including the County Sheriff) stating providing these establishments are not a good option for local communities.
- The Act is ambiguous in several areas, and opt in language may be difficult to defend in court per documents from the Michigan Municipal League.

Commissioner Discussion

Throenle stated unlike the Medical Marijuana Act where you had to opt in, the Recreation Marijuana Act is the opposite and you have to opt out. There are several entities in the Upper Peninsula that are opting out due to the many unknowns at this time.

Throenle stated several times that if you opt out, you can, at any time, revisit this ordinance and opt in once the legal aspects are worked out.

Chocolay Township Police Sergeant Tony Carrick was at the meeting and presented the issues from a police standpoint and answered any questions the Commission had. He also said there are many unknowns and laws that have yet to be determined.

Throenle told the Commission that the monies collected cannot yet be put in federal banks due to the fact this is a State law, not a Federal law.

Carrick also stated that security would be an issue. The facilities would have to rely on the local, county and state law enforcement because an individual, legally, cannot have a weapon (gun) and marijuana on the same property. He added that most of those agencies are already operating understaffed and over budget, so protection could be an issue.

Mahaney commented that he believes Negaunee Township and Sands Township opted in. Throenle added the consideration that there would be entities around Chocolay Township opting in that Chocolay would not have to.

The Planning Commission discussed and asked different questions of all aspects relating to marijuana.

Maynard felt most voters did not read the law before voting and she would rather opt out now and revisit the ordinance once the laws are clarified. This would help to protect the Township. She would like to decide which of the five aspects or limit where they could take place within the Township.

Rhein stated if they changed the ordinance in any way, there would be a public hearing and the public would get a chance to speak. He has no problem with it but would like the law to be better clarified by the State.

Mullen-Campbell stated that over 50 percent of the Township voted in favor, that should mean something.

Soucy stated he did not want to shut the door on this as it could be a factor in economic development. He also felt it was up to the Planning Commission to create the conditions and environment so there could be an effective, working facility that does not have nuisances associated with it. He would also like to add a sunset clause to assure this gets revisited once the State gets the regulations set. Throenle interjected that a sunset clause could be an issue due to the fact it could inadvertently get missed down the road and then the Township would automatically get opted back in.

Milton would like to wait for clarification of the laws as well. He reminded the Commission that in the past the Board has done the opposite of the recommendations that have come from the Planning Commission.

Mahaney stated that 60 percent of Michigan wanted this. He does not want to shut the door completely on this, and he wants it in the ordinance that it can be revisited at any time.

Mahaney asked if the Township would be looking at just the retail part of the marijuana and Throenle stated the Planning Commission is looking at all five aspects. The five aspects are growing, processing, transporting, testing, and selling. Mahaney also asked Throenle what would happen if someone came in now to get the license. Throenle stated he would have to research it as he was not sure.

Throenle stated Colorado is having issues and are trying to fix them. Michigan is just starting and he would like more clarification to be able to do his job. There are other ordinances that could be affected by the decisions made. There are many laws yet to be covered concerning marijuana and most people do not know the ramifications yet.

Commission Decision

Maynard moved, Rhein seconded that proposed *Ordinance 67 Marijuana Establishments* be presented for public hearing as written at a future Planning Commission meeting.

Soucy moved, and Rhein seconded an amendment that there is a sunset of December 6, 2019 on this until the Board of Licensing and Regulatory Affairs develops further regulations defining the law.

Maynard, under the Rules of Order, can either accept or reject the amendment. Maynard rejected it.

Vote: Ayes: 3 Nays: 3

ORIGINAL MOTION FAILED

Throenle stated he would add this to next month's agenda as he is adamant the Township is unprotected at the moment. There needs to be something on the books to protect the Township.

Throenle stated once again that once this is passed does not mean it cannot come back and be revisited. It is done with the *Zoning Ordinance* all the time, it is happening in this meeting with the next item on the agenda.

Mahaney stated he does fear this would not be revisited. There is nothing in the current ordinance to state this and would like to see something added, Soucy feels there should be something added due to the fact sometimes ordinances are revisited and have a hard time being brought about. He also commented there is a lack of clarity from LARA on this subject.

Carrick interjected that this would reduce crime as it is legal now but it also opens it up to different kinds of crime. He said it was not the smokers or user of marijuana; it would be the people that would take advantage of the people selling it. There would increases in armed robberies, breaking and entering, etc to the business selling it.

After more discussion the following motion was made.

Rhein moved, Maynard seconded that proposed Ordinance 67 Marijuana Establishments for public hearing at the next Planning Commission meeting.

Rhein then rescinded his motion to make some changes and proposed a new motion.

Rhein moved, Soucy seconded to proceed with Ordinance 67 Marijuana Establishments be presented for public hearing at the March 2019 Planning Commission meeting.

Vote: Ayes: 6 Nays: 0 MOTION CARRIED

Planning Commission Chairman Mahaney called for a five minute break at 7:55 PM. Commissioners returned at 8:00 PM.

E. Rental Considerations

Staff Introduction

In September 2018 the Commissioners developed a rental checklist for rentals in the Township. The Commissioners also reviewed draft *Zoning Ordinance* definitions, a proposed rental form, and a draft outline of the Township Information document. Staff was given direction to draft a separate rental ordinance in relation to this topic. Staff determined that the best form of tracking rentals in the Township should be through an annual registration process, and staff has updated the draft rental form to reflect that direction.

Staff reviewed the Commissioner's comments, suggestions, and directions, and prepared a draft ordinance for the Commissioners to review.

As part of the development of the draft ordinance, language related to the ordinance must be updated in the Township *Zoning Ordinance*.

Commissioner Discussion

Throenle stated this was not under "Old Business" as it is a new consideration. Draft definitions are the same with some revisions. The concept tonight is to discuss having a registration for all rental properties in the Township.

There would be a rental form to be filled out annually at no cost and would require the owner of the property or a manager/contact for the property to live within the Township or 25 miles of the Township boundaries. This would insure that if problems came about with the rental, there would be someone close to call and deal with them. Soucy asked if the landlord lived on the property and rented if they would be subject to this as well. Throenle stated from his understanding of the tax perspective they would be, if a room is being used as rental or office space it would be a partial

PRE on the property. He said this will come down to honesty of people renting their properties. Maynard stated it could come from the neighbors who are not happy as well. Mahaney agreed as it has been the case in the past.

The registration would not define if the property was a long or short term rental. In the ordinance it would be changed from "rental dwellings" to "registered rental dwellings".

According to the registration, it would require all renters, long or short, to be given a copy of the Township Information Guide. The information in the guide deals with Township history and demographics, ordinance information, and general information. This could also be used for people who are new to the Township.

Throenle stated he attended a planning commission conference that introduced new software that tracks rental properties and it showed there were 30 Air B&B type rentals in Chocolay Township. This is less than one percent of the 3,000+ properties in the Township.

The information on the registration would help provide information to the Township police, the zoning department, and assessing department.

Soucy what would happen if someone fails to get registered. Throenle stated it would be looked at case by case and he will need to get the word out to residents in the Township regarding the registration. The company presenting the material about the 30 rentals discussed earlier did not provide the addresses. Some information could possibly be extracted from the assessing data base by looking at the PRE information.

Throenle told the Commission the numbers/amounts for violations have to be discussed in the proposed ordinance. They are preliminary, they need to be discussed and simplified.

Rhein suggested the fines increase with each occurrence. Mahaney offered an opposition to this, pointing out violations may not be the landlords fault. Throenle suggested that the first violation be "X" amount, second violation an increased fine, and the third violation be immediate suspension of their registration which would put them in violation of the ordinance. They could appeal the violation in court.

Rhein asked about the appeal. Throenle reminded the Commission there are State laws that pertain to rentals as well and this is where the hearing could help the landlord with appeal. Mahaney liked the idea as it puts the responsibility on the landlord and Rhein agreed.

Mahaney felt \$100 as the fine is lenient but with the revocation listed it would be good. Throenle asked the Commission what they thought would be a good amount for the fine. Rhein stated even \$200 isn't major but it shows that the Township is serious about the violations.

Milton stated the first violation could be \$100 and a notice, stating what would happen if there are more violations, the second violation would be \$100 and a final notice, and the third time \$100 and revoke the registration.

Throenle stated he would put this together for the next Planning Commission meeting.

Soucy suggested having a requirement of a landlord quarterly inspection written in the registration form. Milton felt a short term rental would have this as they would be cleaning it often. Throenle stated he has no internal enforcement as he cannot legally go past the front yard or inside a property. Mahaney felt the form should be kept simple.

Before the motions were made, Throenle asked the Commission if they had any objections to the zoning districts where registered rentals are located. He said the only zoning district they are not included, in terms of recommendations, is in the industrial district.

Soucy made mention of the House bill #4046 that was introduced last week would preempt any/all short/long term rentals. Rhein asked if it was similar to the bills that were introduced before and Throenle commented he thought it was identical.

Maynard read from the bill, that if it was enacted the bill would consider all vacation and short term rentals to be considered residential uses and allow them in all residential zones. The bill also specified that rentals of twenty-eight days or less are not subject to a special use or conditional use nor can they face a procedure that is different from those required for any other dwelling in the same zone.

Rhein felt that based on this the Township would be covered by distinguishing them as rentals, not short or long term rentals.

Commission Decision

Maynard moved, Rhein seconded, that the proposed definitions and language for Ordinance 68 Rentals be accepted as presented.

Vote: Ayes: 6 Nays: 0 MOTION CARRIED

Milton moved, Rhein seconded, that the proposed definitions and language for the Zoning Ordinance be accepted as presented.

Vote: Ayes: 6 Nays: 0 MOTION CARRIED

Maynard moved, Rhein seconded, that the draft extract of the Township Information document be accepted as presented with exception of a new cover.

Vote: Ayes: 6 Nays: 0 MOTION CARRIED

F. Structure Placement Considerations

Staff Introduction

When issuing permits for structures in the Township over the last two years, an issue has arisen as to the placement of structures that are less than 100 square feet in size for properties that are zoned either Single Family Residential (R-1) or Waterfront Residential (WFR).

Staff Findings

There is an exemption in footnote 2 in Section 6.1 of the Township *Zoning Ordinance* that states:

“A detached accessory building less than 100 square feet and so located that no portion is located in the front yard setback is exempt from the provisions of this ordinance.”

This particular exemption creates a scenario where sheds and other structures under 100 square feet can be placed directly on the property line between neighbors, and could potentially develop a “fence” of structures on that line.

Commissioner Discussion

Throenle suggested to the Commission to remove the second part of the footnote so residents would not be able to put a structure right on the property line, even though it may be under 100 square feet.

Mahaney asked if it would have to be within 6 feet from the property line. Throenle stated it would be within 6 feet. Everything else would stay the same in terms of the other setbacks.

Soucy asked if this could create non-conforming issues and Throenle stated that it could. If they had documents showing the structure was there prior to the change it would not be an issue.

Soucy asked about a situation where there is already a fence there. Throenle answered that a fence is different scenario. One would have to abide by the setback regardless where the fence is.

Commission Decision

Milton moved, Rhein seconded, that we eliminate footnote 2 in *Section 6.1* of the *Zoning Ordinance* to be presented for public hearing as written at a future Planning Commission meeting.

Vote: Ayes: 6 Nays: 0

MOTION CARRIED

IX. PUBLIC COMMENT

None

X. COMMISSIONER'S COMMENTS

Rhein – Felt they went over quite a bit of stuff tonight, got some stuff ironed out. Thanked Soucy for stepping up and being on the Commission with them. Felt with his expertise, he would be a great asset to the Planning Commission.

Milton – Nothing at this point.

Maynard – Welcome Ryan.

Mullen-Campbell – Glad to have a new face, knows his son from Cherry Creek.

Soucy – Happy to be here, happy to give back to my community. Looking forward to a good year here.

Mahaney – Thanked Throenle for the three hour meeting. Thanked the Commissioners for a wonderful meeting.

XI. DIRECTOR'S REPORT

Thanked Soucy for joining them and appreciated his input. Thanked the Commissioners for the animated discussion tonight; he appreciates that it went back and forth. He also appreciates everyone looked at the issues and dug into them.

Also, on the table is a color chart from the Casino folks are asking for a color preference for the water tower. The choices are between the first two blues on the first line, there is a lighter and darker blue. They are asking for a preference, as the Zoning Appeals mandate was to pick a neutral type color. The Commission chose lighter blue (15BL Tank White).

Reminder that next month is the joint meeting at 5:30 PM with the Planning Commission to follow at 7:00 PM.

He reminded the Commissioners to take the Recreation survey, if they haven't already.

XII. INFORMATIONAL ITEMS AND CORRESPONDENCE

- A. Minutes – Township Board, 12.10.18
- B. Township Newsletter – January, 2019
- C. Minutes – Marquette City Planning Commission, 12.04.18
- D. Minutes – Marquette City Planning Commission, 12.18.18

XIII. ADJOURNMENT

Mahaney adjourned the meeting at 8:55 pm.

Submitted by:

Planning Commission Secretary

Donna Mullen-Campbell

CHARTER TOWNSHIP OF CHOCOLAY PLANNING COMMISSION MINUTES

Monday, February 18, 2019

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

ROLL CALL

Members Present: Tom Mahaney (Chair), Susan Maynard (Vice Chair), Donna Mullen-Campbell (Secretary), Cory Bushong (Vice Secretary), Don Rhein (Board), Kendell Milton, Ryan Soucy

Members Absent: None

Staff Present: Dale Throenle (Planning Director/Zoning Administrator), Jon Kangas (Township Manager), and Suzanne Sundell (Deputy Clerk).

II. ADDITIONAL AGENDA ITEMS / APPROVAL OF AGENDA

Motion by Rhein, and seconded by Maynard to approve the agenda as written.

Vote: Ayes: 7 Nays: 0 MOTION CARRIED

III. MINUTES

January 21, 2019

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

Vote: Ayes: 7 Nays: 0 MOTION CARRIED

IV. PUBLIC COMMENT

None

V. PUBLIC HEARINGS

None

VI. PRESENTATIONS

None

VII. UNFINISHED BUSINESS

A. Proposed 2019-2020 Planning Commission Priorities

Staff Introduction

Throenle stated the priorities were included in the packet for the Planning Commission to have an opportunity to review and change them, if needed, based on the recommendations from the Board at the joint meeting held earlier in the evening. If no changes are required, the priorities have to be approved.

Commission Decision

Milton moved, Rhein seconded, that the priorities for the Planning Commission for 2019 - 2020 be published as written.

Vote: Ayes: 7 Nays: 0

MOTION CARRIED

B. Rental Considerations

Staff Introduction

Staff made some changes to the proposed *Ordinance 68 Rentals*, and included that document in the packet for Commissioner review. The changes were highlighted in the ordinance document.

Staff included a document in the packet containing the proposed changes to the Township *Zoning Ordinance* for one additional review by the Commissioners. Changes to the ordinance were highlighted in the document. A cross-reference document was also provided showing the location of the proposed changes in the full *Zoning Ordinance*.

Staff put the draft registration form in the packet for one additional review by the Commissioners.

Commission Discussion

Milton questioned if the renter would be getting a copy of the actual ordinance. Throenle replied the owner would be given a copy of the *Township Information* document, which includes a summary of the ordinances, and would be required to provide the information to anyone renting the property.

In regards to penalties for not registering a rental property, staff discussed the question with the Township Supervisor, Richard Bohjanen, and Bohjanen felt there was no reason for different stages of violations. Bohjanen suggested the penalty in the ordinance be set to "not more than \$500 for each violation" as the other Township ordinances cover all other violations.

Mahaney asked who would make the decision of the amount of the fine; Throenle stated it would be a determination factor. Mahaney brought this up as there may be a possibility of inconsistency in enforcement of the fine. Throenle stated it could go the other way as well, he could issue the fine, it goes to court, and the judge reduces it.

Maynard asked is the size of the rental would make any difference, Throenle stated that it would not matter.

Milton asked if there would be a fee with the registration. Throenle answered he is recommending there is not be a fee as the owners will have a tax implication for renting the property, and he said it will be up to the Assessor to determine what the tax change would be. Throenle also stated if the registration is free, more people would be more apt to register their rental property.

Throenle reminded the Commission that the primary reason for the registration of rentals is to find out where they are located.

Soucy had concerns regarding the owner/ agent supplying the *Township Information* document to anyone renting the property. Throenle stated he would advise any owner/agent to get a paper, signed by the renter, stating they did in fact give the renter a copy of the *Township Information* document. Throenle also stated, in his position as Zoning Administrator, he has to trust that people are doing the right thing.

Maynard commented when she has rented short term, her contract had a place to sign that she had received a copy of the house rules. Throenle stated that is where the owner/agent has to be aware they need to have something similar in their contract signed by the renter that the renter has received the information to prevent any legal matters in the future.

Bushong requested the following be added to the last bullet in Section 5: "It is suggested that the owner maintain proof of delivery of the *Township Information* document to the renter." Throenle updated the ordinance document to reflect the change. Maynard stated it could be added to the Registration form, and Throenle updated the form with the additional language.

Maynard suggested that during the registration process, the owner/agent receive a list of suggestions that are expected of their tenants. This may help make their life easier. Throenle answered that he could put together a checklist and include it with the registration process. The Commission felt that was a good idea.

Commission Decision

1) Maynard moved, Rhein seconded, that the proposed definitions and language for *Ordinance 68 Rentals* be accepted as revised and that the proposed ordinance be presented for a public hearing at a future Planning Commission meeting.

Vote: Ayes: 7 Nays: 0 MOTION CARRIED

2) Maynard moved, Rhein seconded, that the proposed definitions and language for the *Zoning Ordinance* be accepted as presented, and that the proposed zoning ordinance changes be presented for a public hearing at a future Planning Commission meeting.

Vote: Ayes: 7 Nays: 0 MOTION CARRIED

3) Maynard moved, Mullen-Campbell seconded, that the draft *Rental Property Registration* be accepted as revised.

Vote: Ayes: 7 Nays: 0 MOTION CARRIED

VIII. NEW BUSINESS

None

IX. PUBLIC COMMENT

Stephanie Gencheff, 597 Lakewood Lane – Questioned why renting your property could double or triple your property taxes. Throenle answered if you do, and the PRE (Principal Residency Exemption) is removed, your taxes triple. She asked if someone only rents for a short period of time if they were subject to this and Throenle answered it would be prorated. Manager Jon Kangas interjected that there is a court decision regarding this and the Assessor would have to take this into account. She asked questions regarding a Bed and Breakfast, Throenle advised her to talk with the Assessor regarding it. She feels this would cause people to rent “on the black market”. Throenle stated there are people in the community that would advise him of rental locations.

COMMISSIONER’S COMMENTS

Rhein – Good job on this, way to work together.

Milton - None

Maynard – None

Mullen-Campbell – None

Soucy – None

Bushong -

Mahaney – Reminded the Commission next month’s meeting will be starting at 6 PM. Thanked Throenle for the packet.

X. DIRECTOR’S REPORT

Throenle would like to take the Sign section out of the *Zoning Ordinance* and make it into its own Ordinance. He would like the Planning Commissioners to think about it and consider it for next month’s meeting. Rhein asked to have a copy of that section sent to the Commissioner’s before the next meeting for review.

XI. INFORMATIONAL ITEMS AND CORRESPONDENCE

A. Minutes – Township Board, 01.14.19

B. Township Newsletter – February, 2019

C. Minutes – Marquette City Planning Commission, 01.08.19

D. Minutes – Marquette City Planning Commission, 01.15.19

XII. ADJOURNMENT

Mahaney adjourned the meeting at 7:45 PM.

Submitted by:

Planning Commission Secretary

Donna Mullen-Campbell

CHARTER TOWNSHIP OF CHOCOLAY PLANNING COMMISSION MINUTES

Monday, March 18, 2019

I. MEETING CALLED TO ORDER BY: Tom Mahaney at 6:00 p.m.

ROLL CALL

Members Present: Tom Mahaney (Chair), Susan Maynard (Vice Chair), Cory Bushong (Vice Secretary), Don Rhein (Board), Kendell Milton, Ryan Soucy

Members Absent: Donna Mullen-Campbell (Secretary)

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

II. ADDITIONAL AGENDA ITEMS / APPROVAL OF AGENDA

Motion by Rhein, and seconded by Maynard to approve the agenda as written.

Vote: Ayes: 6 Nays: 0 MOTION CARRIED

III. MINUTES

February 18, 2019

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

Vote: Ayes: 6 Nays: 0 MOTION CARRIED

IV. PUBLIC COMMENT

None

V. PUBLIC HEARINGS

A. Proposed Ordinance 67 *Marijuana Establishments* (deferred to VII.A)

B. Proposed Ordinance 68 *Rentals* and proposed *Zoning Ordinance 34-19-04* (deferred to VII.B)

VI. PRESENTATIONS

Char Spruce (Planner) and Lauren Luce (Senior Planner), representatives from the Marquette County Planning Department are in the process of updating the Marquette County Master Plan. The plan has been updated by chapters in the past but has not been updated as a whole since 1982.

In order to do this they have been attending Planning Commission meetings of the twenty two local units of Government in Marquette County. Two do not have Planning/Zoning so they will attend the work meetings.

They were looking for open dialog with the Commissioners to work on County issues and opportunities. To do this they have separated Marquette County into four regions which will allow for region rallies in about a year (Chocolay Township is in region called Borealis Beach with Marquette City and Marquette Township). These rallies will include the information that is being gathered at the various Planning Commission meetings in the County and the community survey that is being conducted.

They were looking for input on broader issues that may be impacting Chocolay Township, neighboring jurisdictions, or even outside the County. Economic development and transportation are two issues that go beyond the local boundaries.

The dialog was opened to the Chocolay Township Planning Commission. The Commissioners brought up what they felt could be issues: municipal water, expansion of current sewer, keeping the township rural and being environmentally aware of the rivers and Lake Superior, affordable housing, aging in place, and public spaces.

The Commissioners also discussed the need for the bus hub to be more accessible and have longer hours, be more accommodating to the people of the community.

The County representatives asked about development of Chocolay Township's corridor, and the Commissioners felt there is a need for development. They said they do not want to be Marquette Township in terms of growth.

The Commissioners were asked how they felt the implementation of the Township *Master Plan* was going. The Commissioners answered that it is an ambitious plan, felt most people were optimistic but there would always be pros and cons. The Commissioners also felt the plan was focused and task oriented.

The Commissioners were asked how Chocolay Township worked with other surrounding communities. The Commissioners commented that Throenle and Soucy both serve on the UPFE Council (UP Food Exchange) which meets with other planners in the area. There are also the US 41 Corridor meetings, and all the feedback has been important over the years. The Commissioners also have access to the City of Marquette Planning Commission minutes each month in the packet as well.

The Commissioners were asked about the Township relationship with the County, and if any improvements were needed. The Commissioners felt Throenle would be best suited to answer this question. Throenle commented that the connection with the County is pretty good in both the planning and the zoning perspectives. He also commented that as a region perspective it would be nice to come together as a region for grants that would benefit the region versus each individual entity trying to get grants on their own. Examples would be trail systems that benefit the region or flood storm water initiative for the whole region, and fire protection would be beneficial for the whole region as a wildfire would affect the whole region. He also added shoreline protection as there is erosion along the lakeshore that would affect many areas in the County.

The Commissioners also added climate change as the watershed of the Chocolay River has reached one its highest peaks in history.

The County reminded the Commissioners and the audience to take that survey and reminded them all of the information, along with the survey, can be accessed at mqtcoplan.org. Maynard commented that the survey is very easy and can be done in minutes.

VII. UNFINISHED BUSINESS

A. Proposed Ordinance 67 *Marijuana Establishments*

Staff Introduction

On November 6, 2018, Michigan voters approved *Proposal 18-1*, which legalized recreational marijuana and created the *Michigan Regulation and Taxation of Marihuana Act* (MRTMA). On December 6, 2018, the act became law, and as a result of this act, each community is required to decide if it is going to allow or prohibit state-licensed recreational marijuana establishments.

Staff reviewed the proposed law with the Planning Commissioners during the January meeting. At that time, the Commissioners reviewed a draft of proposed Ordinance 67 *Marijuana Facilities*, and voted to send the proposed ordinance to public hearing at the March meeting.

Staff attended a seminar in Marquette on the issue in February. The seminar, presented by two local attorneys, covered employer responsibilities and the discrepancies in the Michigan law as it stands now. The presentation also included financial data that indicated the permits, fees, and taxes acquired from opting in would be significantly lower than expected for each municipality, especially if that municipality did not provide more than one license in its jurisdiction.

Early in February, the City of Marquette was considering opting out, and at the end of February, voted to do so, with the primary reason of waiting to see what State rules and regulations are established in regards to recreation marijuana sales.

Recently, the City of Stephenson opted out, stating similar reasons.

Public Hearing

No public comments.

Commission Discussion

Throenle added that there are a couple more law enforcement issues related to this subject. The first is the drug dogs will have to be replaced as they are trained to sniff out marijuana as illegal, so they would have to be replaced at a significant cost. The second is how to deal with the legalization from an employer standpoint. Also, the benefits to opt in would have to be decided on how the money would be given to the townships.

Throenle also added many more entities across the Upper Peninsula that have opted out since the last conversation of this topic. The primary reason given is they do not know what the rules are and how it would affect their entity.

Milton feels this could affect the commercial overlay district and the number of

houses and businesses that are available to become a distribution center. He feels they should wait until some rules are put in place.

Maynard commented that she has not changed her mind regarding this as she has done extensive research and would like to wait until the rules and regulations are clear. She was primarily interested from the mental health point of view. She does not want the Township to be exposed at this time.

Mahaney commented that the Governor has appointed a work group of sixty individuals from various backgrounds to work on defining the details of this law.

Soucy commented that the Governor has abolished the original board that would be responsible for approving the applications and establishing the rules as it was not fast enough so she created a whole department with experts, and it is expected to move along faster.

Soucy also added maybe the Commission could work on some of the district regulations while the ordinance plays out.

Rhein thought that would be a good idea to wait and see how this develops around the region. Chocoy could adopt some of their ordinances after seeing the pros and cons.

Mahaney felt with the new work group this may move quite a bit faster.

Commission Decision

Maynard moved, and Rhein seconded that after providing required notification to the public, holding a public hearing and considering public input, the Planning Commission recommends that the Township Board approve Ordinance 67 Marijuana Establishments as written.

Vote: Ayes: 6

Nays: 0

MOTION CARRIED

B. Rental Considerations

Staff Introduction

Last month, the Commissioners reviewed and updated a draft version of the proposed *Ordinance 68 Rentals*. Along with that review, Commissioners also reviewed the proposed zoning definitions and additions to the Township *Zoning Ordinance*, and reviewed and updated the *Rental Property Registration* form. The Commissioners voted to send the ordinance and documents for public hearing at the March meeting.

Public Hearing

No public comments.

Commission Discussion

Mahaney stated they have been discussing for quite some time and feels the Commission is comfortable moving forward. He asked if any of the other Commissioners had any other comments.

Maynard stated it was exactly as she remembered and would comfortable with a motion.

Commission Decision

1) *Maynard moved, and Rhein seconded that after providing required notification to the public, holding a public hearing and considering public input, the Planning Commission recommends that the Township Board approve Ordinance 68 Rentals as written.*

Vote: Ayes: 6 Nays: 0 MOTION CARRIED

2) *Milton moved, and Bushong seconded that after providing required notification to the public, holding a public hearing and considering public input, the Planning Commission recommends that the Township Board approve the proposed amendment 34-19-04 to the Zoning Ordinance as written.*

Vote: Ayes: 6 Nays: 0 MOTION CARRIED

3) *Bushong moved, and Maynard seconded that after providing required notification to the public, holding a public hearing and considering public input, the Planning Commission recommends that the Township Board approve the proposed Rental Property Registration form changes as written.*

Vote: Ayes: 6 Nays: 0 MOTION CARRIED

VIII. NEW BUSINESS

A. Ordinance 65 Fireworks Revision

Staff Introduction

At the end of 2018, the State Legislature passed HB 5939, HB 5940 and HB 5941, which changed the criteria for discharging fireworks in the State of Michigan. Three items that are included in the bills are revised dates and times that fireworks are permitted, a revised mandatory civil fine, and a ban on fireworks during burning bans.

Based on this change in criteria, Ordinance 65, *Fireworks* needs to be revised to conform to the new criteria.

Commission Discussion

According to Throenle there are significant changes in the dates and times. Fireworks will be only be allowed Memorial Day weekend, the week of the Fourth of July, and the weekend of Labor Day. The penalty has also been raised to \$1000.00 with half of the money collected going to the enforcing police department. There has also been a change that fireworks cannot be discharged during a statewide fire ban even if it is during a permitted date.

Mahaney asked how a state wide ban is announced. Throenle stated the primary ban information is on the DNR website. The Township follows the DNR website whenever they receive calls. If the Governor declares the ban it would be through the media.

Maynard stated some villages post the notice on their public boards. Throenle commented that we can look into procedures for posting but reminded people of the DNR website or that they can call the office.

Commission Decision

Milton moved, Rhein seconded, that proposed Ordinance 65 Fireworks be presented for public hearing as changed at the April 2019 meeting.

Vote: Ayes: 6

Nays: 0

MOTION CARRIED

B. Proposed ATV and ORV Ordinance

Staff Introduction

At the December meeting, the Commissioners discussed the possibility of opening an ATV and ORV route on the east end of the Township. This route, stretching on portions of Kawbawgam Road, Mangum Road and Sand River Road was presented to the Commissioners. One of the primary purposes of this new route would be to provide legal access to the Camp Four trails in the State forest area, access to the Jeske Flooding ramp off of Sand River Road, and to provide a potential additional route for winter snowmobile traffic.

The Commissioners requested a proposed ordinance be prepared, with the understanding that the DNR would provide mapping and approval for the connection between the current ATV and ORV trail (otherwise known as the former railroad grade) and Kawbawgam Road.

Currently there is no approved DNR trail access into the Lake LeVasseur.

A map was presented at the meeting showing the proposed route.

Commission Discussion

Throenle started the discussion by presenting a map of the proposed route and informed the Commission that the DNR and the local ATV group were in the process of talking with a property owner for an easement along the proposed route. There was no confirmation to date for this access.

Mahaney had asked about signage as he did not see anything in the ordinance regarding signs for the proposed route. Throenle informed the Commissioners that signs were not part of the ordinance. Throenle stated it should be the ATV group responsible for securing signs but he would also talk with the ATV group and the DNR regarding signage. They would have to confirm with the Township that the signs meet their approval. Mahaney stated the signs are a crucial part of this plan.

Throenle told the Commissioners that he would like to look at the language in the ordinance before the completed plan is proposed to the Commission, to insure it works for the Township. Throenle stated he would not ask for approval on the ordinance until all the pieces, including signage, are in place. Mahaney stated he would like assurance that signage will be in place before the ordinance moves along. Chocolay Township Manager Jon Kangas interjected that if the ordinance had Planning Commission and Township Board approval the Township could talk with the Marquette County Road Commission to see their expectations of the routes proposed.

Throenle reminded the Commissioners that this is not a quick process, that there will be many opportunities for the public and the Commission to weigh in on the progress before this ordinance is a reality.

Mahaney asked if the State was a major land owner; Throenle answered not in the proposed route as there are many landowners and they would also have to be notified regarding the proposal. Throenle stated he has had conversations with several of the land owners in the proposed area and they are looking forward to it.

Throenle commented that the ATV group will have to do some heavy education with the vendors on the east end of the Upper Peninsula who send riders to the Township. The riders are given the understanding that the Township has open trails for ATV/ORV and it does not. Riders are given no map or direction.

Maynard stated she does not want to get in the way of recreation opportunities but she also wants protect the residents from unauthorized ATV traffic. Throenle agreed as it puts an impact on the Chocolay Police department. Rhein commented regarding past conversations with the police there needed to be some kind of trail, and he feels this would be a good start. He also commented that there will always be pros and cons no matter what.

Maynard asked if this ordinance was approved would it be hard to go back and change it back. Throenle stated that it would be hard to go back; not impossible but hard to undo.

Throenle asked Chocolay Township Police Sergeant Anthony Carrick to join the conversation. Carrick stated he is not pro ATV but felt this was the least invasive option to see if ATV traffic would work in the Township.

Mahaney asked Carrick if there are many complaints within the Township regarding ATV/ORV traffic. Carrick commented that they do get frequent calls on Trail 417 (Heritage Trail) due to bike and foot traffic in that area. He also commented there have been other complaint calls in different areas but nothing substantial.

Maynard asked if a "sunset" clause would be an option, where the Township could try this for a year and see how it works. Throenle reminded the Commission the

problem with a “sunset” clause would be if it was inadvertently missed, there could be trouble for the Township as it would automatically revert back to being opted out and could lead to big issues. Throenle reminded the Commission that this would be like any other ordinance where it can be examined and modified at any point in time. Mahaney asked if this would go for public comment before approval and Throenle answered it would.

Manager Kangas stated there was a Director’s order stating the only way the Heritage Trail could have motorized traffic outside of the winter months would be for the order to be lifted and the Heritage Authority is opposed to.

Throenle has been animate with the ATV/ORV group that they would not have access to the Township businesses at this point in time.

Maynard suggested, if this ordinance does pass, considering the fines for non-compliance. This would maybe give responsibility to be in compliance. Throenle stated in the current proposal there is a proposed fine; he asked Officer Carrick how this would be enforced. Carrick answered it comes down to discretion. Most incidents are with people who do not know where they are going or do not have knowledge of current laws.

Throenle stated it would have helped if a representative of the DNR and the local ATV group were in attendance at the meeting tonight to give insight to what their plans are.

Manager Kangas commented there are more minimal options available but they do not make the most sense. This option was chosen as the most sensible.

Throenle told the Commission they had a few choices, first being opening the trail at all, second being open the trail partially, or third, wait for the folks proposing the trail to be in attendance and give more information. Carrick stated he felt the ATV/ORV group has wanted this for long enough time and they will be doing what they can to educate people in hopes of expanding their trails in the future. He also stated the Township police are set up to do enforcement for this.

Commission Decision

Rhein moved, and Maynard seconded to table this until we get the DNR and the ORV club in here to give us better background on the proposed ordinance.

Vote: Ayes: 6

Nays: 0

MOTION CARRIED

C. Sign Ordinance Discussion

Staff Introduction

As presented at the last meeting, staff outlined the possibility to the Commissioners of extracting the sign portion of the Zoning Ordinance and putting it into a separate ordinance.

Several reasons exist for this:

- 1) The sign portion of the Zoning Ordinance is approximately 23 pages in length.
- 2) Definitions for this section are not included in the overall definitions of the ordinance.

3) There are some discrepancies in the existing language that cause confusion when interpreting the ordinance language.

For example, the definition of Freestanding sign contains language that states: “May also be referenced as a Pole, Ground, or Monument Sign.” There is no definition for a Monument Sign, but later in section 18.1.H.3.b.5, there is a distinction made between the height of a freestanding sign and a monument sign. The same is true for section 18.1.I.1.a.

Commission Discussion

Throenle stated the sign section of the *Zoning Ordinance* would be easier to tweak or fix if needed if it was its own ordinance. Throenle also commented that as it stands now the fee for enforcement is the fee for the entire ordinance (currently \$200), it could instead be set up as a police power ordinance where it could be enforceable and the fee set up accordingly.

Mahaney asked if the Commissioners were to rewrite the sign section as its own ordinance if it would be shortened. Throenle commented that his predecessor (Kelly Drake Woodward) wanted this section to be defined as possible to cover any possible circumstance. Maynard felt this was achieved after reading the whole section. Throenle also stated he did not want to tweak a lot of the language as it is very thorough, but he would like it to be a bit easier to interpret when residents want information regarding signs.

Throenle stated the key element would be separated as its own ordinance so changes would not impact the whole Zoning Ordinance.

Soucy stated if this was a police power ordinance it would help the Planner abate non-conforming signs. Throenle agreed.

Commission Decision

Maynard moved, and Milton seconded that Section 18.1 Signs be removed from the Township Zoning Ordinance and be put into a separate Township ordinance for Planning Commission consideration at a future Planning Commission meeting.

Vote: Ayes: 6

Nays: 0

MOTION CARRIED

IX. PUBLIC COMMENT

Stephanie Gencheff, 597 Lakewood Lane – Felt it was a wise decision for the Planning Commission to opt out of the retail marijuana until there was more information available from the state for their recommended regulations. She felt the Township could look at Colorado for guidance. Also stated she had given her email for Township information and wondered when she would get information. She was advised it was scheduled to start in May.

X. COMMISSIONER’S COMMENTS

Rhein – None

Milton – Asked if everyone had taken the Recreation survey.

Maynard – Felt she knew more about signs than possible after reading the twenty-three page section for signs in the *Zoning Ordinance*.

Soucy – CUPPAD has an open Prosperous Places place making grant which is an opportunity that communities can apply for. It ranges from \$500 to \$5000 with a one to one match. This is open for application until May 3, 2019. This is for a community public space type project that is very flexible. He said this would be a great opportunity and he does not think Chocloy Township has received one of these grants in the past as a community. He said the Bayou Nature Preserve has gotten one in the past as an organization.

Bushong – Good meeting, good discussion.

Mahaney – When the Commission had previously left the proposed ATV ordinance and moved onto the sign ordinance he did not mean any offense to anyone; he felt the Commission had discussed it and wanted to move on. He does appreciate all comments.

XI. DIRECTOR'S REPORT

There will be a site plan review on the agenda for the next meeting which will be something different and it will be a formal process. Thanked the Commissioners for the great discussion this evening.

XII. INFORMATIONAL ITEMS AND CORRESPONDENCE

- A. Minutes – Township Board, 02.11.19
- B. Minutes – Township Board, 02.18.19, special meeting
- C. Township Newsletter – March, 2019
- D. Minutes – Marquette City Planning Commission, 02.05.19

XIII. ADJOURNMENT

Mahaney adjourned the meeting at 7:56 PM.

Submitted by:

Planning Commission Secretary

Donna Mullen-Campbell

CHARTER TOWNSHIP OF CHOCOLAY PLANNING COMMISSION MINUTES

Monday, April 15, 2019

I. MEETING CALLED TO ORDER BY: Susan Maynard at 6:03 p.m.

ROLL CALL

Members Present: Susan Maynard (Vice Chair), Donna Mullen-Campbell (Secretary), Cory Bushong (Vice Secretary), Kendell Milton, Ryan Soucy

Members Absent: Tom Mahaney (Chair), Don Rhein (Board),

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

II. ADDITIONAL AGENDA ITEMS / APPROVAL OF AGENDA

Motion by Bushong, and seconded by Mullen-Campbell to approve the agenda as written.

Vote: Ayes: 4 Nays: 0 MOTION CARRIED

III. MINUTES

March 18, 2019

Motion by Bushong and seconded by Soucy, to approve the minutes as written.

Vote: Ayes: 4 Nays: 0 MOTION CARRIED

IV. PUBLIC COMMENT

Scott Emerson, 119 Lakewood Lane – Not a fan of motorized recreation but feels the need for the Township to accommodate the people that enjoy the sport. He is in support of Proposal 5 and recommends the Planning Commission write a letter of support for to the DNR for that proposal. He also recommends an addition to the letter stating there would be no further expansion or additional ATV trail be approved by the Township in the future. Also would like the DNR to encourage the snowmobiles to use the ATV trail in the winter as it would take snowmobile traffic off of trail 417 which goes through a densely populated residential area and would give the residents some relief from the snowmobile traffic in the winter.

Jude Catallo, 119 Lakewood Lane – She has been aware of comments regarding ATVs in the Township due to noise, dust, etc. Feels the proposal mentioned before that is approved by the DNR is the best route. Feels this is the most efficient and there would be less irritation for the people of the Township.

Kendall Milton joined the meeting at 6:09 PM.

Public comment closed at 6:10 PM.

V. PUBLIC HEARINGS

A. Proposed Ordinance 65 *Fireworks* revision (deferred to VII.A)

VI. PRESENTATIONS

None

VII. UNFINISHED BUSINESS

A. Proposed Ordinance 65 *Fireworks* Revision

Staff Introduction

At the end of 2018, the State Legislature passed HB 5939, HB 5940 and HB 5941, which changed the criteria for discharging fireworks in the State of Michigan. Three items that are included in the bills are revised dates and times that fireworks are permitted, a revised mandatory civil fine, and a ban on fireworks during burning bans. Based on this change in criteria, Ordinance 65 *Fireworks* needs to be revised to conform to the new criteria.

Staff developed a draft set of changes to the ordinance that are included in the packet, and the Commissioners reviewed the language during the March 2019 meeting. The Commissioners made no changes to the language that was presented, and voted to present the Ordinance for a public hearing at the April 2019 meeting.

Maynard stated that there has been a fair amount of discussion regarding fireworks ordinance in the past and this would potentially be a last opportunity to make comments regarding fireworks.

Public Hearing

Scott Emerson, 119 Lakewood Lane – State has done some good things but there are also some not so good. He recommends the Commission support the revisions but add to the ordinance, for clarification, the years that represent July 5th falling on a Friday or Saturday and go out for a decade at a time. Also would like to see some public service announcements in advance to remind Chocolay citizens of the enforcement and fines. Should also include something regarding they should not be discharged on Lake Superior beaches and waters. The mess of plastic fireworks is terrible after the Fourth of July, would not be as bad if they were biodegradable.

Public hearing closed at 6:18 PM.

Commission Discussion

Milton felt the thirty days in the previous ordinance was excessive and Mullen-Campbell felt listing the weekends ahead that are affected by the ten years was a good idea.

Soucy liked the point made regarding the trash left of the beach but feels this would be hard to enforce. He asked Officer Carrick, who was in attendance, his opinion.

Officer Carrick stated they do try to enforce this, when it is a private residence it can be hard to determine the correct driveway. People shooting fireworks can be fined for the *Fireworks* ordinance along with littering.

Maynard asked Carrick where it is listed regarding the littering. Carrick answered it is basically any public land, which the beach and water are public land. Throenle interjected that it was in Section 5.5 of the proposed language. Carrick recommended the best thing to do would be to call 911 and file a complaint. They answer approximately twenty a month during the warmer weather.

Throenle asked Carrick if it would enhance the ability to enforce the ordinance if Lake Superior was added as part of the language. Carrick stated it would make it clear in that area, when the shooters read it. There is also the Chocolay River and Lake Lavasseur, and the public beaches and waterways, so it would help enforcement in these areas. Carrick also stated from an enforcement standpoint, unless you own at least a five acre parcel of land, it is illegal to light off the bigger fireworks as they spread over a greater distance and would land of other people's land.

Carrick also explained they will generally educate people on the ordinance with a warning and an explanation of the law before giving a citation as there are many out of town people who do not know the laws.

Maynard felt it would be great if there were more specific guidelines. It would be better for the wildlife. Felt if they were going to make changes to the ordinance they could add language to reflect the concerns about debris and waterways.

Throenle made a recommendation for consideration to add the following to Section 5.5 of the existing 65 *Fireworks* Ordinance:

"A person shall not discharge consumer fireworks in such a manner so as remnants from consumer fireworks land on public property, public beaches, public waters or the property of another."

Throenle asked Carrick if Lake Kawbawgam was public or private. Carrick answered that all water, from an enforcement standpoint, in Chocolay is public. The exception may be if a resident has a pond on his or her property.

Throenle cautioned the Commission that if they were to add a decade of dates that the fifth of July is on a weekend to the ordinance, the ordinance would have to be updated every ten years. From the Planning & Zoning scenario, someone would have to remember to do this in ten years. Carrick commented that anything you do to clarify dates is good but this would be something that would be on the Chocolay Police website as a reminder. Carrick suggested they add language that would inform the public that these dates would be made available on the Township

website and/or Facebook page.

Throenle suggested adding a number nine to Section 5 stating “The Township will be responsible to post the dates that fireworks are permitted to be discharged on the Township web site.”

Throenle reminded the Commission and audience that it would be up to the public to know when the burn ban is in effect. There is now a link to the DNR burn ban site on the Township website.

Commission Decision

Maynard moved, and Bushong seconded that after providing required notification to the public, holding a public hearing and considering public input, the Planning Commission recommends that the Township Board approve Ordinance 65 Fireworks as revised.

Vote: Ayes: 5

Nays: 0

MOTION CARRIED

B. Proposed ATV and ORV Road Discussion

Staff Introduction

At the December meeting, the Commissioners discussed the possibility of opening an ATV and ORV route on the east end of the Township. This route, stretching on portions of Kawbawgam Road, Mangum Road and Sand River Road was presented to the Commissioners. One of the primary purposes of this new route would be to provide legal access to the Camp Four trails in the State forest area, access to the Jeske Flooding ramp off of Sand River Road, and to provide a potential additional route for winter snowmobile traffic.

The Commissioners requested a proposed ordinance be prepared, with the understanding that the DNR would provide mapping and approval for the connection between the current ATV and ORV trail (otherwise known as the former railroad grade) and Kawbawgam Road.

Currently there is no approved DNR access into Lake LeVasseur.

A map was presented at the meeting showing the proposed route.

Staff presented the proposed ordinance language and the proposed map route at the meeting in March. Based on discussion with the Commissioners, the largest road block in the process is the issue of signage. Staff contacted Tony Harry, President of Trail Riders Alliance of Marquette County (T. E. A. M.) and Rob Katona, DNR Trails Specialist to see if they could attend the meeting in April. Both are in attendance to answer questions in regards to this project.

Tony sent an email with a link to a Yamaha presentation, which was sent via email to the Commissioners.

Staff contacted the Marquette County Road Commission in regards to the placement of signs along the proposed route. The Road Commission provided information stating that signs were not permitted in the right-of-way along County roads, so

further discussion would have to take place with the Road Commission for ATV / ORV route signs to be posted. The Road Commission forwarded a document for consideration when setting up the trail.

Rob Katona forwarded several documents for consideration for the trail. The documents include a proposed trail, signage documents and a pamphlet from the City of Manistique that provide additional references for the project.

Staff traveled the proposed route, took pictures of identifying locations on the trail, and calculated distances along the proposed route. There are two sets of calculations: set one started at the intersection of the road entrance into Lake LeVasseur and ended at the intersection of Trail 417 and Sand River Road; set two started at the intersection of the road entrance into Lake LeVasseur and ended at the intersection of Kawbawgam Road and M-28. Additionally, there are several areas along the proposed trail that intersect with the North Country Trail.

Commission Discussion

Rob Katona from the DNR and Tony Harry from the Trail Riders Alliance of Marquette County (T. E. A. M.) took the podium to answer questions from the Planning Commissioners. The question and answer session was also opened to the residents in attendance at the meeting.

Bushong asked Throenle if he had done an inventory of how many year round residents were along the proposed route. Throenle answered he had not done year round but did a rough estimate of all the residents would be approximately a dozen, which includes the residences on the Alger County side of the route. There is also one residence at the entrance of the Jeske Flooding on a private road.

Maynard asked clarification on the maps provided and Throenle explained the difference. One being the proposed route Plan7? and the other is the trail recommended by the DNR. Throenle went on to explain the reason there are two different maps is basically the loop back of going to the casino. This was the reason for the new proposal in the first place.

Bushong asked why there were no recommended motions in the staff introduction section. Throenle answered that this is a discussion at this point but the Commissioners can make a motion at any time.

Tony Harry commented that he had started an ATV/ORV club in Marquette County and this would be a loop to get to Camp Four. He has been working to get trails throughout the whole Upper Peninsula and would like to get Chocolay Township involved as it is the only Township not involved with ORV.

Harry is willing to help to get special grants for signs. Most of the trails in the Upper Peninsula are shared trails with snowmobiles. Throenle interjected that the County would not permit signage on the right-a-way of County roads unless the DNR designates it as trail. Currently only standard traffic signs are permitted on County roads. This would affect Kawbawgam and Mangum Roads, Sand River is a bit tricky

as it deals with two different road commissions. Jon Kangas, Township Manager, stated they would allow “No ATV” signs where they are not allowed, but not signs that designate the route.

Harry commented that he takes care of the Silver Creek Trail in Newberry and works with Alger County S.O.R.V.A club and maintain the Two Hearted Pine Ridge Trails. There are many County roads pertaining to these trails and they all have ATV signs on them. Luce County also have them.

Mullen-Campbell asked how long Harry has been involved with ATV/ORV. Harry stated he started in Alger County with the Duck fires in Newberry approximately 2013 but had started a club before that when working with Alger County. He volunteered with the building of the trails and also helped with signs. This is his passion and is also a youth instructor. He has also started his own small safety program. He invited any youth to attend on April 26 at the Deerton schools. Like to get kids involved and teach them the correct rules dealing signs, safety when dealing with horses, walkers, bikers, etc on the trails, and respect for everybody.

Maynard asked how old the Plan 7 was, Harry answered one year. Maynard also asked how old the DNR plan was, Throenle answered shortly before the other one. There was also a Plan 6 but they combined the DNR Plan & 6 to make 7 which has the least upset for the Township.

Maynard asked that the difference between the DNR Plan and Plan 7 as Camp Four is shown with both of the proposed plans. Throenle stated with Plan 7 you can go left or right coming north from Camp Four and head towards the casino or that area, such as Lake LeVasseur instead of having to go around the whole loop of the DNR Plan to get there. Maynard also asked if the casino has weighed in on either one of these plans. Harry commented the casino encourages his club to park in their parking lot from the existing trail. Throenle stated they had not weighed in but the end of the current trail ends at the casino entrance.

Maynard stated the Commission had discussed an easement that would be required and asked if this would this be required for both plans. Throenle stated it would only be for Plan 7 as the DNR Plan would come down Sand River Road and all of those are County roads. Harry’s club is working on getting the easement from the private property owner. Maynard asked if all bets would be off if this easement didn’t go through. Throenle stated this would not be the case as there other options. Most of the trails have been clear cut as it was a ski trail.

Residents in attendance asked if they were included in asking questions/commenting on this subject, Throenle stated it was up to the Commission, and Maynard commented this discussion affects the public in large way so she is inclined to say yes.

One resident asked what the total count of people is along proposal 6 route that would complete the loop versus the count along the Sand River Road route.

Throenle answered roughly 12 properties around the whole loop and 7-8 the other route. Bushong commented there are four residents from Lake LeVasseur and Camp Four Road. Carrick confirmed four fulltime residents and most have ORVs as he has had conversations with them regarding the laws. Throenle stated there is a new property owner in that area that has an ORV and has to trailer his ORV to Camp Four Road to stay compliant. The resident felt there was less confusion with proposal 5 and keep it simple. Throenle stated the confusion comes from the trail connections.

There is vehicle access to the proposed area so an ATV would not be needed to get to the proposed area. The resident also commented it would be ok to use your legs to get to places, it would be better for your health versus riding a machine. Throenle commented he did not intend to imply there was no vehicle access and apologized if it sounded that way.

Carrick commented from a law enforcement standpoint, it would be better to drive the ATV into the LeVasseur parking lot than leave it on a trail to walk in. This would reduce the risk of the ATV going missing.

Another resident asked if the only difference between trails 5 & 7 is the connection from Mangum Road intersection and the west of the casino to which Throenle stated yes. The resident asked what the difference in the mileage between the trails and Throenle commented the distance from the intersection of Trail 417 heading out to the highway down Kawbawgam Road is 6.9 miles.

Throenle stated for the record that he is not an opponent of ATVs in Chocolay Township and this provides access to folks on the Eastern half of the Township with very low impact on an essential neighborhood and it allows for less fuel to be burned. This would be the only trail Throenle would support.

A resident asked to hear from Rob Katona, DNR representative, on their proposal and why it was the best route.

Katona stated his department, of the DNR, is involved to administer and manage the ORV program as a big picture. Trail 417 goes across the entire eastern Upper Peninsula and has traffic that funnels into the Township.

Five years ago the DNR started to look at ways of connecting through this part of the region. Multiple areas have been looked at and there have been obstacles locally with the City of Marquette and Chocolay Township. The DNR wants to figure out the best route, minimizing the amount of impact on residents and the environment.

They looked into County roads in the area and also checked with the Forest Service property which is now under review to be opened up. The route they are looking at utilizes existing roads that are opened up to pretty much every type of ORV, from bikes to jeeps.

Once the DNR gets approvals they would have to submit them into a proposal which is a lengthy process. This includes all the permissions from all the land owners in permit form or letter giving permission of use to the public. A letter of support from

the Township, supporting the proposal they would choose would be great, without the support and permission the DNR doesn't have a proposal. If the DNR gets the support it is reviewed by seventeen reviewers and this could take as long as four months to a year to get a recommendation. When this is approved or denied is when the DNR can start applying for grant funding through the ORV Trail Improvement Program. This funding grants can be used for maintenance, signage, and anything associated with a new ORV route.

Katona stated that while listening tonight it sounds like the signage is important, they had to go back and forth in the past for agreement with the County to permit signs on designated routes. They are not always in favor of this. Other counties have had their own local signs that have been adopted by the Township ordinance and if the County does not allow this then the Township would have to move towards a designated route. This is some of the challenges he sees here if signs are an issue.

Harry may be able to approach the County to get a short term route with some signage while they try to designate the route or if the Township wants to wait for a formal proposal which would be more long term.

Milton asked if the DNR needed a commitment from the Township. Katona answered that a letter of support would go a long way and also some movement to enacting an ORV ordinance if Harry does have a discussion. Katona cannot speak for the County but it has helped in the past if the Township is in support.

Throenle asked when the proposal was put together, Katona answered about 2008, six years ago. If you look at the map from the proposal, Chocoley is now the only one not connected.

Carrick asked if having the trail would help the police apply for funding for ORV patrol, similar to the snowmobile patrol. Katona answered that it would and it goes by mileage per county. Carrick stated it would help if they could get funding and add someone on just for ORVs.

Maynard commented there seemed to have been enforcement issues, in the past, where the Trail 417 ends at the casino as it is difficult for the police to get there for enforcement. Carrick answered that it could be if the patrols have to travel a great distance to reach the troubled area. Funding for a designated patrol officer would help as it would be his job to enforce just the ORV trails.

Maynard had two concerns, one being the property owner who has not provided an easement. She found it hard to offer an opinion before the property gives their opinion. Mullen-Campbell stated the said property was next to State land. Maynard then commented that led to another question if the State would allow another entrance. There are many parts here and still many what ifs. Throenle stated that is why this is mainly for discussion and not decision tonight.

Throenle asked Katona for his opinion on the difficulty for the extra piece being proposed from Trail 417 down past Lake LeVasseur. Katona stated the DNR recently

reviewed the forest roads under Public Act 288 and found there were a number of roads that were not currently on their inventory. Due to the timber sales in the proposed area there is newly formed road that is on the boundary and meets the criteria to be a forest road. There has been consults with the wildlife and forest resource divisions and local staff, they are supportive of using it as a local connector, not a designated route as that would be a different process, but is open to ORV use.

Maynard stated there does not seem to be much activity in that area that would affect wildlife, if the proposal 7 and/ or any activity should happen, what would happen to the wildlife.

Carrick interjected and informed the Commission that from a patrol aspect there is heavy vehicle traffic in that area. He stated there are ORVs, berry pickers, and cars. Carrick stated this route would help with enforcement by allowing the police department to apply for grant money for law enforcement.

Bushong asked if the proposed route 7 is currently supported by the Chocolay Township police and Carrick answered that it is. Carrick also stated that he and the police chief had a long discussion regarding proposal 7 and they both feel this route would cause the least amount of enforcement issues.

Mullen-Campbell commented that she felt it was time to connect the Upper Peninsula. She has relatives that would love to take their ORVs to the casino but can not.

Maynard stated she was glad there was no voting tonight as she would like to hear more from the public regarding this, both pros and cons.

Throenle stated that education is the key, education is the key to everything. He also proposed that the Commission consider another public hearing on this topic in the future. This would allow it to be publicized and inform the public on what is being proposed to prevent accusations of it being "slam dunked". This way the public can give feedback. Maynard commented she got the sense from the Commission that was a good idea.

Richard (Doc) Bohjanen, Township Supervisor, asked to comment as this would come across his desk at some point. He stated that the Township will never own this trail even if the Township approves it; it would be between the DNR and Harry's ATV club. Bohjanen also stated the Township opted out of the County's ORV ordinance, but that was done at a time when the ordinance would have allowed ORVs anywhere in the Township. There was good reason at that time to opt out. He stated that the ordinance would have to be amended and the Township would have to be willing to amend it. He felt there was a simple amendment that would cover some of the public's concerns by stating that the Township would not allow ORVs anywhere in the Township except on Mangum and Sand River Roads, and maybe Kawbawgam Road depending where this would go. He also stated if the Township were to give a letter of consent to proceed down this path, there is a lot of more that has to happen

before this decision comes back. He also told the Commission in order to amend the ordinance all the residents that live along the proposed route would get letters regarding the amendment. The next public hearing would be at such time when the Commission would be looking at rewriting the ordinance.

Maynard commented there is a device and process in place so the Commission does not have to come up with their own suggestion for a public hearing. Bohjanen stated that a public hearing is not wrong but there would be one if the Commission amends the ordinance.

Bushong asked if the Commission could request a public hearing with a draft ordinance. Throenle answered yes. Throenle commented that he had a conversation with the County (missed to put in the staff introduction) about what would happen with that ordinance if the Township would have to anything and the County's answer was no. The explanation for this was Chocoday as a township is opted out unless we write an ordinance as a Township to opt in or ask the County to completely opt us in and remove the Township from the County ordinance as opted out. Throenle stated we are looking at limited access for the ATVs, the proposed ordinance already has the language in it specifically states that "no ATVs allowed except for on designated roads" This would also have a public hearing.

Throenle commented that he felt Maynard was looking for public opinion to help formulate the decision of the Township going forward. Maynard answered yes as she has looked at almost thirty years of conversation on this subject hoping they may not need to "go down this road again". Bushong asked if the draft ordinance could state more specifically so the public knows what they are commenting on. Throenle answered it could, there are a couple ways for this to be put out there. Maynard stated this sounded reasonable. Throenle stated if he had a motion he could bring this language back at a future Planning Commission meeting.

Commission Decision

Bushong motioned, Maynard seconded a "draft" ordinance be presented for the Planning Commission to review and subsequent public comment.

Vote: Ayes: 5

Nays: 0

MOTION CARRIED

VIII. NEW BUSINESS

A. Site Plan Review – Marquette Veterinary Clinic / Animal Hospital Staff Introduction

A formal site plan review has been brought forward to the Planning Commission for new construction of the Marquette Veterinary Clinic / Animal Hospital on the existing site. Removal of the existing structure would be after completion of the new office. This is different from a preliminary site plan review from the standpoint that the Planning Commission has right to approve or deny upon the conditions presented.

Staff has reviewed the plans that were supplied, felt it was a good design, and only had one question regarding the storm water runoff. Pictures were supplied in the packet and discussed.

Commission Discussion

Ken Czapski, architect of the project and Bill Sanders, landscape architect, were present to answer any technical questions the Commission had. Also present was Dr. Brauer to answer any operational questions.

Czapski stated that all the storm water runoff from the roof will be discharging to landscape zones. This means that even through the reshaping of the asphalt paving, it will not be discharging any more than current use.

Sanders showed the Commission, from supplied pictures, where the parking improvements would be and demonstrated where the runoff would be directed toward green space.

Maynard asked what the difference was in the amount of asphalt from the existing building to the new building due to the fact asphalt does not absorb runoff. Sanders commented he did not have the exact quantity but there is more than currently. The existing driveway towards the hardware store will not change as far as runoff goes. Czapski reminded the Commission that the roof runoff will be caught in landscape zones.

Throenle asked about the runoff with the existing building in existence during the construction of the new structure. Sanders commented until the slab is poured, there would be less runoff due to exposed sand but the paving would be the last thing done after the old structure comes down. This should not be much change at all due to sequence of construction. Demolition was estimated to take two days.

Maynard asked how long the construction would take. Sanders answered that they were told once they get approval and weather permits, construction would start in May and be done sometime in October. If it gets too late they would not be paving until the spring.

Maynard commented it was an attractive design, Throenle commented that after reviewing the project, the runoff was the only question he could find as it was well designed. Throenle has worked with Sanders in the past and knows he pays attention to the landscaping.

Soucy asked how well the existing basin handles storm water currently, they have not had any problems and the current design holds the water and snow, this design will not be altered.

Bushong discussed with the Commission his recusal to vote on this as he works for, but does not own, one of the contractors doing a mechanical bid proposal for this project. Throenle reminded the Commission that they would have to vote to allow Bushong to recuse himself and it would have to be an unanimous vote. Throenle

stated if the Commission did not see any conflict they cannot vote to allow his recusal. The Commission discussed this and did not see any conflict and allowed Bushong to vote.

Maynard moved, Mullen-Campbell seconded that the Planning Commission does not allow Bushong to recuse himself on this subject.

Vote: Ayes: 4 Nays: 0 MOTION CARRIED

Throenle asked if the Commissioners had any further questions regarding the proposal. Milton asked what ordinance they were providing the site plan for, is it the new one that was revised. Throenle stated this was not a requirement in our checklist to be provided. Milton felt he had asked for this to be added, Throenle stated he would go back and look into this. Throenle stated tonight's project would not be affected by this and Milton agreed.

Commission Decision

Maynard moved, Bushong seconded, that after staff review and Planning Commissioner discussion, Site Plan Review Application SR 19-03 is approved in accordance with the standards outlined in Section IX of the Zoning Ordinance.

Vote: Ayes: 5 Nays: 0 MOTION CARRIED

B. Preliminary Site Plan Review – Kawbawgam Road Storage Units Staff Introduction

An applicant is working on a proposed storage unit project to be located at 125 Kawbawgam Road. The applicant has requested a preliminary site plan review to determine if this is a viable project for that location.

In reviewing the project, staff has found a number of benefits for this particular location:

- 1) The proposed project will be located on property the owner controls, and will meet all setback requirements for the site.
- 2) The storage units are a "low impact" project. No water or sanitation will be required for this project.
- 3) Lighting for the units will be "downcast", which will limit light emissions in the neighborhood.
- 4) The proposed project will be located in an area that does not affect many Township residents.
- 5) The proposed project will provide additional storage units for Township residents and visitors.

Pictures for this proposed site were included in the packet for the Commissioners to see. Matt Blondeau, owner of the proposed site was also on hand to answer any questions the Commissioners had. Blondeau also owns the apartments on the same side of Kawbawgam Road and has a contract to buy the apartments across the road from the proposed sight.

He plans to rehab the apartments he is currently buying and wants to improve the entire intersection. The traffic should be minimal, the property will be well lit and there will be a security system in place.

Commission Discussion

Maynard was happy to see the plans had down lighting, this is important for the tenants due to the fact there will be multiple buildings. She also stated she felt the area could use more trees.

Bushong asked about the projected timeline and Blondeau stated he would be start as soon as he got approval. He would not want to build late into the year and try to fill them for winter. He would have one filled and build another. These do fill up fast and it would not be a lingering project.

Throenle commented that storage unit facilities have added on all over the County. This is not a business that is “fly by night”.

Milton asked if this was part of the Commercial Overlay and Throenle stated it had recently been rezoned to Commercial. Bushong asked if there were any Zoning conflicts and Throenle stated there was none.

Mullen-Campbell asked if the hundred feet size building would be OK with winters we have and Blondeau stated he planned them north and south was for the wind, so it would blow between the buildings. Blondeau stated it is sand on the site so the drainage should be OK and he will be adding gravel.

Commission Decision

Bushong moved, and Milton seconded that the proposed storage unit project should proceed with recommendations made from the Commissioners to a formal site plan review at a future Planning Commission meeting.

Vote: Ayes: 5

Nays: 0

MOTION CARRIED

IX. PUBLIC COMMENT

None

X. COMMISSIONER’S COMMENTS

Milton – None

Soucy – Great job to the acting Chair.

Bushong – Good discussion all around, felt the ORV comments had an aura around them but glad to see it moving in a direction. Appreciates the understanding on the vet’s clinic as he is not an owner or vested party in the contractor, he is employed by the potential mechanical contractor.

Campbell – Is OK with everything decided tonight. Was sick last month and missed

being at the meeting.

XI. DIRECTOR'S REPORT

Gave brochures for the Citizen Planner course to the new Planning Commission members and urged them to take the online class. Commended Maynard for her job as Chair for the meeting.

XII. INFORMATIONAL ITEMS AND CORRESPONDENCE

- A. Minutes – Township Board, 03.11.19
- B. Township Newsletter – April, 2019
- C. Minutes – Marquette City Planning Commission, 03.05.19
- D. Correspondence - Emerson

XIII. ADJOURNMENT

Bushong moved, Soucy seconded by to adjourn the meeting at 8:20 PM

Submitted by:

Planning Commission Secretary

Donna Mullen-Campbell

CHARTER TOWNSHIP OF CHOCOLAY PLANNING COMMISSION MINUTES

Monday, May 20, 2019

I. MEETING CALLED TO ORDER BY: Tom Mahaney at 6:01 p.m.

ROLL CALL

Members Present: Tom Mahaney (Chair), Donna Mullen-Campbell (Secretary), Cory Bushong (Vice Secretary), Don Rhein (Board), Kendell Milton, Ryan Soucy

Members Absent: Susan Maynard (Vice Chair), Dale Throenle (Planning Director/Zoning Administrator)

Staff Present: Richard Bohjanen (Township Supervisor) and Lisa Perry (Administrative Assistant).

II. ADDITIONAL AGENDA ITEMS / APPROVAL OF AGENDA

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

Vote: Ayes: 6 Nays: 0 MOTION CARRIED

III. MINUTES

April 15, 2019

Motion by Milton and seconded by Soucy, to approve the minutes as written.

Vote: Ayes: 6 Nays: 0 MOTION CARRIED

IV. PUBLIC COMMENT

None

V. PUBLIC HEARINGS

None

VI. PRESENTATIONS

None

VII. UNFINISHED BUSINESS

None

VIII. NEW BUSINESS

**A. Sign Ordinance – Remove from Zoning Ordinance and Revise
Staff Introduction**

Due to the absence of Dale Throenle, Planning / Zoning Administrator, Tom Mahaney, Planning Commission chair, gave a brief overview as outlined by Throenle in his Director's Comments included in the packet materials.

Mahaney reminded the Commission they had voted at the March meeting to remove the sign ordinance section from the Chocolay Township *Zoning Ordinance* and make it a separate ordinance.

Commission Discussion/Decision

There were no decisions made by the Planning Commission but they decided on some recommendations to forward to Throenle to consider for the next Commission meeting. They are as follows:

1. Have a separate section for real estate signs
2. Review the definition of temporary signs
3. Investigate any new signage type or signage material not in our definition
4. Add a note in the very last section stating "This ordinance is not intended to regulate the content"
5. Make everything consistent under "temporary signs" so it is no longer calling out specific content within that temporary sign (ex: Temporary signs are no longer valid XXX days following the purposes for which they are placed)
6. Supervisor Bohjanen stated concerns Throenle has with enforcement of this and other ordinances. Throenle would like them clearly defined as to who would be responsible for the enforcement, the Police or Throenle as the Planning Director. Mahaney would like to discuss this with Throenle when he is back at the June Meeting. Bohjanen stated the reason as to why items get contested. He felt it was due to confusion within the ordinance. Rhein felt the ordinances should be defined so they cannot be disputed.

IX. PUBLIC COMMENT

Stephanie Gencheff, 597 Lakewood Lane – Has never been offended by any sign, has read through the ordinance and feels it boils down to enforcement. Feels there needs to be written clear steps for whoever will be enforcing this ordinance regarding citations, deadlines, and penalties. Wished the Commission good luck with this ordinance as it is a lot of work.

Public comment closed at 7:11 PM.

X. COMMISSIONER'S COMMENTS

Rhein - None

Milton – None

Soucy – Discussed with Commission about the Michigan Launch Initiative. He explained there is a Public Private Partnership (P3) organized by the Michigan Aerospace Manufacturers Association that is considering the Sawyer International Airport in Marquette County as a launch facility for small to midsized satellites. Discussed some of the changes that that could bring to the area. Stated that the community should watch for this as it is a fast moving timeline. He also felt the area is a contender as they are in close proximity with Michigan Tech and Northern Michigan University with potential to attract talent to the region, also this area has decent infrastructure.

Bushong – None

Campbell – None

Mahaney – Felt they gave Throenle direction to go for the Sign Ordinance.

XI. DIRECTOR’S REPORT

Mahaney read the Director’s Report that Throenle had in the packet. One of the items mentioned was the fact Throenle had a conflict with date of the July Planning Commission meeting. He asked the Commission to discuss and make a recommendation on the three options he listed, which were:

1. Hold the meeting on the original date, similar to tonight with his absence.
2. Move the meeting to the Monday after the original date, July 22 at 6 PM.
3. Cancel the meeting.

Throenle stated he, personally, had no preference. With this the Commission made the following motion.

Mullen-Campbell moved, and Rhein seconded that the July 15, 2019 meeting be moved to Monday, July 22, 2019 at 6 PM.

Vote: Ayes: 6

Nays: 0

MOTION CARRIED

Soucy asked for clarification of the alternative ordinance that the Board voted to forward to the Planning Commission at the May 13, 2019 Township Board Meeting. Rhein (Board representative) answered that Richard (Doc) Bohjanen, Township Supervisor had presented an alternative ordinance, at the Board meeting regarding marijuana facilities, that he would like the Planning Commission to consider at a future Planning Commission meeting.

XII. INFORMATIONAL ITEMS AND CORRESPONDENCE

- A. Minutes – Township Board, 04.08.19
- B. Township Newsletter – April, 2019
- C. Minutes – Marquette City Planning Commission, 03.19.19
- D. Minutes – Marquette City Planning Commission, 04.16.19
- E. Minutes – Marquette County Planning Commission, 03.04.19 draft

XIII. ADJOURNMENT

Meeting adjourned at 7:23 PM

Submitted by:

Planning Commission Secretary

Donna Mullen-Campbell

CHARTER TOWNSHIP OF CHOCOLAY PLANNING COMMISSION MINUTES

Monday, June 17, 2019

I. MEETING CALLED TO ORDER BY: Donna Mullen-Campbell at 6:02 p.m.

ROLL CALL

Members Present: Donna Mullen-Campbell (Secretary), Cory Bushong (Vice Secretary), Don Rhein (Board), Kendell Milton, Ryan Soucy

Members Absent: Tom Mahaney (Chair), Susan Maynard (Vice Chair)

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

II. ADDITIONAL AGENDA ITEMS / APPROVAL OF AGENDA

Motion by Rhein, and seconded by Bushong, to approve the agenda as written.

Vote: Ayes: 5 Nays: 0 MOTION CARRIED

III. MINUTES

May 20, 2019

Motion by Bushong and seconded by Soucy, to approve the minutes as written.

Vote: Ayes: 5 Nays: 0 MOTION CARRIED

IV. PUBLIC COMMENT

Deborah Mulcahey, 633 Lakewood Lane – Thought there was discussion on the *Sign Ordinance*, hopes this will not be written as a police enforced ordinance, feels that would be a waste of resources. Also spoke on temporary signs, feels this is offensive. Is glad to see the *Fence Ordinance* will be reevaluated, feels the need for a survey to put up a fence. Spoke on the *Master Plan*, asked why the Township is spending time and money on this again as the Township ignores it when they don't want to deal with it. Feels the gun range should have an applicant's name listed, not a LLC. She has concerns with the size, parking and noise. Also felt there need to be restrooms/washroom facilities due to the lead. She is not for or against the shooting range, would like public health and safety to be considered.

Public comment closed at 6:08 PM.

V. PUBLIC HEARINGS

None

VI. PRESENTATIONS

None

VII. UNFINISHED BUSINESS

None

VIII. NEW BUSINESS

A. Proposed Enclosed Gun Range – Preliminary Site Plan Review

Staff Introduction

An applicant is working on a proposed enclosed gun range project to be located at 2288 US 41 South. The applicant has requested a preliminary site plan review to determine if this is a viable project for that location.

In reviewing the project, staff has found a number of benefits for this particular location:

- 1) The proposed project will be located on property the owner controls, and will meet all setback requirements for the site.
- 2) The enclosed gun range is a “low impact” project. No water or sanitation will be required for this project.
- 3) No external lighting will be necessary; if it is added, it will be downcast lighting over door entries to the range.
- 4) The proposed project will be located in a commercial zoning district; this does not affect many Township residents or adjoining businesses.
- 5) The proposed project is a self-contained project. All noise generated from the range will be contained within the range (see attached range sound test).

In reviewing the project, staff identified a potential parking concern for this particular project. There is limited parking available in the front of the store; however, the range can only accommodate two shooters at the same time, so parking can be arranged to handle the increase.

The owner, Tom Kolinsky, was in attendance at the meeting to answer any questions the Commission may have. Also in attendance was Chocolay Police Chief, Scott Jennings to verify information.

Commission Discussion

Soucy questioned why it was considered a permitted use and why it was listed under commercial uses in the entertainment category as he was not able to find that in the *Zoning Ordinance*. Throenle answered it was due to it being located in the mixed use district and Throenle also explained it would fall under entertainment as it is listed as “such as”, which is an interpretation. It would be the combined call of the Planning Commission and the judgement of the Zoning Administrator. Soucy didn’t feel it was listed and would not be covered under this section. They agreed to disagree on the subject.

Soucy then questioned where the sound test came from and Kolinsky commented that it came from him and is provided as an example of sound decibels from a contained shooting range when they do testing and is not an actual schematic but he can get one for the future if needed. There are different things on a gun such as flash

suppressor on the firearm, type of ammunition used, and length of the barrel that could alter the sound readings. Throenle added the only time you would hear anything would be if the door was open while someone was shooting as the noise would otherwise all be contained. Kolinsky also stated there should be no shooting in the range prior to anyone opening the door to reduce the risk a bullet escaping.

Rhein asked Chocolay Township Police Chief, Scott Jennings his thoughts on having a gun range in the Township. Chief Jennings answered felt it is a good idea as it would be contained. He felt it would be better than someone shooting in a gravel pit. He also felt the owners have researched it and are doing it right. Chief Jennings also felt the decibel numbers were pretty accurate, and he does not feel this would impact animals next door. He also commented it would be a good fit with the gun shop. Milton agreed.

Throenle reminded the Commission this is not an approval of a plan, but an approval of a concept.

Rhein asked what the plan was for the disposal of the lead. Kolinsky answered that the factory has specific guidelines for when to change out the self-contained filtration system. Because lead dust is a concern, there are HEPA filters that take in clean air and filter outgoing air. Kolinsky also explained there are deflectors that deflect the lead into a bucket made of ER500 steel that decelerates the bullet and drops it into the bucket. Once the bucket is full it gets sealed and there are qualified companies that come and buy it.

He also stated there is access to a restroom/hand washing facility in the gun shop and the range would never be open unless the shop was open due to monitoring. There will also be a range officer on sight when the range is open.

Bushong asked for confirmation of the size as there seem to be discrepancies with the information provided. He wanted Kolinsky to confirm the dimensions.

Soucy reminded the Commission he was comfortable with everything except the procedure that this would be covered by the permitted use as stated earlier. Throenle explained when the mixed use language was written, it was written with intent this would not be an all-inclusive list, as there would be items in the future that would not have been thought of. This was the specific reason for "such as" in the ordinance.

Throenle stated this would be a lengthy process to change the *Zoning Ordinance* to reflect this type of change for every business type, as it would have to go through a couple readings with the Township Board and that would take a minimum of four months.

Soucy feels this would set a bad precedence; this could set the Commission up for challenges in the future as it is not identified in the *Zoning Ordinance*.

Kolinsky asked if the issues could be cleared up at a different time as he is under some time restraints.

Throenle asked for clarification to the vote, and asked if the Commissioners were telling the proposed owner that his plan would be delayed if he came to the Commission with a formal site plan, as the owner would like to know this before he spends \$300,000 on his proposed project. Rhein stated Soucy has good points regarding the *Zoning Ordinance*, he has a 3-2 vote and we also have two people missing from the Planning Commission this evening.

Kolinsky informed the Commission that regardless of what is thought there is not a wide margin on money made in firearms and there is fierce competition with stores such as Gander Outdoors, etc. This is an attempt to continue to do business in Chocolay Township and he would be taking an entrepreneurial risk.

Supervisor Bohjanen added that when they (the Planning Commission at the time) made the decision in multiple use overlay zone they went through a chart of 450+ uses and made decisions which should be in each of the categories of prohibited, permitted, and conditional. When doing this, it was decided they could not anticipate everything that might happen. This is the reason for the “such as”. He said you can reinvent the wheel with any conflict that may come up or use some common sense. Chocolay *Zoning Ordinance* language is set up so the Zoning Administrator uses the judgement to determine if the subject is applicable.

A resident asked to speak, Mullen-Campbell gave permission, he questioned if this could be considered a sportsman’s club. Just a thought if this would alleviate the zoning questions. Soucy answered he felt this was not a condition the Commission could put upon the applicant and felt they could not “trade” this, but felt it was a good thought.

Soucy asked about if there could be another interpretation by the Zoning Board of Appeals and Throenle stated it would still be another delay as the agenda for June had already been set.

Commission Decision

Milton moved, and Rhein seconded that the proposed enclosed gun range project should proceed with recommendations made from the Commissioners to a formal site plan review at a future Planning Commission meeting.

Vote: Ayes: 3 Nays: 2 (Rhein, Mullen-Campbell) MOTION CARRIED

B. Zoning Ordinance – Fence Language Discussion

Staff Introduction

When issuing fence permits to Township residents, there are discrepancies between neighbors when looking at the length of fences between properties.

There are four concerns with the current language in the Zoning Ordinance:

- 1) The location of the fence in relation to the front of the house
- 2) The distance of the fence from the lot line

- 3) Lack of a survey requirement for determining where the fence can be placed on the property
- 4) No application fee or inspection for properties in the AF (Agriculture Forestry) district versus the other zoning districts.

Also in question was if there should be a length for fencing and should vegetation considered as fencing. Staff is looking for clarification for this language from the Commissioners.

Commission Discussion

Soucy felt item #4 was originally intended because of the Right to Farm Act, where agriculture buildings and property didn't have to be inspected. Chocolay's AF district also includes residential houses and he feels that the fourteenth amendment in the Constitution has the equal protection clause in it. This states that all property owners in similar situations should be treated equally under the law. He feels if it is continued to be enforced this way for residential properties there could be a potential issue by treating those properties different from other residential properties in other districts of the Township. Soucy did state he feels an exception should be made in the case where fences are being kept for livestock, etc.

Rhein feels the length should be a requirement. He also felt there should be a survey done if it were to be put on the property line to avoid disputes. He does see the problem of maintenance doing it this way, if the neighbors are in a dispute.

Throenle interjected that he had included language in the materials he gave to the Commission. There is a section stating an abandoned or unmaintained fence shall be removed. He could spend his forty hour week driving around the Township determining the condition of fences. This can lead to subjective interpretation regarding the status of the fence.

Rhein stated it was probably put in there as an authority standard. Throenle answered that it could lead to him being the bulldog in a property dispute. Mullen-Campbell asked if there are issues like this in Chocolay and Throenle stated there were.

Milton felt if surveyors were involved the property owners could lose their garage, meaning sometimes the lot lines aren't where one thought they were. Soucy asked at what point would the adverse possession rights take effect due to the survey results. Throenle answered it has come up over the years when a property owners had a survey done when they want to sell their property. Bushong stated he was in favor of a survey before construction. Soucy agreed and after that it would be a civil issue and not the Township's responsibility.

Throenle stated the first thing he tells residents applying for a Zoning Compliance Permit is they must know where the lot line is because he does not and he has no way of finding it without a professional survey.

Mullen-Campbell asked if plat maps helped and Rhein stated no, even the survey sticks in the middle of the street are not even close. Bushong stated two different surveyors could put them in different locations.

Soucy felt the section "I" could be amended to help with the condition of fences. Throenle asked how to determine what is "good condition/ well maintained?" He also stated there are many loop holes in the maintenance section. Throenle stated the biggest concern is the placement of the fence from the lot line as to maintenance.

Bushong stated this is similar to the "such as" in the previous agenda item. Sometimes an ordinance can work two ways and is subjective. It may need to be reviewed by a committee and voted on, not by a single arbitrator determining if it is good or bad. Disrepair and public safety are some issues to consider when looking at the condition of a fence.

Soucy stated that some communities have a blight committee that looks at these issues. Bushong stated the committee would protect the individual.

C. Master Plan Discussion

Staff Introduction

The current Township Master Plan is due for an update. To begin the process, discussions on direction for the plan must take place in order to define the process that will be presented to the public.

The Master Plan, 2015 Edition focused primarily on redefining the Township into fourteen character areas. Those areas were referenced primarily in Chapter 7 of the plan, with the intent of establishing new zoning districts that would be based on the character of the different districts. (see the attached extracted pages from Chapter 7, Appendix L and Appendix M in the Commissioner packet).

Before staff can begin updating the plan, staff requests a direction from the Commissioners in relation to the character area / zoning district discussion – should the direction toward setting up character areas as defined in the existing plan continue, or should the direction be to stay with the current zoning districts that are established.

Either way, the plan requires an update. Staff would prefer to have the direction for the plan prior to beginning the update process, so that the direction reflects where the Commissioners would like the plan to go.

Commission Discussion

Throenle started by presenting the Commission with a map showing the fourteen character areas. He stated there are nine zoning districts, seven are referred to in the *Master Plan*, two that are not are PUD and municipal properties.

Kelly Drake Woodward designed this plan so the character areas were to be based

on the people and the activities in those areas. Her ultimate direction was to have those areas rezoned.

Throenle explained that in 2017 the Commissioners looked at this and wanted to leave the character areas alone and work on the zoning map. Throenle added he would have no problem mapping the character areas with the current zoning if that is the direction the Commission would want to go.

Soucy asked how many future zoning districts there would be and Throenle stated there are fourteen character areas which translates to eleven future zoning districts. This would increase our current zoning form seven to eleven.

Throenle stated in doing this they would have to take the map apart by parcel and define the districts, as was done with the mixed use district language. If this is what the Commission chooses Throenle said he will update the *Master Plan* with this in mind or he would extract that language out if the Commission chose not go that way. Throenle stated either way it would be a lot of work.

Milton stated it would have to be done as a group as it is part of the *Master Plan*, Rhein agreed, but was unsure of the best way to go as both ways would be a challenge.

Soucy felt legally the zoning in a community must be based on a *Master Plan* according to the *Zoning Enabling Act*. He feels they should not go against the *Master Plan*. He does see how it is complicated, he likes the direction it was going but it would be a lot of work and could result in many non-conforming uses. Maybe simplify it by combining some of the districts. Bushong and Mullen-Campbell agreed.

Throenle stated that is what he needed as far as a direction. He will start with the language for the updates in the *Master Plan*. In respect to Soucy's comments, Throenle stated if the Commission will be doing an update, he will want to make sure the Commissioners follow the updates in future decisions.

Throenle stated he will take Commissioner comments under advisement and come back with the start of the *Master Plan* at a future Commission meeting.

IX. PUBLIC COMMENT

Stephanie Gencheff, 597 Lakewood Lane – Stated when Chocoday Township surveyed the residents in 2010 & 2013 the reasons they chose to live in the Township were rural character, nice neighborhoods, and liked the community. Only 3/10 of one percent chose to live here for proximity to businesses, keep that in mind while updating the Master Plan. Feels fences belong on property lines and the setback for fence maintenance is nuts. Gun ranges are not considered a zoning issue in the rest of the country, it is a special use permit or conditional use and the applicant should not have to wait for the Township to redo the Zoning.

Deborah Mulcahey, 633 Lakewood Lane – Stated the size concerns for the shooting range were taken from the information provided in the agenda materials and it doesn't

match up to the plans. The lead containment from an air perspective is only 90-97% contained and she feels this is a concern for people visiting the surrounding area of the proposed project. Does not feel there should be an expedited review for this. Still is confused on the owner/landowner of the proposed gun range, feels it is contradictory.

Public comment closed at 8:06 PM.

X. COMMISSIONER'S COMMENTS

Rhein - None

Milton – Would like to see on all future site plans the zoning of any adjacent lots.

Soucy – Feels the Commission probably heard enough from him tonight. Great job to Donna on being Chair.

Bushong – Found the meeting interesting as always. The controversial items seem to be where you learn the most and get the best perspective. Although we agree to disagree at times, it is probably the best learning experience that challenges us on how we think of things in the future.

Campbell – Agreed with Cory & Ryan. Learns a lot at every meeting, careful of what she says and listens very much.

XI. DIRECTOR'S REPORT

Reminded the Commission that the July meeting is on the 22nd, not the 15th as previously scheduled. Each Commissioner has been given a document for training, and he told the Commissioners there are limited funds for this but if anyone wants to attend to come and talk with him. The Township would cover as much as they can but if everyone went there would not be enough in the budget.

XII. INFORMATIONAL ITEMS AND CORRESPONDENCE

- A. Minutes – Township Board, 05.13.19
- B. Township Newsletter – May, 2019
- C. Minutes – Marquette City Planning Commission, 05.07.19
- D. Minutes – Marquette City Planning Commission, 05.21.19
- E. Minutes – Marquette County Planning Commission, 04.03.19
- F. Minutes – Marquette County Planning Commission, 05.01.19 draft

XIII. ADJOURNMENT

Bushong motioned, Rhein seconded, to adjourn the meeting.

Meeting adjourned at 8:11 PM

Submitted by:

Planning Commission Secretary

Donna Mullen-Campbell

CHARTER TOWNSHIP OF CHOCOLAY PLANNING COMMISSION MINUTES

Monday, July 22, 2019

I. MEETING CALLED TO ORDER BY: Tom Mahaney at 6:00 p.m.

ROLL CALL

Members Present: Tom Mahaney (Chair), Susan Maynard (Vice Chair), Donna Mullen-Campbell (Secretary), Cory Bushong (Vice Secretary), Don Rhein (Board), Kendell Milton, Ryan Soucy

Members Absent: None

Staff Present: Dale Throenle (Planning Director/Zoning Administrator), Scott Jennings (Police Chief), and Suzanne Sundell (Deputy Clerk).

II. ADDITIONAL AGENDA ITEMS / APPROVAL OF AGENDA

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

Vote: Ayes: 7 Nays: 0 MOTION CARRIED

III. MINUTES

June 17, 2019

Motion by Bushong and seconded by Mullen-Campbell, to approve the minutes as written.

Vote: Ayes: 7 Nays: 0 MOTION CARRIED

IV. PUBLIC COMMENT

Deborah Mulcahey, 633 Lakewood Lane – spoke on the fence ordinance not being included in old business and the need to require surveys before they are installed. She also spoke on the proposed storage units in the commercial district and the need to keep in mind vegetative buffers and lighting. She has concerns regarding the proposed enclosed shooting range (size, zoning, safety issues such as lead, signs that she feels are in violation, parking).

Scott Emerson, 119 Lakewood Lane – spoke on his concerns as a toxicologist regarding the proposed enclosed shooting range (lead), and also language that is found in the Zoning Ordinance regarding this. He feels that the applicant and Planning Commission received an incomplete review of the zoning laws. He feels that the shooting range is in conflict with the Township's zoning ordinance, quoting Section 1.5 of the Zoning Ordinance and Ordinance 61 – Firearms. He also spoke on details of lead exposure in firing ranges.

Mark Maki, 370 Karen Road – spoke on (1) the proposed storage units on Kawbawgam

Road – feels there should be a conditional use issued on this, (2) his concerns on the proposed shooting range, zoning ordinance regarding contractors yards.

Public comment closed at 6:17 PM.

V. PUBLIC HEARINGS

None

VI. PRESENTATIONS

None

VII. UNFINISHED BUSINESS

None

VIII. NEW BUSINESS

A. O'Reilly Auto Parts Site Plan Review

Staff Introduction

Planning Director Throenle introduced the Site Plan review application and plans. A courtesy notice was sent to all properties within 500 feet, with no comments received back. The property is commercially zoned. Throenle indicated that the easement on the south side of the property needs to stay open, as this provides access for the building that was moved behind the property and the apartment that is behind the motel. This easement was part of the site plan, and was granted as part of the sale of the property. He introduced Paul Engel, Anderson Engineering (this was via a phone conversation), which is the engineering firm that drew up the plans.

Commission Discussion

Mahaney asked about the timeline for the project. P. Engel stated that pending approval, they would then move forward with the permits that will be needed by the County, and MDOT approvals; they have obtained the services of a water installer for new wells. Everything depends on when approvals come in. Throenle questioned what the target date for completion of the entire project. P. Engel stated once they have all the permits, O'Reilly is ready to commit to the 90 day construction cycle. If this does not happen before winter, the project would proceed once the road restrictions are off in 2020.

Soucy questioned snow storage and what the plan for that was. P. Engle indicated there are large landscape islands to the right and left of the driveway, an area in front of the store that could be used, and to the left of the building. Mahaney indicated there appears to be vegetation in the front. Mahaney also stated that the big concern would be not blocking the views. P. Engel indicated there was a large area to the northwest that could also be used. Mahaney asked about curbing – Engel indicated it was a mountable curb. P. Engel felt they could work with staff to relocate the plantings that would be in the way. Soucy asked about the shared use and maintenance agreement for the easement. Throenle stated this is already done, as it

had to be in place before the sale was closed. MDOT has signed off on this, based on the easement.

Commission Decision

Soucy moved, and Rhein seconded that after staff review and Planning Commissioner discussion, *Site Plan Review Application SR 19-43* is approved in accordance with the standards outlined in *Section IX* of the *Zoning Ordinance*, with the following conditions:

1. Landscaping on the northwest side of the building be moved to accommodate snow storage.

Vote: Ayes: 7 Nays: 0 MOTION CARRIED

B. Blondeau Storage Units Site Plan Review

Staff Introduction

Throenle introduced the site plan review for the storage units at 125 Kawbawgam Road. The storage units will sit on 1.93 acres. It is zoned commercial and has an overlay zoning of mixed use. Throenle pointed out Kawbawgam Pocket Park, the area where the storage units would be located, and the apartment building that sits on the parcel on an aerial view of the project area. The storage units have two functions – one for storage for the residents of the apartment building, and the other is to provide public storage. There is a tree buffer along the Pocket Park. The only question received was which way the storage buildings would face. Throenle indicated that all four units would not be going up at the same time. Mahaney asked about the time frame.

Commission Discussion

Matt Blondeau, 156 West Park Street – he is the property owner, and has recently bought the apartments across the road from the proposed storage units. He would like to build two of the units this year, with the remaining two being built next year. He would like to improve look of the whole area, and they do have plans to make things look nice. He would like the entrance to Kawbawgam Road look better. Each building would have 20 units.

Mahaney asked if this was a definitive time frame. Mahaney asked Throenle if it was acceptable to have this stretch over a two year period. Throenle indicated that it was, but if the Commissioners preferred, they could approve two units now, and have Blondeau come back to have the other two units approved when he is ready to put them up. Mahaney questioned the comment on the use of the land. Throenle explained that this is an interpretation and how they are using the storage units on that property. Mahaney was also concerned that there would be two different uses on one parcel. Throenle indicated that this would not be the first time for two different businesses to be on one parcel, and gave examples.

Blondeau indicated that he thought since this was in a mixed use district, that the intent was to be able to do this.

Maynard questioned that of the 20 units in each building, there was only one unit in each building that is ADA accessible. In the general population, 12% of the population are physically disabled – she felt two might be a better number. Blondeau indicated that would be acceptable.

Mahaney questioned the driveway. Blondeau indicated that at this time, there is an easement that has a circular driveway that is there. Rhein wondered about the upkeep of the driveway with the increased traffic that would result. Blondeau indicated that it is already being maintained, and this would continue.

Soucy felt there was not a fully complete site plan for review – they have the floor plan, the structural assessments, and a survey, but not all the things that are required of a site plan such as the easements, grading and drainage, landscaping, and the driveway are not shown in the plan. Throenle stated that the drainage is actually going into the gravel at this time, and the snow storage is shown on the survey. Throenle indicated he didn't see the need for such detail when it's only four buildings on a parcel. Soucy asked how to make the distinction on how much of a site plan needs to be submitted and questioned what is considered a complete site plan. Throenle indicated that there has been much less detail submitted to the Planning Commission, and those have been approved by the Planning Commission. Mahaney agreed with Soucy, and would like to see a definitive driveway – there is no architectural notation showing where it is going to be. Mullen-Campbell stated that this is a low hazard storage unit, and they are all over the place. She asked, why be so fussy??

Throenle indicated that it is identified on the survey as having ingress and egress. Possibly the detail of this could be a condition. They would be using the existing driveway. There is driveway actually showing going over to the units, but that could easily be shown.

Mahaney asked if Throenle felt there was a possible conflict of land use. Throenle stated he did not, based on his interpretation. Throenle explained there are already multiple parcels in the Township that are already running multiple businesses on a parcel. Throenle indicated that this was also a mixed use of the property, as some would be for the people renting the apartments, and the rest would be for the general public. Throenle feels that it is an extension of what is already there.

Mahaney questioned a possible lot split. Throenle stated he would have to look up the specifications on that, but he would assume that there is enough room to do that, but that would come back to the project having a separate entrance, unless an easement is granted across the current property to the new property. Milton indicated that if you split it, there would need to be another 30' setback. Throenle indicated that he already has the 30' setback from the road. Blondeau felt that it would be better if the lot could stay together, so that in the future in would all flow

together. Mahaney felt this should be explored so the Commission does not run into a conflict with the division of lots. Mahaney indicated that he is not opposed to the project, but wants to make sure that they are doing the right thing. He also felt that the site plan needs to be more detailed.

Milton asked about zoning – Throenle indicated it was a commercial lot. Milton indicated that you do not need to have 30' setbacks on a commercial lot. Throenle indicated that you do from the road, but the sides would be 5'.

Throenle indicated that this would not be purely commercial, so wondered at what point you consider them separate. Throenle indicated that the Commission could ask Blondeau to explore this and then come back to the Planning Commission. Mahaney felt this was a good compromise, so they are not setting any precedents.

Mullen-Campbell asked if they should approve it with conditions. Throenle indicated that he feels it should be tabled with conditions and work out details and allow Blondeau to explore the different scenarios.

Milton questioned if the only problem was if Blondeau was going to split the lot. Soucy indicated that there is also the identification of the driveway. Milton feels that it is already identified. Mahaney stated he did not think it was clear – there's lines on the site plan, but there is nothing definitive there. Mahaney would like to see more detail and have it definitive. Rhein stated that usage of the property needs to be worked out. Mullen-Campbell asked what is involved in splitting a lot. It was stated there is a lot of work involved in splitting a lot. Rhein indicated they would need to get a survey, bring it in to the Zoning Administrator, and hire a lawyer to draw up the plans. Mullen-Campbell stated that the summer is short, as it is August already, and that the plans look good to her.

Throenle asked Blondeau when he was planning on getting started. Blondeau indicated that he would like to get going the next week, if approved. Blondeau indicated that there is not a lack of a driveway. Maynard questioned that if there are two issues – splitting the lot and where the driveway is supposed to be – if the Commission could set aside the splitting of the lot, and ask Blondeau to show the Commission specifically where the driveway is going to be, would he have to wait for another meeting to do that.

Throenle indicated Blondeau would have to wait for another meeting, as the Commission is requiring a site plan drawing with the lines on. Blondeau indicated that in aerial shots, you are able to see the existing driveway. Throenle indicated that the Commission was concerned with is how traffic will flow.

Soucy indicated the site plan is the legal agreement with the developer on how the applicant is going to develop it. For consistency, he feels this is an important piece of the development and should not be allowed to slide. Milton felt there should be no question on where the driveway is going to be, as everything around there is sand. Bushong asked if there could be a condition added to the motion concerning the

driveway being connected between building one and two.

Rhein suggested that possibly the motion could include a condition that Blondeau must use driveways one and two, and that way he would not be able to move existing driveways.

Mahaney asked if the Commission would have approved the O'Reilly if there had not been a definitive driveway. Mullen-Campbell indicated that one was right along the highway. Milton asked what driveway they would be using. Mahaney indicated that it was spelled out in the site plan that they had an easement. Mahaney indicated that it does not have to have that kind of detail, but by looking at Blondeau's site plan, he can't tell where you would be pulling in and out of. Milton indicated that Blondeau has an easement also. Mahaney questioned if Milton could see the difference – in O'Reilly's you have a definitive driveway, and on Blondeau you are just saying that it's there somewhere.

Maynard questioned if it made a difference if a business was in the heart of Harvey or if it was something more rural. Bushong felt that the type of business should be taken into consideration – a large store should have a more detailed site plan, whereas the storage units would not necessarily need that sort of detail. He felt that the storage buildings would be the best use of that property, and it would be a shame if a minor detail put a stop to the project. Bushong felt that the plans were fairly well put together, although not extremely definitive, but they are in line with the project that Blondeau is asking to do. Mahaney stated that the parcel is zoned commercial, and wondered if we were going to start doing spot zoning since the project is rural. Bushong asked if it was zoned commercial, or mixed use. Mahaney felt that everyone needs to be held to the same parameters. Milton questioned Mahaney on how detailed we were going to get.

Throenle indicated that he is hearing some hesitancy in the Commissioners on approving this, regardless of if the driveway is there or not, so he would recommend tabling the request so that can be ironed out, and bring it back to the Planning Commission at the next possible opportunity. The concept is that the driveway will be drawn in to show the use and the flow of the driveway. Throenle indicated that he will take the hit on the driveway scenario.

Commission Decision

Mahaney moved, and Soucy seconded to table the Blondeau Storage Building project until there is further information on a site plan review for a designated driveway and the split of property is addressed.

Vote: Ayes: Mahaney, Bushong, Soucy, Rhein

Nays: Mullen-Campbell, Maynard, Milton

MOTION CARRIED

C. Lake Michigan Armory Enclosed Shooting Range Site Plan Review

Staff Introduction

Throenle indicated that this concept was brought before the Planning Commission at the last meeting, with the recommendation to put a Site Plan before the Planning Commission at this meeting.

The applicant is looking to move a fully enclosed gun range to the site (storage container). This would be behind the existing business (Lake Michigan Armory). Throenle has received one comment from the business next door (the veterinary clinic) that they had no objections to the shooting range. Throenle explained where the shooting range would be located and where the parking would be. There are large trees that buffer from the storage units in the back, and vegetative / fence buffers on each side. There would be a maximum of three people that could actually be in the container at the same time (2 shooters and one shooting range officer). The range would not be open unless the store was open and there was a shooting range officer available.

Tom Kolinsky from Lake Michigan Armory was on hand to answer questions.

Commission Discussion

Soucy questioned how we would know that those conditions would be maintained if we did not have it as a special condition. Kolinsky indicated that they have legal requirements that there be someone on site, either in the shooting range or through the use of cameras.

Mahaney questioned what the direction of the shooting would be – Throenle indicated it would be towards the storage units. Soucy questioned where the storage units were located, and Throenle indicated that they were situated behind the buffer of trees. Soucy indicated that the site plan does not identify buildings on the adjacent properties. Throenle indicated that it does in terms of the staff report and the site plan review.

Mahaney stated that he was absent at the last meeting, and had a few questions that may have been brought up at that meeting. Throenle asked that Kolinsky to give a little detail on the shooting range. Mahaney asked that he be given a few minutes before Kolinski could speak.

Mahaney questioned where a shooting range would come under permitted principle uses or conditional uses. He does not see where it fits in the Zoning Ordinance. Throenle indicated that his interpretation is that it falls under “Amusement and Entertainment”. Throenle stated that this comes back to the definition of amusement. Amusement is a wide open term. Throenle indicated that entertainment depends on the individual. Throenle asked if this was anything other than a gun range, would the Commissioners still have the same questions. If the answer is yes, Throenle felt the Commission would need to go back and tear the Zoning Ordinance apart. Throenle asked if every piece of amusement needs to be defined. Soucy felt that it is

subjective to what it is, and the Planning Commission does not have discretionary decision making power in site plan review, so you have to abide by the ordinance. That would suggest that it should be sent to the *Zoning Board of Appeals* for interpretation. Soucy indicated that at this point, that does not say anything about the appropriateness of use, as he is not looking at that at the moment. Soucy stated that suggests that there is a need to follow the Ordinance and follow procedures. Mahaney feels it falls under a special use. Throenle indicated that his interpretation of the Ordinance disagrees with that. He feels that whatever is contained in this storage unit (model trains, RC controlled cars, archery range, shooting range) are not defined in the Ordinance at this time. He asked the Commissioners if they wanted to go down that path, and tear the Ordinance apart, and try to come up with every type of use that there is. In Throenle's interpretation, "other places of amusement" was to cover that – we do not define every retail store that comes into the Township. Throenle indicated that amusement is a term that defines a whole array of what people consider amusement.

Soucy suggested that the applicants should meet with the Zoning Administrator early in the process when they have a use that is not identified, and work through the correct channel of getting the use added on a case by case basis. Soucy feels that if this is something the applicant truly wants, another three months added to the process is not out of the realm of normal things that people do with zoning in communities across Michigan. Throenle respectfully disagreed, as this would make it very difficult for entrepreneurs that come up with ideas.

Maynard is concerned about the public health and safety of the residents, and the Planning Commission is tasked with providing this, and with this particular use there is the concern of lead exposure, and the idea of the lead being transferred from clothing to the home. After the debacle in Flint, she is particularly sensitive to the issue of lead exposure, and while it may be possible to convince her that there may be measures possible to extract the lead from the container, she is not convinced that is where the problem stops. Throenle felt there was a much greater risk of being exposed to lead in an outdoor shooting range, than in something that is self-contained with safety procedures in place. Throenle indicated that with an outdoor shooting range, you are shooting into a bank of dirt. When it rains, that lead is now going into the aquifer. A second instance is shooting long range, missing the embankment or shooting in the air, and having no idea where it comes down. He feels there is a much greater threat with outdoor shooting ranges. Throenle laid out a demonstration of fishing supplies, all of which contain lead. Throenle indicated that he could open a fishing store in the container, and make lead objects. Lead is used for steelhead fishing, pointed out lead-head jigs that come in pure lead form, and he is touching that lead when he takes it out of the container. He can take lead in a melting pot, pour it into a form, and make those same sinkers. These can be purchased from any fishing store anywhere. His point was that he could buy any of these supplies anywhere, and that lead as a whole is not just contained to people

that shoot. Throenle indicated he would have more damage from the fishing supplies, than from going to a shooting range. Millions of fishermen do this every day.

Maynard indicated that as a founding member of the Chocolay Raptor Center, she has seen the effects of lead poisoning, and seeing eagles die of lead poisoning, that the example presented by Throenle shows the perversity of lead as used by all types of sportsmen.

Mahaney stated that he feels Maynard is correct, and that she is looking out for the community. Mahaney indicated that he can go to the store and buy them or refuse to buy them. Throenle indicated that you also make the choice to go to a shooting range and shoot. Throenle stated he was trying to show a point that people crafting with lead (whether it be fishing, or stained glass lead frame mosaics) are breathing the fumes. Maynard stated that does not make it healthy. Throenle asked if that meant that any business coming into the Township that would potentially sell products made of lead (such as a fishing / tackle store) would be denied. Throenle stated that he is a conservationist and sportsman, and respects what Ducks Unlimited did with steel shot. He also understands that he, as a fisherman, has a responsibility, even though it does not stop him from fishing. When he walks into a shooting range, he knows the risk. He does not feel that we as a Township can tell people to not take that risk. Maynard indicated that when you leave the shooting range, you will not be leaving naked. Throenle stated that on various occasions he has watched people leave the restroom without washing their hands, and would be more at risk of shaking hands with that person. Maynard indicated they would have to agree to disagree.

Mahaney also questioned what type of weapons would be discharged, maximum caliber, and required inspections. He feels that this requires a separate ordinance for this type of business. Under Indoor Theatres and other Amusement, Mahaney does not see how this would be the same as an indoor theatre – he feels it would suggest things like an arcade or bowling. Throenle indicated that his mind set would suggest a shooting range. Mahaney indicated they would have to agree to disagree, as it comes down to interpretation. Mahaney feels that this is so open-ended.

Tom Kolinsky, Lake Michigan Armory, stated that the caliber is defined in “self-contained”. He could have a .50 caliber shot in this container if he chooses to line it with AR 500 steel, which is not penetrable by .50. He is choosing to go with the largest caliber allowed being a .308 rifle, and rifles would only be allowed for sighting in, and will be regulated. The company takes the liability if a bullet escapes, which is why you line the container with appropriate AR 500 steel.

Soucy questioned the liability - if that is based on law. Kolinsky stated this is common sense. The person with anything higher than a .308 would not be able to get in. Soucy indicated that there is no condition that the Planning Commission can hold him to if a bullet escapes. Kolinsky stated if someone breaks in, there is an

alarm system. Throenle indicated that there would be a range officer to oversee what someone is shooting in the container, and that person would know what can and cannot be shot in that container.

Soucy feels that the fact the Planning Commission is having this discussion suggests that this use has additional health and safety consideration beyond what is normal for a typical entertainment use, which suggests that this needs to be considered through a different process – either update the ordinance or send to the *Zoning Board of Appeals* for clarification.

Throenle indicated that no matter what the business, there are certain liabilities that go along with it. We have become a very litigious society if we can sue anybody for anything. Throenle indicated that he feels that to have a special condition on this just because it is a shooting range takes it far outside the scope where this is going.

Kolinsky asked for permission to approach the podium, which was denied by Chair Mahaney.

Soucy asked about the comment made at the beginning about this being a non-conforming use and the point about not contributing to the continued non-conformity of this use. Throenle indicated that the container fits within the scope of being placed on the property. Maynard questioned a comment made by Throenle that the intention of a non-conforming use would over time be brought to conforming. Throenle indicated there a quite a few of non-conforming parcels in the Township based on depth of the parcel, width of the parcel, acreage assigned to it, etc. Soucy asked if it was then based on dimensions of the parcel. Throenle indicated that in some cases, the parcel itself is non-conforming, but there is a section in the Ordinance that states as long as you can meet setbacks in the lot of non-conformance you are good to go. Maynard asked if you are allowed to expand. Throenle indicated that you could, as long as you can stay in the confines of the property and meet the setbacks.

Throenle indicated that this was not a separate business, as it is used to promote the business.

Maynard indicated that Throenle had stated that the Vet clinic had stated verbally that they were fine with the intended use of the container, but Maynard wondered about the property that is 450' on the other side had given any written permission, based on the Firearms Ordinance. Throenle indicated he had not received any response from them.

Police Chief Scott Jennings spoke on the Firearms Ordinance, and feels that as long as the shooting is done within the container, nothing can escape and it satisfies the intent and spirit of the ordinance. The stated purpose of the Firearms Ordinance was to protect the buildings, property and people from stray bullets and reckless use of firearms. This contained unit, along with a certified instructor, is vented and minimizes the exposure to the people inside to lead, gases, and gun powder. The

instructor is there to insure the integrity. He feels that it is a fine accompaniment to the business.

Throenle explained the shooting range is comprised of a heavy ventilation system in the container that controls the flow, and that the ventilation system pushes forward toward the target, which minimizes the risk to the shooter. Maynard stated there would not be any risk if they only shot copper bullets.

Kolinsky stated that majority of bullets are copper jacketed, so the exposure to lead is minimized. S. Emerson interjected from the audience stating that copper jacketing makes no difference in the exposure based on scientific data, and that is not correct data. Emerson stated he is the expert on this subject, and would be happy to speak to the Planning Commission on this. He indicated he could also talk about the Zoning Ordinance. Throenle voiced objection to this.

Mahaney interjected and stated he would like to hear what Emerson has to say regarding health concerns. Kolinsky stated he would let Dr. Emerson speak as Kolinsky was a 35-year health provider, and then Kolinsky would like to speak. Throenle suggested that Dr. Emerson go first. Mahaney stated he wanted Kolinsky to go first.

Tom Kolinsky, representing Lake Michigan Armory as President – stated that the issue is on a shooting range and lead contamination. He stated that the shooting range has a ventilation system that takes the air flow from behind forward to a filtration system comprised of four or five filtration systems, with one being a HEPA filter so that none of the air that escapes the range has lead contamination. Kolinsky brought up carcinogens (smoking, gasoline, Roundup) and how they are responsible for more deaths than lead exposure. He stated that everything is about personal choice and what you expose yourself to, and how you clean it up. In relation to taking lead home on your clothing, there may be parts per million or parts per billion on your clothing. With the airflow technology, it is all filtering away, and the blast is going down range. This is regulated by OSHA, MIOS, NAHC, NAVFAC, and EPA, and is compliant for air flow and discharge.

Mahaney asked about filters and how often they are changed. Kolinsky stated that the filters are on a meter system, which indicates when they need to be changed based on air flow. The person who will be cleaning the range will have a special coverall suit to protect against themselves against lead exposure. Kolinsky has also invested in a non-explosive vacuum for unspent gun powder down range. There are policies and procedures on how to clean from the shooting line going forward. The container is designed with a deceleration chamber, so that when it hits into the bullet trap it goes around in a circle, decreasing the splatter of the bullet, which produces a more formed bullet and less lead exposure. Kolinsky indicated that this is not haphazard, and the industry regulates itself.

Mahaney questioned the noise. Kolinsky indicated there would be acoustic panels and the door is closed. At 10' away from the building outside would be no higher

than the decibels from a lawnmower. The farther away you get from the container, the less noise there will be. Throenle also indicated there would also be vegetation wrapped around the outside.

Scott Emerson spoke on the firearms ordinance, and feels the ordinance is very specific. It does not say anything about discharge of firearms in a container. Emerson feels that approving this would be a violation of the Firearms Ordinance. He stated that after serving on the Planning Commission for sixteen years, he knows how zoning ordinances are supposed to work. Emerson feels that this is a decision that the *Zoning Board of Appeals* would have to make. Emerson stated that Kolinsky had a very poor understanding about lead poisoning, as it doesn't cause cancer. Emerson feels that there is inadequate testing (pre and post) on people that use these types of shooting containers. There is no amount of lead that is safe, and the American College of Medical Toxicology just issued a warning on these types of shooting ranges. One of the problems is that they may have mitigated the lead exposure to the person in the container, but they have not taken care of the take home. When you fire, it is not necessarily what comes out of the barrel, but the lead vapor that is emitted, and the air flow is not fast enough to mitigate the inhaled vapor from the ejection port. Emerson stated that this will then enter your lungs, and in seven seconds is in your brain. Lead is an insidious poison that affects your neurologic system, decreases IQ points, and has been associated with CDC levels of alarm. The take home lead issues are another problem. You would need to have a decontamination process before entering and leaving the container. He feels that this type of shooting range is a toxic hazard that can leave the "amusement" area. It is not just a personal risk, but a public health risk.

Throenle indicated that there are all types of contaminants that people take home every night.

Mahaney stated there seems to be a lot of concerns and issues from the zoning aspect to the health and welfare of the public. Throenle interjected to clarify that Chief Jennings is the one that enforces the Firearms Ordinance, not the Zoning Administrator. Throenle highly respects the opinion of the Chief – he gave the shooting range idea to the Chief for comments. Mahaney then asked for commissioner comments.

Milton stated that he feels it is offering a service that is ancillary to their business. Maynard still has concerns about the public health. Soucy felt that procedurally speaking they should not approve it as it is not a permitted use in the district, and that it should be going to the *Zoning Board of Appeals* to make that determination or determining if this use can be added to the Zoning Ordinance. Throenle asked if this meant that any future businesses coming into the Township that are not specifically identified would have to go through the *Zoning Board of Appeals*. Soucy indicated that the applicant should be meeting with Throenle to make sure they are meeting all of our laws. Soucy stated we should not be taking short cuts – that they need to go through the proper channels. Throenle stated he does not see it as a short cut, and

that he takes offense to that statement. Bushong felt it comes down to the “amusement” definition, and at this point it appears the commission cannot agree on this. Bushong felt that since the commissioners cannot all say that this use is classified as “amusement”, it then becomes a *Zoning Board of Appeals* question. Mullen-Campbell had no comment, but agreed with Maynard on concerns about public health.

Kolinsky asked if the Commission was taking questions from the floor. Mahaney stated they were not.

Commission Decision

Maynard moved, and Soucy seconded to deny application based on concerns that the Commission has about public health and zoning compliance.

Vote: Ayes: Bushong, Soucy, Mahaney, Maynard

Nays: Mullen-Campbell, Milton, Rhein

MOTION CARRIED

IX. PUBLIC COMMENT

Deborah Mulcahey, 633 Lakewood Lane – spoke on site plans and what needs to be included. With the storage units, she did not feel it was a site plan. She had concerns on landscaping, driveway, vegetation, and the easement. With the shooting range, it's best to transfer to copper bullets and lead free primers. Spoke on lead exposure and it is not a personal choice. Applicants need to be directed to provide a complete site plan.

Tom Kolinsky, Lake Michigan Armory – stated that he had provided an official site plan. Stated he would like to lodge a formal complaint, as he doesn't believe Planning Commission members should be calling local neighbors and discouraging them by giving their opinion of a firing range, and then try to coerce them to go against the neighboring property. Commissioner Soucy explained that he had called the Veterinary Clinic and asked how they felt about the shooting range, as he was a new commissioner and trying to do his research. Kolinsky asked if Soucy had called the neighbor on the other side, and Soucy replied he had not. Kolinsky indicated that there was a little bit of a disagreement on what Soucy and the Vet clinic conversed about. Kolinsky was instructed to contact the Township Supervisor. Kolinsky asked what the process was with the denial – is he able to resubmit the application again. Is there an appeal process?

Dale Throenle, Planning Director, Chocolay Township – addressed the harassment by township residents to new businesses coming into the Township. There needs to be an enforcement ordinance against citizens harassing their neighbors regarding issues related to the Township. He stated that Lake Michigan Armory was asked to remove the gun sign from the front, as the harasser found it “offensive”. He asked the Commissioners to plant that seed in their brain, as he will be bringing it back to the Commission for further consideration. Soucy indicated this sounded like a civil issue. Throenle indicated that the person involved continues to do this on multiple properties

throughout the Township. Maynard asked about a restraining order. Throenle indicated that there are times that the individuals feel threatened by this harasser. Throenle indicated that this is an ongoing problem, and needs to be stopped. Commissioners felt this was outside the scope of the Planning Commission, and that it was a civil issue – a police matter.

Public comment closed at 8:33 PM.

X. COMMISSIONER’S COMMENTS

Rhein – None.

Milton – feels a shooting range is a good thing to have at the point of sale. There are a lot of things that go into firearms / pistols. There needs to be a lot more education on guns with the general public, so that they are buying the proper gun for the use intended.

Maynard – None.

Mahaney – stated it is hard at times to try to make the right suggestions for the community and not holding personal grudges. The Planning Commission tries to interpret the information that comes to them, but they are not experts. Mahaney also asked Throenle about getting full size site plans. Throenle stated we do not have the capability at the Township to print these – it would have to be something provided by the applicant. Mahaney indicated that there is so much detail, which makes it really hard to read.

Soucy – feels Bushong made a good suggestion on the distinctions on site plans. Maybe simpler uses could have a more simplified site plans. This is something that should be considered in the future.

Bushong – he is in favor of both projects that were denied, but feels it is all in the details. Things take time and they have to go through the process. He hopes both will continue forward.

Campbell – is pro-business for both projects also.

XI. DIRECTOR’S REPORT

Throenle discussed the purpose of a preliminary review, and the responsibility of the Commissioners to catch the things that need to be addressed. The purpose of a preliminary is to decide if the idea makes sense, and if it is an idea that the applicant should go forward with. Mahaney indicated that they are not experts, and they rely on Throenle to present the information to them. Throenle indicated that this is a “team” thing. If the driveway would have been caught in the preliminary, they could have breezed through that decision.

Throenle will not be available on the meeting scheduled for August 19th. Maynard will also not be available. Commissioners decided to move the meeting to August 26th.

XII. INFORMATIONAL ITEMS AND CORRESPONDENCE

A. Minutes – Township Board, 06.10.19

B. Minutes – Township Board, 06.25.19 Special

- C. Township Newsletter – July, 2019
- D. Minutes – Marquette City Planning Commission, 06.04.19
- E. Minutes – Marquette City Planning Commission, 06.18.19
- F. Minutes – Marquette County Planning Commission, Special Meeting 06.17.19, Draft
- G. Correspondence – Emerson

XIII. ADJOURNMENT

Meeting adjourned at 8:43 PM

Submitted by:

Planning Commission Secretary

Donna Mullen-Campbell

CHARTER TOWNSHIP OF CHOCOLAY PLANNING COMMISSION MINUTES

Monday, August 26, 2019

I. MEETING CALLED TO ORDER BY: Tom Mahaney at 6:07 p.m.

ROLL CALL

Members Present: Tom Mahaney (Chair), Susan Maynard (Vice Chair), Donna Mullen-Campbell (Secretary), Cory Bushong (Vice Secretary), Kendell Milton, Ryan Soucy

Members Absent: Don Rhein

Staff Present: Dale Throenle (Planning Director/Zoning Administrator), Richard Bohjanen (Township Supervisor), and Suzanne Sundell (Deputy Clerk).

II. ADDITIONAL AGENDA ITEMS / APPROVAL OF AGENDA

Motion by Maynard, and seconded by Bushong, to approve the agenda as written.

Vote: Ayes: 6 Nays: 0 MOTION CARRIED

III. MINUTES

July 22, 2019

Mahaney brought up the fact that the minutes did not reflect enough of the actual comments made by the Zoning Administrator, and the strong stance that he took regarding the shooting range. Mahaney feels that it is important for anyone that is reviewing the minutes have a good knowledge on how the Planning Commission and the Zoning Administrator acted and feel on issues. He feels the minutes are a basic gloss over of the last meeting, and he will not support approving the minutes as they are.

Soucy indicated he thought that the demonstration that Throenle gave on lead was pertinent to the discussion on the shooting range. He would also like to have revised minutes.

Motion by Maynard and seconded by Bushong, that updated minutes for July 22, 2019 be brought back to the September 16, 2019 meeting to reflect the comments made by Soucy and Mahaney.

Vote: Ayes: 6 Nays: 0 MOTION CARRIED

IV. PUBLIC COMMENT

Deborah Mulcahey, 633 Lakewood Lane – applauded the Planning Commission for sending the minutes back for revision. Had concerns about the recreation survey and only having 105 respondents – less than 2%. Residents feel that they are ignored. In reference to the Blondeau site plan, they have a total of 13 units on the site, and they want 80 storage units. She did not see anything on the site plan for the driveway or vegetation. Regarding the storage units on Carmen Drive, she still has concerns about

snow removal and placement. She questioned Mahaney (as he owns storage units behind Ace Hardware) how many storage units are needed in Chocolay Township. Should also keep in mind that these are being placed in an area with sewer that will not be used. Regarding the Recreation Plan, she would like to see an ADA accessible toilet at the Marina. She is also concerned about properties being used for equipment that is being left on these sites by companies doing work in the Township, as this could impact funding for state and federal money for recreational plans in the future. Mulcahey also indicated that the Public book in the back did not have the updated packet for this meeting in it.

Scott Doughty, UP Holistic Medicine, representing MKD Group, 6044 US 41 South – owns the building to the east of the proposed Genshaw Storage buildings. They have some thoughts and concerns to express for review by the Planning Commission. Professionalism, cleanliness, aesthetics and ease of snow removal are extremely important. They are health care professionals that provide a relaxed healing environment inside and out. They have concerns about their need for tree lined privacy. Snow removal is also of concern. Drainage could also be of concern.

Mark Daavettila, U.P. Engineers and Architects – he is there with Chuck Genshaw (owner) to answer any questions the Commission may have on Item VIII.A.

V. PUBLIC HEARINGS

None

VI. PRESENTATIONS

None

VII. UNFINISHED BUSINESS

A. Blondeau Storage Units Site Plan Review

Staff Introduction

Throenle introduced the site plan review for the storage units at 125 Kawbawgam Road, and the request of the Planning Commission at the previous meeting to come back to the Commission with the driveway plan and whether a lot split needed to be conducted on that property. It is zoned commercial and has an overlay zoning of mixed use, so this use would fit into the concept of having multiple uses on the same property without the need for a lot split.

Commission Discussion

Mahaney asked if this parcel falls within the US 41 / M-28 Access Management Overlay District. Throenle indicated that it did not. Throenle indicated that this would pertain to properties fronting on US 41 or M-28. Mahaney stated that it also read “and other land at intersecting streets within 350’ of the US 41 / M-28 right of way. This is on a parcel of land that intersects. Mahaney indicated that it appears the lot falls in the 350’ and is right in the overlay district. Throenle indicated that the

driveway already exists, so this would not be an issue. Mahaney stated that whenever you amend your property, such as adding new buildings, you need to go to one driveway. Throenle asked if Mahaney was suggesting that this get tabled again. Mahaney indicated that was his thought. There are things that spell out the setbacks for items that fall into this overlay district – a 50' setback would be required for the first building. Mahaney feels there are other items that should have been reviewed with Blondeau. Mahaney indicated that this was under Section 5.3 (Q) (3) "**Parking Setback and Landscaped Area** - No parking or display of vehicles, goods or other materials for sale, shall be located within fifty (50) feet of the roadway right-of-way. This setback shall be planted in grass and landscaped with small clusters of salt tolerant trees and shrubs suitable to the underlying soils ..." Maynard asked if this was 350' from the right-of-way to the building. Mahaney indicated that it was 350' from the right-of-way to the property line. Throenle indicated that in that case nothing could be built on US 41 or M-28. Mahaney stated that this was for new construction. Soucy asked if it had been determined that it was actually 350', and suggested using the measuring tool in BS&A. Maynard asked about splitting the lot, and if that would figure into this discussion. Throenle indicated that if Blondeau chose to split the lot, and made it 350' to encompass the driveway, it could be built as designed. Throenle indicated that if the intent is to do further research, he suggested they stop the conversation at this point and table it. Mahaney stated he thought that is what should happen.

Blondeau asked Mahaney if he owned storage units. Mahaney indicated that he does. Blondeau was under the impression that when Ace Hardware was sold, the storage units went with the sale. Blondeau feels that there is a major conflict of interest for Mahaney being involved in the conversation regarding the storage units. Blondeau feels that Mahaney should have recused himself from the discussion, not only for this meeting but for the last meeting. This project seems to just get pushed along and is getting out of hand. Mahaney agreed that it is getting out of hand, because Blondeau has not been given the right information. Mahaney indicated that there are ordinances within the Township that they need to follow. Mahaney asked Throenle if it was too late to recuse himself. Throenle stated that the discussion has already happened, so it was. Soucy indicated that the procedure would be to ask the Commission if he should recuse himself, and then it would require a unanimous vote from the Commission.

Throenle indicated that he is not convinced that the Access Management goes that far down, but he will do the research to determine the answer. This could also be a problem if there are any other new businesses that wish to come into the Township.

Maynard apologized to Blondeau for not initially giving him the right information when he proposed his idea. She would also like to suggest that they spend their time trying to accommodate this business in this area.

Throenle stated that it would not be just the 350', but an additional 100' easement from the center line of M-28. This would make it 450', and the project would be

done. There would be no way to do a lot split at that point.

Throenle suggested that the project be tabled, and it be sent to the attorney for clarification on wording in Zoning Ordinance. Mahaney stated the attorney should also be asked about the driveway.

Soucy asked for Google street view, to see what the line of sight looks like from the driveway.

Throenle questioned what the intent was for the Access Management Overlay. Soucy asked if it could be brought up the Access Management intent could be put up on the screen. Throenle indicated that the intent is Section 5.3(A):

“...The provisions of this Section are intended to promote safe and efficient travel on the US-41/M-28 highways within Marquette County; improve safety and reduce the potential for crashes; minimize disruptive and potentially hazardous traffic conflicts; ensure safe access by emergency vehicles; protect the substantial public investment in the highway and street system by preserving capacity and avoiding the need for unnecessary and costly reconstruction which disrupts business and traffic flow; separate traffic conflict areas by reducing the number of driveways; provide safe spacing standards between driveways, and between driveways and intersections; provide for shared access between abutting properties; implement the Township Master Plan and the US-41/M-28 Access Management Plan recommendations; ensure reasonable access to properties, although not always by the most direct access; and to coordinate access decisions with the Michigan Department of Transportation, the Marquette County Road Commission, and adjoining jurisdictions, as applicable...”

Bushong asked if it has any bearing on the driveways, referring to Item R on the Access Management Plan. Throenle indicated that it depends on where he locates it. Mahaney stated it has a 50' setback.

Soucy asked about the volume of traffic on Kawbawgam Road. Throenle stated that right now it acts as a service road for the Casino, as well as residential, but will become residential only when the Casino opens. Soucy questioned if there are any exceptions spelled out in the Ordinance. Throenle answered he would be seeking the advice of the Township Attorney.

Commission Decision

Maynard moved, Soucy seconded that the discussion be tabled until the September 16, 2019 meeting when more information will be available regarding the Access Management Overlay Zoning.

Vote: Ayes: 5

Nays: 1 (Milton)

MOTION CARRIED

VIII. NEW BUSINESS

A. Genshaw Storage Units Site Plan Review

Staff Introduction

Throenle suggested that this item also be tabled, as it has the same scenario of the previous discussion.

Commission Discussion

Soucy indicated that he was under the impression that there was an overlay map that would show which parcels were included in the Overlay District, as he remembers coming to the Township and requesting that his property be removed from the Access Management Zone. Throenle indicated that was not the Access Management Overlay, but the Mixed-Use Overlay.

Throenle put the large site plan on the table for the Commissioners, and there was discussion among the Commissioners on the map.

Mark Daavettilla, UP Engineers, and Chuck Genshaw approached the table also. Daavettilla asked if the 50' was from MDOT's right-of-way. Mahaney stated that it would be 350'. Daavettilla stated that the Access Management Standard reads "if the property is within 350' of this right-of-way, it is in the overlay district" but does not say from there any property line is an additional 50' setback. Mahaney pointed out that it says from an intersecting road. Genshaw stated that Section 5.3 (Q) 2 states, "**Structure Setback** - No structure other than signs, as allowed in Article XVIII, telephone poles and other utility structures that are not buildings, transfer stations or substations, shall be permitted within fifty (50) feet of the roadway right-of-way".

Throenle indicated that this still comes back to an interpretation from the attorney.

Daavettilla stated that within that zoning district, you would have to be 50' away from the MDOT right-of-way to put up a building, and to put in a driveway on Carmen Drive (25 mph) it would have to be at least 150' from the right-of-way.

Daavettilla stated that to put this off for another month was somewhat of a joke, just to have a little research done. Mahaney called for no more comments. Daavettilla indicated that he agreed with Blondeau on the fact that Mahaney should have recused himself, as it is competition voting against competition. Mahaney felt this project should be tabled.

Genshaw asked when this zoning came into effect. Throenle indicated in 2008. Genshaw then questioned if anything new would fall under these same setbacks. Throenle stated it would – preexisting buildings are exempt, unless something would happen to them.

Mahaney stated that they should get an attorney's interpretation. Soucy stated that possibly it should go to the *Zoning Board of Appeals* for interpretation. Throenle

stated this would depend on the attorney's opinion.

Soucy had some questions for Daavettilla concerning drainage, as it appears to be a lower spot to the south and west, which could become a problem for the properties to the southwest. He is curious when the trees and shrubs are removed, if it will be able to handle the additional water. Daavettilla indicated that a portion is left gravel to help with drainage, and there is an additional storm water basin near Carmen Drive and another along the backside. Mahaney asked about the width of the snow removal (8-10 ft). He does not think this would be adequate. Mahaney wondered if it would cause problems for the apartments to the south.

Genshaw indicated that with the equipment he has, they do not end up with big snowplowed piles that take all summer to melt, as they have a snow blower that they use to blow snow back onto the driveway when it's nice to help with melting.

Scott Doughty (MKD) indicated that there was a ditch that runs around the property that could possibly be used. Genshaw indicated that he would be willing to talk with the adjoining landowner (MKD) and work some of the snow removal and drainage issues out.

Daavettilla asked about a variance – Throenle stated that he could ask for one from the *Zoning Board of Appeals*.

Bushong asked if Throenle could confirm that there was not a map on the Access Management Overlay District. Throenle did not find one in the Township electronic files. Soucy asked if there was a possibility that his predecessors may have made notes on this. Throenle indicated that he would have to dig back in the archives.

Soucy feels that it is very frustrating, that the Ordinance as it was adopted, did not take into consideration some of these things. As a member of the 41 Corridor Advisory Group, he knows that there was a sample ordinance that was passed around. He does not feel that what happened tonight was the intent.

Commission Decision

Maynard moved, and Soucy seconded to table the issue until the next Planning Commission meeting on September 16, 2019 to determine the applicability of the Access Management Overlay to this particular parcel.

Vote: Ayes: 6 Nays: 0 MOTION CARRIED

Throenle asked if there were any other items that the Planning Commission would like have addressed on the two applicant's site plans before the plans come before them in the next meeting. Mahaney stated that this was something that should be addressed before it comes back the at the next meeting with the interpretation. He does not feel comfortable doing that at this point, as he doesn't feel that the projects were analyzed enough after the Access Management came into play. Soucy indicated that all his concerns have been addressed. Bushong stated he had no other concerns, and that the Overlay District came as a complete surprise to him.

Mullen-Campbell affirmed it was a surprise to her also. Mahaney interjected that he wanted the interpretation and have the meeting stand as it is. Throenle stated he was just asking, and Mahaney cut him off by stating that is how he wanted to leave it.

B. 2020 – 2024 Recreation Plan Review

Throenle indicated that is the start of reviewing and updating the Recreation Plan. As was mentioned in public comment, there was a small turnout in the survey, but the responses landed about where he expected they would. Throenle indicated that he had taken the Senior group on tour of the Township, and was surprised that even some of the Seniors that had lived here their whole lives had no idea we had so many recreation areas. His idea is to point out where the areas are and identify them with signage. The cost is basically maintenance.

Throenle has put together a budget, which is basically a wish list. This will help the Commissioners prioritize on what should be done. There are some items that have been identified with a Risk Management review.

Throenle indicated that the Recreation Plan would need to go through the Township Board and be in place by February 2020 in order to qualify for any DNR funding / grants. Throenle indicated that the document itself is about 95% done.

Mahaney wondered how realistic the budget was. Throenle indicated that the primary source of funding for recreation projects is the DNR. Mahaney feels that it is very aggressive. Throenle indicated that what he is asking of the Commissioners is to determine the priority of the items.

Soucy asked if there would be another opportunity to go over this. Throenle indicated there was. Throenle also indicated that in the coming year, the Planning Commission will be starting to take a look at the Capital Improvement Plan for the Township.

Mahaney asked Throenle how accurate he thought the numbers were. Throenle indicated that this has been reviewed with the DPW staff. Another aspect is to keep in mind how to maintain what is done.

Maynard asked about matching grants from the DNR for maintenance. Throenle stated the DNR will not do grants on maintenance. Maynard asked if we were luckier getting a full grant than a matching grant. Throenle indicated that in the DNR's case, there are not full grants, all are some type of match. Throenle indicated the DNR looks at two things going in – ADA compliance and matching funds.

Soucy asked if there had been an assessment has been done on our facilities regarding the accessibility standpoint. Throenle indicated that there had been, and it is covered in the document. Soucy asked if it includes things that need to be addressed for accessibility. Throenle stated that it does.

Mullen-Campbell asked about an interactive recreation guide that had been done by an intern in the past. Throenle pulled up this interactive guide on the Township

website under Recreation.

Mahaney noted that CABA (Chocolay Area Business Association) had been included as a participant in the spreadsheet. Throenle stated that they are in the process of trying to get this going again. There are 113 businesses in the Township, and the concept is to get them involved (or re-involved) in the organization.

Mahaney asked about the bike path on Green Bay Street. Throenle indicated that there is a plan to widen the bridge, to accommodate a bike / walking path that would be in conjunction with the Iron Ore Heritage Trail.

Mahaney asked if this subject was going to be discussed at the next meeting. Throenle indicated that it was, and that he would like the Planning Commission to give him a general direction on what they see as priorities.

Mahaney asked about the Soccer Association, and their pursuit of some land in Beaver Grove. Throenle indicated that the Soccer Association is very interested in pursuing the project. They are still working out details. Maynard asked if this field would be free to everyone. Throenle indicated it would not. Details are still being worked out. Throenle stated that the Soccer Association was working on funding the project through their association. The concept is that the property would be turned over to the Township and then be leased to the Soccer Association.

Mahaney asked Throenle if the Commissioners were supposed to rate the items on the spreadsheet – Throenle indicated that he would like the Commissioners to look through the proposed items to see if they make sense, and then come back to the next meeting to discuss. Throenle would prefer not to take anything out, since if it is not in the approved Recreation Plan, it would not be able to be funded through any grants. Soucy felt that by prioritizing the items, this should not be a problem.

Maynard referenced the survey: *“Question 26: Listed below are possible future recreation opportunities in the Township. Check your support level for each opportunity listed.”* Maynard also mentioned that in the past, in direct marketing 2.5% response on a direct mail campaign was what was expected. Maynard pointed out that of those that responded, the quiet sports and soccer, basketball, volleyball, and a community recreation center are high on the list. Non-motorized trails, the community center, summer programs for youth, and using school facilities scored the highest. She feels that is what the community seems to be interested in.

Throenle indicated that these are projects that could be done in cooperation with other entities, giving the example of the disc golf being in cooperation with Silver Creek Church.

Throenle indicated that one of the things we have lost is the cross country skiing trail on Kawbawgam, which will probably take 5 years or so before the tree growth is adequate. Throenle indicated that there is a possibility of doing smaller trails in areas such as Beaver Grove or Silver Creek, or even possibly Voce Creek.

Soucy thanked Throenle for conducting the survey, but mentioned that the under 21

crowd response is low, and he realizes that they are a hard demographic to capture in a survey such as this, but he wondered if there is an opportunity to have a short form survey when school kicks in to get a younger opinion. Throenle indicated that he could go to places like Cherry Creek School and talk to the children there and see what their interests are.

Mahaney stated that when the Planning Commission is looking at this, they will want to make sure that we are not competing with private enterprise. Throenle indicated that right now we have four different categories – Township owned recreation, cooperative recreation (recreation we do with the DNR or the State), private facilities (Gitchegumme campground or Chocolay River campground), and the public recreation facilities (fish hatchery). These are intertwined in how they work together.

Throenle indicated there have also been many comments from the public on trails – possibly one along CR 480. There is also the motorized groups, such as ATV, ORV, and snowmobiles.

Soucy was pleased to see the support for the trails. He now lives on the backside of Silver Creek, so he likes the ideas of disc golf, sledding, etc. Soucy likes the idea that the trails give access to many things. Throenle indicated that a lot of people do not know about the trails. Mahaney stated that this would come back to signage. Maynard feels that the trails are the most important aspect of the Township. She lives on the Iron Ore Heritage Trail, and is able to see all the different ages of people that use the trail.

Throenle asked if signage and direction (wayfinding signs) are a priority for the trails. Both Mahaney and Maynard thought it would encourage people to explore more. There are many things out there that nobody knows about. Maynard felt that signage would not cost all that much, and would provide an added boost to the Township. Throenle indicated that funding could possibly come from a community grant. Mullen-Campbell also thought it would be good to include the Marina.

Mahaney thinks the item “Purchase of trail maintenance services” is a very important aspect, and would promote the use of the trails in all seasons.

Mahaney stated that the Commissioners will take the list home and go over the priorities for the next meeting.

IX. PUBLIC COMMENT

None

X. COMMISSIONER’S COMMENTS

Milton – None

Maynard – None

Mahaney – stated that, as he sits on the Planning Commission, he does not take any of his own personal interests in judgement of anybody’s new or old business. He tries to be as fair as he can for the Township and the residents.

Soucy – stated that if there was an issue with the Asset Management zone that he would like there to be expediency in working together to get the issue solved in the most mutually agreeable way that they can.

Bushong – None

Campbell – Agrees with Soucy's statement

XI. DIRECTOR'S REPORT

Throenle indicated that the next meeting will be Monday, September 16 at 6:00 pm.

Soucy also added that the Michigan Association of Planning Conference is coming up September 25 – September 27 in Kalamazoo at the Radisson. The cost is about \$400 to attend the conference. Details can be found at www.planningmi.org.

Throenle indicated that if they had never been to the conference, it is an excellent conference to go to.

XII. INFORMATIONAL ITEMS AND CORRESPONDENCE

- A. Minutes – Township Board, 07.08.19
- B. Township Newsletter – August, 2019
- C. Minutes – Marquette City Planning Commission, 07.02.19
- D. Correspondence – Verberg (Blondeau Storage Units)
- E. Correspondence – MKD Group, LLC (Genshaw Storage Units)

XIII. ADJOURNMENT

Meeting adjourned at 8:25 PM

Submitted by:

Planning Commission Secretary

Donna Mullen-Campbell

CHARTER TOWNSHIP OF CHOCOLAY PLANNING COMMISSION MINUTES

Monday, September 16, 2019

I. MEETING CALLED TO ORDER BY: Tom Mahaney at 6:02 p.m.

ROLL CALL

Members Present: Tom Mahaney (Chair), Susan Maynard (Vice Chair), Donna Mullen-Campbell (Secretary), Cory Bushong (Vice Secretary), Don Rhein (Board), Kendell Milton, Ryan Soucy

Members Absent: None

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

II. ADDITIONAL AGENDA ITEMS / APPROVAL OF AGENDA

Motion by Mahaney, and seconded by Bushong, to approve the agenda as changed. (Addition of discussion for current Appeals process for denied Planning Commission applications and re-open the recreational marijuana law discussion).

Vote: Ayes: 7 Nays: 0 MOTION CARRIED

III. MINUTES

July 22, 2019 (Revised)

Motion by Milton and seconded by Rhein, to approve the revised minutes as written

Vote: Ayes: 7 Nays: 0 MOTION CARRIED

August 26, 2019

Motion by Maynard and seconded by Soucy, to approve the minutes as written

Vote: Ayes: 6 Nays: 0 MOTION CARRIED

(Rhein abstained from voting as he was absent from this meeting)

IV. PUBLIC COMMENT

Scott Emerson, 119 Lakewood Lane – Spoke on his suggested changes to the proposed *Ordinance 61 Firearms ordinance.*

Public comment closed at 6:12 PM.

V. PUBLIC HEARINGS

None

VI. PRESENTATIONS

None

VII. UNFINISHED BUSINESS

A. Blondeau Storage Units Site Plan Review (SR-000000-19-45)

Staff Introduction

Matt Blondeau, owner of the property located at 125 Kawbawgam Road, presented a site plan for formal review (application SR-000000-19-15) to the Commissioners during the July 22, 2019 meeting.

Commissioners reviewed the plan, and tabled the decision until two issues were addressed regarding the plan:

- 1) Adding a driveway to the plan to show the access to the proposed storage units.
- 2) Discussion on splitting the property to separate the proposed project from the current use of the property.

The project was presented again at the August 26, 2019 meeting with Mr. Blondeau's revisions. Commissioners tabled the project again based on concerns the project was in the US 41 / M-28 corridor overlay district and did not meet the criteria for the corridor overlay district.

Staff did extensive research on the US 41 / M-28 overlay district issue to determine if the project was in that district. Staff found that the district does not extend to the Kawbawgam Road location, as the district ends at the intersection of US 41 South and M-28 (see attached US 41 South / M-28 Findings document).

As a courtesy, the Blondeau project was sent to the US 41 / M-28 Corridor committee for review. The Blondeau project does not affect the corridor; however, Mr. Blondeau will need a driveway permit from the Marquette County Road Commission for the entryway into his project.

Commission Discussion

Throenle advised the Commission that Matt Blondeau was present to answer any questions they may have.

Blondeau told the Planning Commission he had done everything asked of him and also had a conversation with the Road Commission. The only requirement they have is for him to get the driveway permit after the site plan is approved and pave the driveway approach to the right of way.

Blondeau asked Tom Mahaney of the Planning Commission to recuse himself from the discussion and voting due to conflict of interest. Blondeau felt Mr. Genshaw (next up on the agenda with storage units also) would agree.

Maynard asked for clarification on the map where the driveway is. Blondeau stated where she suggested was correct.

Throenle stated in the past couple of meetings there were questions raised

concerning the natural buffer. He showed pictures to the Planning Commission that confirmed there was already a natural buffer present between the project and the Township pocket park.

Maynard asked if the first building built would be closest to the road, Blondeau stated he would be doing two buildings right away and they would be closest to the road and go back from there.

Soucy asked if this would happen within the year, Blondeau stated they would like to start tomorrow as he is running out of time with the weather.

Rhein stated he felt this project would make the existing property look better overall as it is currently a sand pit. Blondeau agreed and added the intent when he bought both apartment buildings on Kawbawgam Road, the intent was to clean up that whole intersection. He is also working on KBIC to tear down the old bank building on the corner of Kawbawgam and M-28.

Mahaney asked about a driveway permit and Blondeau stated the Road Commission said to get it after it was approved.

Mullen-Campbell asked if the driveway permit would be approved with the condition of the permit and Throenle stated it would not need to be as it is part of the build process.

Commission Decision

Bushong moved, Mullen-Campbell seconded, that after staff review and Planning Commission discussion, Site Plan Review Application SR 19-45 is approved in accordance with the standards outlined in Section IX of the Zoning Ordinance.

Vote: Ayes: 7 Nays: 0 MOTION CARRIED

B. Genshaw Storage Units Site Plan Review (SR-000000-19-51)

Staff Introduction

Charles Genschaw, owner of the properties located at 110 and 120 Carmen Drive, presented a site plan for formal review (application SR-000000-19-51) to the Commissioners during the August 26, 2019 meeting.

Commissioners tabled the project based on concerns the project was in the US 41 / M-28 corridor overlay district and did not meet the criteria for the corridor overlay district.

Staff did extensive research on the US 41 / M-28 overlay district issue to determine if the project was in that district. Staff found that the district does not extend to the properties on Carmen Drive, as the district ends at the intersection of US 41 South and M-28 and extends three hundred and fifty feet in circumference from that intersection.

As a courtesy, the Genschaw project was sent to the US 41 / M-28 Corridor committee for review. The Genschaw project does not affect the corridor; however, Mr. Genschaw will need a driveway permit from the Marquette County Road Commission for the entryway into his project.

Commission Discussion

Throenle advised the Commission that Mr. Genschaw and Mark Daavettilla, U.P. Engineers, were available to answer questions.

Throenle told the Commission there was a slight difference in the application. Genschaw would be putting these units on two different parcels, two units on one parcel and one unit on the other.

Genschaw stated he had addressed the issues with the neighbors in the medical building on US 41. They went to the site after last month's meeting to discuss water issues in the southeast corner. Genschaw told the Commission they had agreed on a plan that would be helpful to those issues.

Genschaw stated he also had the discussion with the Road Commission about getting the driveway permit once the project is approved and paving the driveway approach up to the right of way. Genschaw also stated the Road Commission was happy about the location of the driveway as it will not be on a blind corner.

Rhein asked about the construction start date, Genschaw answered he is constrained by weather but it will be the determination of the project.

Maynard stated there were issues last month with the neighbors regarding snow removal and where he would be putting the snow. Genschaw answered they were concerned with flooding but he had discussed it with them and came to an agreement. Genschaw advised the Commission that they snow blow versus snow plow which seems better when the snow melts. Maynard wanted to make sure there is enough room for both parties snow removal.

Maynard also asked if Genschaw had a conversation with someone from the apartment building to the south. Genschaw stated he had talked with the manager in June regarding the removal of trees. He had advised her that he would need to remove some but would he would leave as many trees as he could and would also be planting more trees to replace the popple trees. He prefers a natural fence versus man made fence, plus the residents in the apartments use this area as a means to get to the grocery store. There have been no other conversations after that.

Genschaw stated that traffic in these type of areas are minimal. He would not be allowing the "rummage sale" type activity where they open up the units to sell their items as the increased traffic would not be fair to the people in that area.

Mahaney asked if he had areas for a proposed storm basin. Genschaw referred the question to his engineer. Daavettilla answered there would be ponds that would be made to collect and hold water. Mahaney asked if they needed approval from the

DEQ and Daavettila answered they did not.

Mahaney felt it was a big footprint with the buildings and gravel for snow removal. Genschaw felt there would not be an issue with melting as he felt, with the gravel, it would not hold water very long. If it does hold water he could put irrigators in to keep the water moving. Daavettila informed the Commission these size ponds are designed for a 100 year floods as they are currently used in Marquette Township.

Soucy asked the type of soil on the site, Daavettila answered Harvey is more sand where Marquette Township has more clay mixed in with the sand. Genschaw commented that there are bigger parking lots in that area that are paved and did not know if they issues with water, adding they at least have a place for it to run to.

Soucy commented that there were not many concerns for curbing in that area before but as there are more businesses in that are there is less places for water to absorb into.

Daavettila commented that they looked at the design pre-development and took into consideration how much water the property could hold and designed it the same way post development. He also stated that maybe the Chocolay Township *Zoning Ordinance* could be changed to incorporate storm water requirements to help with the engineering of projects such as this.

Mahaney asked if the south property line, where the run off is proposed to be, would be excavated as a ditch. Daavettila answered it would be for the whole length of the property. Genschaw stated it is already a ditch and Daavettila added it would be the grade would be a ditch with berm on the sides. Genschaw added they would not be developing as fast as one would think. He will do one building and see how everything is working, if they have issues with water or anything else, they can make adjustments.

Commission Decision

Maynard moved, Rhein seconded, that after staff review and Planning Commission discussion, Site Plan Review Application SR 19-51 is approved in accordance with the standards outlined in Section IX of the Zoning Ordinance.

Vote: Ayes: 7 Nays: 0 MOTION CARRIED

C. 2020 – 2024 Recreation Plan Review

Staff Introduction

Last month, the Commissioners were given the survey results and a draft budget that serve as part of the foundation for the 2020 – 2024 Recreation Plan. Commissioners were to review the documents and make recommendations for priorities in the budget.

This month, a revised survey (including comments) and the draft budget was attached for Commissioner review.

Staff will continue to work on the 2020 – 2024 Recreation Plan to prepare the plan for Commissioner review for the October meeting.

Concentration of the plan will address the developed sites as priority for equipment updates, as these sites (Beaver Grove Recreation Area, Township Marina, Township Complex, Silver Creek Recreation Area, Kawbawgam Pocket Park and Lions Field) are the most used in the Township. The priority for the remaining sites (Voce Creek Recreation Area, Wicks Site, Brower Recreation Area, Beaver Grove Agriculture Area, Green Garden Site, and Green Bay Street Park) is to establish signage and recreation opportunities on those sites and provide that information to the public.

Commission Discussion

The Commissioners asked several questions regarding all the recreation areas and talked about several concepts for the Township.

The Commissioners will be revisiting this next month in hope of finalizing this plan so it will be able to be turned into the DNR.

VIII. NEW BUSINESS

A. Proposed *Ordinance 61 Firearms* Revisions

Staff Introduction

Throenle addressed comments made in public comment earlier regarding the appeal to the Township Board made by the applicant for the enclosed shooting range. The Board had concerns regarding the *Zoning Ordinance*, as well as the *Firearms 61 Ordinance*. The language presented at the meeting tonight does not address the *Zoning Ordinance*, it only addresses the *Firearms 61 Ordinance* portion. The Zoning Ordinance will be a separate discussion.

At the Township Board meeting on September 9, 2019 the Board proposed a revision to Ordinance 61 Firearms to accommodate indoor shooting ranges within the Township, with a request for the Planning Commission to review that request.

Language proposed by the Board is:

“Firearms discharged within indoor, totally enclosed, noise mitigated, & lead mitigated, firing ranges located within Commercial or Industrial Mixed Use Overlay Zones”

Staff has added revised proposed language to section 5 of the ordinance for Commissioner review.

In addition to the staff-recommended language in section 5, the PUD zoning district was added to the restricted zones in section 3 (this restriction was overlooked in the previous version of the ordinance). Staff also reordered the zoning districts in this section to make the section easier to read.

Commission Discussion

Mahaney explained the background to the Commission how the Planning Commission had made its recommendation to deny the application for the enclosed shooting range to the Township Board. The Board reversed the recommendation and approved the enclosed firing range. Adding the Board also suggested either a separate ordinance for shooting ranges or revisions be made to *Ordinance Firearms 61* to accommodate this.

Mahaney feels the Planning Commission should have revised the *Ordinance Firearms 61* before the Board approved enclosed shooting range. He now feels the *Ordinance Firearms 61* has to be revised to suit the said business. It was discussed last month to examine a separate ordinance for this type of business or other options. He feels like they will be doing the Board's dirty work.

Milton stated they had talked about revising the *Ordinance Firearms 61* before any of this came up. Mahaney stated that was correct but it is now it is revised now to suit a certain business. The Planning Commission may have not included some of the items in the revised ordinance had it been done previously.

Maynard wanted an explanation as to why at the July meeting it was stated no less than six times this should go before the Zoning Board of Appeals, but it did not go there. Throenle stated it was due to the appeal process being specific in the ordinance. He also stated this could be included with the next agenda item as well (Item VIII.B, discussion of the appeals process, which was added to agenda earlier by Mahaney). Throenle stated this was not pertaining to a certain business, it was pertaining to certain business *type*. Mahaney stated if this is the case he would go back to his comment this should be a separate zoning ordinance for an enclosed shooting range.

Throenle stated the Board had sent two items to the Planning Commission. One was to enhance the *Zoning Ordinance* as to where those are located and the permissions. The second was to look at the *Ordinance Firearms 61* to clarify for the police so they know if they are enforcing an enclosed structure versus outside of that structure. Throenle stated of the two items, the *Ordinance Firearms 61* was the easier one as the *Zoning Ordinance* will take more time. Also, doing the *Ordinance Firearms 61* first will help the adjustment of the *Zoning Ordinance* to fit what is put into the *Ordinance Firearms 61*.

Throenle also reminded the Commission that the Police Chief stated at the Board meeting that he feels indoor shooting ranges do not fit under the requirements of the *Ordinance Firearms 61*. The Planning Commission needs to clarify the discrepancy of what the Police Chief feels should be enforced versus what is actually in the language.

Throenle stated in terms of interpretation, if the Zoning Board of Appeals was the direction for this ordinance, the concept would probably not be applied to *Ordinance*

Firearms 61 because their sole goal is the *Zoning Ordinance*. This language needs to be cleaned up by the Planning Commission as well as the intended language that was recommended from the Board.

The language that is included in the packet this evening has been tweaked by Staff and it is up to Planning Commission to look it over and decide if it makes sense or if it needs to go back to the Board, with changes after public comment for approval. This is the process; the ZBA does not have any involvement in this portion for this ordinance.

Maynard stated she felt uncomfortable with the precedence this is setting. She feels this language was designed for one business. Throenle answered that he agreed to a point but it comes back to a business type. This is what happens when there is a change to an ordinance, it seems to be because of a certain business but it needs to be changed for future businesses of the same type to be covered.

Rhein interjected and told the Commission that the Board was trying to clear up discrepancies for the Police Department. The Police Department felt the current ordinance was adequate and the Board wanted to make sure it was cut and dry so the ordinance matched what the Police found suitable. This is why the Board made the recommendations it did.

Mahaney stated it does not matter what the Commission does with the ordinance now as the enclosed shooting range is there. Throenle interjected and informed Mahaney that the Commission has the option to not include the language and send it back to the Board. Throenle stated the key element is Board does not mandate to the Planning Commission what language should be, it is a *recommendation* from the Board for the Commission to look at the ordinance.

Mullen-Campbell asked if the Commission had to make a motion this evening and Throenle advised her they can, it involves reviewing the language and seeing if it meets the needs of what the ordinance should look like. There is a motion involved but it states the language as *presented or revised*.

Maynard stated that personally she does not have an issue with an enclosed shooting range, she does, however, have a personal issue with lead. She would change the language to read 100% lead free and she would be fine with this and she would like it enforceable as such by the police department.

Soucy was in opposition to the site plan based on health and safety. He was not against the enclosed ranges in the community or even in that district; he would just like to have adequate protections in the wording of the ordinance. He feels that amending *Ordinance Firearms 61* and the *Zoning Ordinance* is a start in the right direction to get him to the point he is satisfied. Throenle reminded Soucy that what is in *Ordinance Firearms 61* is based on what is proposed in the *Zoning Ordinance* language is to make the enclosed shooting ranges a conditional use. The conditional use language automatically eliminates a few of the businesses that would come in to

the Township. Conditional use has a heavy review process from the Planning Commission to make sure it meets all the criteria. This criteria is for enforcement by the police department.

Throenle asked the Commission how the Police Department would measure 100% lead free and what tools would be needed. Maynard commented the business would not have mitigation equipment as they would not need it. Throenle commented these units may not have HEPA filters or other safety features as it would be declared 100% lead free.

Throenle reminded the Commission to be careful how the language is worded as there seems to always be a way around the language. Mahaney asked if there were size limitations to prevent enclosed shooting ranges from coming into vacant buildings in the Township. Throenle commented this is where the *Zoning Ordinance* would come in, it controls things like size, footprint, and setbacks.

Mahaney feels the hardest point of this is the enforcement. Throenle added a thought for this discussion; this plan has been approved with mitigated lead enclosure. How would a police officer enforce this if there was a separate ordinance say 100% lead free. Throenle feels the Commission could tighten up the *Zoning Ordinance* for any similar businesses in the future.

Throenle advised the Commission they had three options regarding this ordinance. The first would be to accept the language sent to the Board as is, second would be to tweak it and put it out for public hearing, or third would be to reject it completely and rewrite new language. They could also send it back to the board to say the Commission is not dealing with this.

Mahaney stated this is a technical ordinance and maybe would like to table it until next month. He feels this is important to the Township and they should do some research.

Throenle stated that is the Commissioner's choice but he would like to see that the PUD is added to the restricted zone as it was overlooked when this ordinance was done before. It is important language that needs to be added and was a Police Department request. It would have to go to public hearing for that to be added.

Soucy felt this would be a very long ordinance if all the protections, that the Commissioner's wanted, were included. He stated they could do a "generally accepted agricultural management practices" which is through the Department of Agriculture. As long as you meet certain specifications, that are already accepted in the industry, this could get approved.

Commission Decision

Rhein moved, and Soucy seconded to table the *Ordinance Firearms 61*.

Vote: Ayes: 7

Nays: 0

MOTION CARRIED

B. Proposed Change in Appeal Process (added to agenda)

Staff Introduction

Throenle stated Mahaney asked for this item to be added to the Agenda and asked Mahaney if he would like a change in the language for the denial process to go before the *Zoning Board of Appeals*. Mahaney answered this was correct.

Throenle respectively requested that the Commissioners discuss this tonight without decision as he needs to do research to see if the *Zoning Board of Appeals* is the correct area to send this to.

Throenle added the reason the Commissioners got where they are is from the Zoning Ordinance, Section 9.3.D which is the section that deals with appeals. Throenle disclosed he had a conversation with Soucy regarding the need for Planning Commission to look at the whole *Zoning Ordinance* to get it tweaked and fixed.

The appeals section, which is specific to site plan review, states “If any person shall be aggrieved by the action of the Planning commission, appeal in writing to the Township Board may be taken within five (5) days after the date of such action.” Throenle stated from that perspective, the *Zoning Board of Appeals* does not look at site plans or anything from the standpoint of a site plan making sense. They look at the Zoning Ordinance language to see if it makes sense, not site plans. This why it went to the Board as an appeal process.

Mahaney stated in this case that just happened, the interpretation of “Amusement and Entertainment would come into play. Throenle stated it does not as it was rejected by the Planning Commission as a site plan review. Throenle stated he has researched history of the Township and this appears to be the only time this appeal process has been used. Throenle commented you do not find this appeal process any other place in the *Zoning Ordinance*, only in the section regarding site plans.

Soucy is familiar with the Michigan Planning and Enabling Act PA33 of 2008 it does allow a community to determine their process for dealing with site plans. It all depends on what is adopted in your ordinance.

Throenle stated as far as the *Zoning Board of Appeals*, if the applicant lost at that level they could bring it to the circuit court. The way the language is in the Chocoday Township *Zoning Ordinance* the Board has the authority to look at it and say yes or no based on the reason for denial. The Planning Commission has the right to review language and change this policy.

Mahaney commented he thought these were to go to the *Zoning Board of Appeals* was there if the Planning Commission were to deny something. Throenle stated not for a Planning Commission denial based on a site plan.

Items that would go to the *Zoning Board of Appeals* would be setback issues or issues that could be a hardship.

He pointed out the Planning Commission did make a revision to the *Zoning Ordinance* to allow campgrounds in Agricultural Forestry areas as it was not permitted in that area.

Throenle suggested the Commissioners table this for this evening and come back with languages they would like to see in the *Zoning Ordinance*. This would involve deciding if the language needs to be tweaked, changed or left alone. The existing language has been there since 1977.

Mahaney asked if the Zoning Enabling Act affected this in any way and Throenle stated it did not as the ordinance controls where the appeal goes as Soucy pointed out in the Planning and Enabling Act.

Mahaney asked how the Planning Commission could get to the motion to change the *Zoning Ordinance*. A request has to be made for the *Zoning Board of Appeals* to make an interpretation and someone would have to pay for it. Mahaney stated he felt that Soucy had specifically asked for an interpretation from the *Zoning Board of Appeals* and it never got to that point. This is why Mahaney is bringing this up, to put the *Zoning Board of Appeals* in the process.

Throenle stated this would up to the Planning Commission if this is what they choose to do. If they go this route, it would have to public hearing with the Planning Commission and a public hearing and two readings before the Board before it is approved. The Board can take the option of rejecting it.

Mahaney asked to put it on the agenda next month for review. Throenle stated it would be no problem but reminded them to provide him with language to review. Mahaney stated he would do some research on this.

Soucy commented he felt they got undermined on this project as he feels the Board has more political views versus judicial views he feels the *Zoning Board of Appeals* has.

It was decided to put it on next month's agenda.

C. Recreation Marijuana Law (added to the agenda)

Mahaney wanted this to be added to the evening's agenda as he sees the State has been moving along with licensing. Mahaney stated they had agreed to wait and look at this again when the laws became clearer. Maynard commented the Township had opted out. He would like this added to the agenda as well for next month.

Throenle respectively stated he has no problem adding this to the agenda next month but reminded the Commission he had a short window for next month's packet due to the fact he will be gone for two weeks. Mahaney feels he wants the recreational marijuana issue added to the agenda for next month as he sees the City of Marquette has also revisited it.

Throenle stated he would need direction from the Commission on what to add as there are different options regarding recreational marijuana. Throenle wanted to

know if they want a full blown discussion, certain just options, or if you want none of it.

Soucy read off a list of the options: Growers - class A, B, C, Processors, Retailers, Safety compliance facilities, Secure transporters, Micro businesses, Excess growers, Event organizers, Temporary event, and Designated consumption establishments. He stated the last five items were due to the emergency rules that came out from the State, they were not part of the original five options, they are however, anticipated to be adopted into the law as they revise it.

Throenle asked the Commission of the remaining options, what would they like to see and Mullen-Campbell stated all of them. Throenle stated if you want the Township wide open there would have to be an ordinance put together and he would like it in writing from each of them, individually, to get the direction. Throenle reminded them that whatever decision is made, it cannot be easily reversed.

Throenle commented that he would also like that they include law enforcement in regards of enforcing what is decided. The police chief and staff are concerned where this will go and how it will be enforced.

Soucy stated he would be comfortable looking at other smaller communities and their best practices for guidance. He also commented the Township can still be opted out as they work out the details to make it happen in the most safe and effective way. Throenle stated to also include the County Sheriff in their research.

Mahaney felt it should be looked at as attracting new business to the community. Throenle answered to keep in mind what they would like the community to look like in the future. Throenle added this comes to how it should be put it into the *Master Plan*. This is a bigger picture that just changing the *Zoning Ordinance* to allow it. Mahaney stated they need to adapt to community and Township changes and should start looking at it now.

IX. PUBLIC COMMENT

Scott Emerson, 119 Lakewood Lane – Commented on the proposed Recreational Plan, marijuana language and presented a suggested ordinance for regulating flag size in the Township.

Public comment closed at 9:49 PM

X. COMMISSIONER'S COMMENTS

Rhein - None

Milton – None

Maynard – None

Mahaney – Thanked Emmerson for his thoughts this evening.

Soucy – Thanked Dale for the research done regarding the Access Management Overlay. Feels confident with the Planning Commission decisions this evening.

Bushong – Will not be a resident or property owner in Chocolay Township. Accepted a position on the Sands Township Planning Commission, will continue to do both.

Campbell – Thanked Throenle and everyone else for their input this evening.

XI. DIRECTOR’S REPORT

Throenle will be gone for two weeks, the amount of information in next month’s packet will be limited. Would appreciate as much feedback, regarding the *Recreation Plan*, in the next ten days. The Commission is on a very tight schedule with the *Recreation Plan* and it will be a priority at the next meeting to be able to get to the DNR by February. Advised the Commission he had sent a DRAFT copy of the *Recreation Plan* in the email advising them the packet was ready, the revision dates will be added as it is revised. Reminded the Commission it is still in DRAFT form and is not available to the public. The next meeting is October 21 and Throenle will be gone until the 10th of October.

XII. INFORMATIONAL ITEMS AND CORRESPONDENCE

- A. Minutes – Township Board, 08.08.19
- B. Minutes – Township Board, 08.19.19 special meeting
- C. Township Newsletter – September, 2019
- D. Minutes – City of Marquette Planning Commission, 08.20.19

XIII. ADJOURNMENT

Meeting adjourned at 8:56 PM

Submitted by:

Planning Commission Secretary

Donna Mullen-Campbell

CHARTER TOWNSHIP OF CHOCOLAY PLANNING COMMISSION MINUTES

Monday, October 21, 2019

I. MEETING CALLED TO ORDER BY: Tom Mahaney at 6:01 p.m.

ROLL CALL

Members Present: Tom Mahaney (Chair), Susan Maynard (Vice Chair), Donna Mullen-Campbell (Secretary), Cory Bushong (Vice Secretary), Don Rhein (Board), Kendell Milton, Ryan Soucy

Members Absent: None

Staff Present: Dale Throenle (Planning Director/Zoning Administrator), Richard Bohjanen (Township Supervisor), Bill DeGroot (Township Manager), Tony Carrick (Chocolay Police Sergeant), and Lisa Perry (Administrative Assistant).

II. ADDITIONAL AGENDA ITEMS / APPROVAL OF AGENDA

Motion by Rhein, and seconded by Maynard, to approve the agenda as presented.

Vote: Ayes: 6 Nays: 0 MOTION CARRIED

III. MINUTES

September 16, 2019

Motion by Mullen-Campbell and seconded by Rhein, to approve the minutes as written

Vote: Ayes: 6 Nays: 0 MOTION CARRIED

(Bushong entered the meeting after these votes)

IV. PUBLIC COMMENT

Bill DeGroot, 2017 Wetton – Introduced himself as the new Chocolay Township Manager. Went to elementary school here and attended NMU. Has met with Tom Mahaney, Chairperson, and would like to meet with everyone else on the Commission. Has read many of the past minutes for the Planning Commission; feels he is up to speed. He stated questions and opinions are welcome.

Public comment closed at 6:05 PM.

V. PUBLIC HEARINGS

None

VI. PRESENTATIONS

None

VII. UNFINISHED BUSINESS

A. 2020-2024 Recreation Plan Review

Staff Introduction

In August, the Commissioners were given the survey results and a draft recreation budget that serve as part of the foundation for the 2020 – 2024 recreation plan. Commissioners reviewed the documents and made recommendations for priorities in the budget.

Last month, a revised survey (including comments) and the draft budget was attached for Commissioner review.

This month, the first draft of the 2020 – 2024 recreation plan was available and attached for review. Pictures were added and history section was completed

Throenle asked the Commissioners if after reviewing the draft as a whole, if there were any sections they wanted to change/add to in the ten recreations areas.

Throenle stated his biggest concern is the Action Plan section and would like to address this first. This section is the general issues and strategies and the overall look at Township recreation.

Commission Discussion

Mahaney asked about electric charging stations, if this would be on Township property. Throenle answered that would have to be determined as the Township owns several properties, but also suggested the possibility of having it located at the Welcome Center or the turnouts.

Mullen-Campbell stated it may be safer in an area that has lights, Throenle answered absolutely and also commented that all of the Township facilities close at dark and would have to have lights installed to accommodate this. Mahaney felt something centrally located in the business center would be best.

Throenle stated they could possibly work and partner with businesses to make it happen. Throenle also pointed out it if was on a business property, it would be a question of who would own it, maintain it with, many things to work out. Mahaney asked who would pay for it, Throenle commented that he was not very familiar with these but would depend on the location and how it was set up. He also stated he would be against charging if grant money was used as it would be public use which is the intent of the grant in the first place.

Throenle told the Commission there is a bike repair/pumping station at the Welcome Center, it would be ideal to have another at the Lion's Field. This would help cover traffic on trails on both highways.

Soucy commented that electric cars will get more popular in the future and would get more use. He also questioned how long a person would have to sit at a charging station. Mullen-Campbell stated she thought it would be like a cell phone. Throenle was not sure about the time it would take but stated that battery life is always improving so felt in the future it may not be that long. Throenle also suggested talking to the gas stations in the area about adding them.

Rhein stated there are two charging stations currently in the City of Marquette, but he is not sure how they work. He also commented they may be the only ones between Marquette and Green Bay. He felt it would be nice to see more stations and if Chocolay Township could get in on it from the beginning.

Throenle stated he will get more information on the charging stations as a long-term strategy. Mahaney agreed that it will probably get more use down the road.

Mullen-Campbell commented she liked that the charging stations were listed in the *Recreation Plan*. Throenle stated that there may be items listed in the plan that seem odd but reminded the Commissioners that if the DNR does not see it listed they will not fund it.

Mullen-Campbell stated the history section was well written. Throenle answered that it was amazing to see how much history there was.

Bushong joined the meeting at 6:18 PM.

Throenle stated he had done a tour with the Senior Citizens of the recreation areas, some have lived here all of their lives, and the general comment on most of them was they did not know they existed. One item to consider is how to get the word out, how do we identify them, and which ones are a priority.

Throenle stated that through the Township insurance provider, there is a Risk Assessor available to determine what risk there is at these properties. The Township had this done prior to the last time the *Recreation Plan* was done and if anything needed to be fixed, they were added to the Action Plan section of that plan. This is a continual process when items are added to any of the recreation properties.

Maynard asked if there was a fee for the assessment, Throenle answered there was not; the insurance provider felt this would be a preventative action.

Recreation opportunities were discussed and are ongoing activities such as the Chocolay Festival to get people to do community wide events. One activity up and coming is pickleball, the new tennis courts at Silver Creek finished this fall, have combined striping so they can be used for either tennis or pickleball. This was not thought of five years ago and now is a national pastime. Other ideas are ice bowling, canoe/kayak instruction with local vendors, and fly fishing. Trout Unlimited would be willing to partner with Chocolay Township for fly fishing. Organized recreation would be teams such as softball, soccer, little league, and disc golf.

Underutilized watersheds and watershed preservations section, Throenle pointed out that the last time this plan was updated in 1999. He stated Chocolay Township has beautiful watershed for various activities and this outline should be updated.

Long term funding for recreation, is for the projects we build, and to keep them maintained. The strategy for this is how to keep the projects going after they have been funded so there would not be any long-term maintenance issues. He cited as an example would be the boardwalk at the marina.

Recreation easements will be something discussed in the future as well. Another big discussion from the Township is the lack of winter recreation, how do we improve this? We do have the hockey rink, but where can people snowshoe, cross country ski, or ride a fat-tire bike in the Township?

Long term funding will always be an issue, where will the money come from, we cannot always depend on grants as they are competitive and the more grants receive, the more you move down on the list for receiving more. The Township also has a higher income population so that moves us further down in the point system. What other funding is available?

Other long term are security systems, how do we keep them operating, they need energy.

Non-recreation programs are outside the scope of the recreation program that may affect the recreation program. We have talked about the Watershed Management Plan and there is the Community Rating System from FEMA that may potentially put some property in a scenario of a long-term park. When you look at something like this you have to also look at your emergency management system.

The Commission proceeded to discuss the recreation areas listed in the plan and their comments are as follows:

1. Beaver Grove Agricultural Area – this is a 14-acre site and has been used in the past as a lease for farming but has been dormant for the last five years. Has many potentials for use, such as a solar or agricultural demonstration farms or bee/butterfly attraction area. Maynard asked there had been any income to the Township in the past. Throenle commented that there is a small taxable stipend, so the Township wants to keep it as a lease agreement. Throenle stated that the most recent had been someone using the property for hay. If it is leased again the Township needs to have a reversal process in place to make sure the land is organically sound so it would not be treated with chemicals.
2. Beaver Grove Recreation Area – one of three most used sites in the Township. How do we take care of the aging equipment and how do we assure the viable use for the Township? How can these two be tied together, soccer could be a possibility. The pavilion also is popular with events throughout the summer. The restroom does need an upgrade.
3. Brower Recreation Area – 48-acre donated site with the understanding it would only be used as a recreation area, it is very wet. The Boy Scouts have looked at this in the past as a project, the plan was submitted but never acted upon. Possibly add signage.
4. Green Bay Street Park – this is a highly used neighborhood park, used for fishing and swimming. There is need to repair the stairs and the access to the site. This would also need signage to designate it as a Township facility. One other item would be to develop a partnership to address the erosion on the

bank of the river.

Mullen-Campbell commented that the bridge will be replaced next year. Throenle stated that could make this park more accessible with the new bridge.

5. Green Garden Site – people use it for fishing and swimming. Intention to leave as it is, add signage to designate as a Township facility, as this is a high flood area.
6. Kawbawgam Pocket Park – overdue for renovations. Existing swings are older and for some reason the basketball court does not get much use. Better signage as it is next to the snowmobile and North Country trails. It is plowed in the winter.

Rhein commented that people use this area often for biking and walking dogs. Throenle commented this trail was part of the Kawbawgam ski trail in the beginning and it may also get more traffic when the casino project is finished.

7. Lion's Field – another one of the top three. This recreation area is done for the most part, except for possibly do something with the sandpit area. Ideas could be a dog park or archery range. There is another small area that could host a small playground. This park is also a trail head for the Iron Ore Heritage trail.
8. Marina – needs boardwalk repair, was damaged last winter. Launch has a newer rollout pier. Does the Township need to keep the tent platforms, they were put in 2010 as part of a grant, do not know if they have ever been used. Restroom facility also needs to be replaced as it is not ADA facility.
Mullen-Campbell mentioned comparing the cost of replacing the existing bathrooms to renting a port-a -potty. Throenle commented he would write this down as a question and look it up.
9. Township Complex – utilize the Township hall for more activities. There are not many more improvements coming, but there are plans to add water/sink in the meeting room. Try to keep the historical aspect as the meeting room was the school, the bell in the office entrance was the school bell.
10. Silver Creek Recreation Area – this is the area that will be concentrated on to fix. There are bigger projects here and the question will be where do the funds come from? Security is a concern as far as fire and rescue, there is one way in, would like to extend the road through. Possible bike path extension, snowshoe or ski trails. The tennis courts were replaced this year and should be finished by the end of the month. Mullen-Campbell asked if there would be liability to add a skateboard area. Throenle commented it would depend on how it was built and what the insurance company said about liability.
11. Voce Creek – small access from US 41, maybe develop existing trails for hiking, possible biking, snowshoe. Add signage designating it as a Township property. Possible location for income by adding another cell tower to service the residents on the southern end of the township.

12. Wick Site – has not been visited by land, no easement found. There was no property survey turned over when it was donated. This parcel will not get any attention but does has potential for canoeing or kayaking across Kawbawgam Lake. This is the lowest on the list.

Maynard stated it may not be a bad thing if three of the properties mentioned were not developed – Wick, Green Garden and Voce. Throenle agreed but stated he would like to add signs designating them as Township property.

Mahaney commented it the parks in the waterfront areas had adequate signs they may see more usage.

Throenle stated these fit in with the Action Plan we have been discussing the past few months regarding the funding and would suggest putting this out for public review if there are no changes. He reminded the Commission that this does need to be turned in to the DNR by February 2020.

Commission Decision

Mullen-Campbell moved, Maynard seconded, that the Planning Commission put this plan for public review tomorrow (October 22, 2019).

Vote: Ayes: 7 Nays: 0 MOTION CARRIED

B. Proposed Ordinance 61 Firearms Revisions

Staff Introduction

At the Township Board meeting on September 9, 2019 the Board proposed a revision to *Ordinance 61 Firearms* to accommodate indoor shooting ranges within the Township, with a request for the Planning Commission to review that request.

Language proposed by the Board was:

“Firearms discharged within indoor, totally inclosed, noise mitigated, & lead mitigated, firing ranges located within Commercial or Industrial Mixed Use Overlay Zones”

Staff suggested revising proposed language the ordinance for Commissioner review as follows:

- Updating proposed language from the Board for section 5 to a “formal” format and language clarification
- Adding PUD to the restricted zones in section 3 of the ordinance, as it was overlooked in the previous revision of the ordinance
- Reordering the zoning districts in section 3 to make the section easier to read

Throenle explained to the Commission he has a Draft *Firearms 61 Ordinance* in the packet this evening reflecting the above changes and also added a definition for Sport Shooting Ranges or Range. The language for this was taken from the State language that revolves around shooting ranges.

Throenle has had conversations with the Bill DeGroot, the Township Manager to propose a slight change in the language to keep it more consistent.

DeGroot explained the reason for this change as being Section 5 only talks the about the description of firearms, to keep the definition consistent with the actual use the correlation has to be made “firearms to be defined as”, “the use of firearms within an indoor shooting range is”, “those particular uses such as”. This will help with use enforcement and use understanding to determine what the opportunity of use really is.

Throenle also explained that “indoor” was not included in the definition and asked the Commissioners if it should be as this particular scenario “indoor” would be an exception, automatically implying “outdoor” is not. Does this need to be a definition strictly for “indoor”?

DeGroot explained that what the Board suggested has two different opportunities for the Planning Commission to discuss. The first being as the Commission gets into the word or phrase of the actual use that should potentially include or not include “indoor”. The version handed to the Planning Commission by the Township Board does not include “indoor”. It is suggested that the existing use that is contemplated to the Township is exactly “indoor” and “indoor use” which was the intent of the verbiage that was discussed that evening.

DeGroot also explained the opportunity that was discussed in the definition section was to further define, to make it correlate with the rest of Section 5 pertaining to the uses of the permissions that were granted on the exception as to what firearms are defined as. These two areas of concern are to clarify the ordinance and allow the Planning Commission to target an ordinance revision, that is a bit more clear, defensible, and consistent of the events that have transpired from August to date, back to the Board. DeGroot stated he wants to honor both voices of the Board’s resolution and the Commission’s potential action without subsequent change to either discussion.

Police Sergeant Carrick commented that archery and firearms are being listed together but are separate items. DeGroot answered archery was not listed so instead of changing Section 5 to include archery and non-fire weapons it was easier to change the definition “such as” as it was a broader definition.

Commission Discussion

Bushong commented that archery does not fall under the definition of firearms in the definitions, it states “expel projectile by action of an explosive”. DeGroot advised the Commission the only other action they would have is to strike archery from that and in the Board’s version list archery as a potential indoor use.

Rhein commented that he felt it should be listed as “indoor” as he would not want any outdoor shooting ranges due to the issues with lead. With it being indoors at least it can be contained. He also feels archery should be left in there as well.

DeGroot reminded the Commission they have a zoning opportunity within the overlay district as well. When the Planning Commission goes back to the Board, how do you want Commercial and Industrial zones to be developed and what marketability future you want Chocolay Township to have.

Mahaney interjected he feels this ordinance is being modified for one business and will go back to his original statements in previous months that the meaning the approval of the indoor shooting range was done before the ordinance was contemplated being changed. He also feels the Board approved it without listening to the Planning Commission. It was brought up to do a separate ordinance for outdoor shooting ranges and it was not even investigated and now the *Firearm Ordinance* has to be changed to suit one business.

Maynard also interjected that unless the ordinance were to be changed to reflect the language as "lead free" versus mitigated she support or consider other language in the ordinance.

DeGroot commented that one of the items a Commission or Board has to evaluate is creating an ordinance that is so restrictive, whether it complies to Federal law, State law, or Local code, to where it becomes challengeable by right automatically. There are many words that cause the restriction to become the burden of how to enforce.

If we were to look at 100% capture for lead for example, how would this be enforced? It becomes a high problem of enforcement on the local level, do we have the skillset, the techniques to do this? Are we willing to take on the burden of risk, if challenged, how to enforce or have a certification of enforcement, whether it be someone on staff or reliable unit of government to back us up in the understanding of 100% in order to be defensible in court. DeGroot strongly suggest when thinking about that kind of risk, think of how it will be implemented. The Planning Commission has the right to suggest that language but what they have to question, of staff, is whether we have that opportunity and how do we prove that. He would not want the Planning Commission to write an ordinance where the staff does not have the ability to deliver the inspection, the quality, or the opportunity to validate the ordinance.

Maynard asked that the Planning Commission take the same position as California and ban all lead ammunition. This is her personal opinion as a Commissioner who is responsible for the health and safety of the community.

DeGroot understood but explained that weighing the risk as a community, Chocolay Township does not have assets to produce 100% compliance, California is struggling with this, they have lawsuits lined up. We have to be able, on the local level, to produce the tools to comply with an ordinance of regulation. If we do not do this, it will be just an ordinance on paper that we cannot enforce. DeGroot commented that we have the opportunity to be a bit more lenient and still strive for the target of 100% compliance, we can work towards that goal. He is acceptable to have Staff and Commission research and the opportunity of continuous improvement and possibly come back to the Planning Commission at a later date to amend any ordinances to

100% compliance in the environmental areas. We just do not have the tools, mechanisms, or certified staff as it stands right now.

Mahaney does not feel it should be up to the Township, he feels the burden of proof should be on the business owner, he does not think we are qualified as a Township to do this. Mahaney went on to say if they were doing a separate ordinance for shooting ranges, they could add this kind of language in there. He also feels if they were to have an ordinance there could be a way to hold the business to 100% and if they cannot maintain that, maybe they should not be there. He is against the shooting range and feels the lead is a big factor on the health of the citizens.

DeGroot does not disagree with Mahaney's expressed feelings in this process, the burden upon the Planning Commission is to review the definitions and suggest the ordinance to the Township Board that takes into account a new suggested use by looking at the existing two ordinances that they have asked for a review. Under the Planning and Enabling Act, the Township Board is the body to approve the Township's ordinances. The Commission has an opportunity to suggest tailored languages and how to implement it. DeGroot suggested to the Commission to find a way to work together to mitigate the situation.

Maynard stated the Commission does not have to all vote the same way, they do not need her vote for this to pass, but she needed to say how she viewed this ordinance. DeGroot stated he just wanted to be clear on how they got to this decision and advise the Planning Commission of the opportunity before them this evening.

Sergeant Carrick interjected with two comments. The first was regarding enforcement, the police have to prove, in court when they fine someone, their evidence, so they would have to be the ones to provide enforcement. The business could not provide evidence against themselves and they cannot do that.

Sergeant Carrick made his second comment regarding lead, stating that going to an indoor shooting range will reduce the amount of lead in the environment. As of right now State law allows a person with a small game license to shoot into any place with a backstop. There are several areas in the Township that lead is getting shot into the ground, gets rained on, and washed into the waterways. This will help greatly with the amount of lead in the ground.

Mahaney feels after the Planning Commission denied the shooting range and the Township Board approved it, they are spending more time trying to allow it within the Township. Throenle interjected by stating he agrees with his perspective, but he also sees this for any future applicants that attempt to do the same thing. It is not for one person; it needs to be in place if they come through the door in the future.

Mahaney was not sure the direction of allowing indoor shooting ranges was the directions the Township should be going in. Once you do this, it feels like you are allowing indoor shooting ranges. Rhein stated they could limit the number of shooting ranges in the ordinance.

Throenle interjected they have another item on the agenda that directs the Zoning Ordinance portion of this regarding where they are permitted, uses, and so on. This would control the shooting range concept. The Ordinance 61 *Firearms* does not permit shooting ranges in the Township, it would basically state if the Zoning Ordinance says it is ok to and the Commission conditionally approved it (if the Commission chooses to go forward with this language) then they are exempt based on Ordinance 61 *Firearms*.

Soucy stated his primary concern is not addressed in the Ordinance 61 *Firearms* but looking forward to the Zoning Ordinance. His concern deals with the construction of the shooting range itself as it does not really describe what it is. The definition says it needs to be noise mitigated but to what degree? The site plan does not deal with this. He feels having conditions that require what it is or refers back to a generally accepted standard from an institution that has a list of standards would they would not have to be listed in our own ordinance. He feels having standards from knowledgeable organizations is the best way to go for this.

Throenle stated when having a conditional use discussion, for an applicant, those conditions can be part of the conditional use permit, they do not have to be outlined in the ordinance specifically to state "A, B,C" but you can specify it in the conditional use that "A,B,C" have to be met to do this.

Soucy added this would rely on a future Planning Commission to take all the necessary steps to remember all the things that have to be included. We could use a conditional use process and have it all laid out. Throenle stated if they left it up to a future Planning Commission, they could have the flexibility to determine if it makes sense for "today". This allows them to look at the ordinance in the future and see if the previous conditions still make sense. Throenle stated, in his opinion, each case should be determined on its own merit, not from the perspective of one standard for all. Each applicant and location will be different.

Mahaney felt Soucy was on the right track with doing a separate Zoning Ordinance for this as it has to do with the health of the community. This is pertaining to discharging firearms, he feels this is totally different than a building project, it should be a whole different set of standards.

DeGroot interjected to explain what the Township Board recommended. The Board did not take a stance on use, it approved, by appeal, a site plan to allow the structure to be physically there. The Zoning Ordinance does not allow them to occupy the structure, as of now, the structure can be there as of now but cannot be used or occupied.

The Township Board recommended an opportunity to the Planning Commission to review the ordinance, to suggest a use that would fit the ordinance, and understand how and what can be done to tailor the conditions, complying with your denial, due to findings of fact from the Planning Commission that needs to be set forth.

The denial was based on the environment and concerns for noise and ventilation. One of these is covered under State law. Being compliant with State law as the backbone is significant. The Planning and Enabling Act allows a special use to be compliant and has to be reviewed on three bases: cultural, socioeconomic, and environmental. Based on this, when looking at the Zoning Ordinance discussion, the Planning Commission can look at the conditions being placed on it. State law also gives the Planning and Enabling Act to opportunity to look at site specific as it refers to the uses independently of each other.

DeGroot recommended the Planning Commission look at this as a conditional use opportunity as flexible as it can be because conditions do change. The opportunity that would be the best protection for the Township would be site-specific condition approved situation. DeGroot went on to explain, the more the restrictions are looked at as a guideline now, the more you have to change in the future as those guidelines change the less you become protected in the future.

DeGroot also explained that Ordinance 61 *Firearms* is a stand-alone ordinance enforced by the police not by the zoning district. Mahaney stated when enclosed shooting ranges were first brought up, the original *Firearms* ordinance, it stated specifically that the restricted zone was in the commercial district. Mahaney does not feel the ordinance needs to be amended, Rhein stated he felt it needed to be amended to have indoor range in the definition, so the police have the right to enforce the law. Mullen-Campbell felt it should be in the definition.

Bushong does not want to see archery included with firearms in the definition. Also add, under 5C, to add something explaining “firearms discharged within enclosed sport shooting ranges for which size and caliber designed”.

Supervisor Bohjanen made a suggestion to add impenetrable so it can't be enclosed with canvas. Sergeant Carrick commented anything is impenetrable, even his protective vest can be penetrated.

Soucy asked if there would ever be an issue as the mixed-use overlay district overlays many of the other restricted districts. Throenle stated the section for mixed use overlay district defines in the Zoning Ordinance specifically where they are located.

Commission Decision

Rhein moved, Milton seconded, that the proposed definitions and language for Ordinance 61 Firearms be accepted as revised and that the proposed ordinance be presented to a public hearing at a future Planning Commission meeting.

Vote: Ayes: 5

Nays: 2 (Mahaney/Maynard) MOTION CARRIED

Throenle asked for a five-minute recess. Mahaney agreed.

VIII. NEW BUSINESS

A. 34-19-05 Proposed Zoning Ordinance Revisions

Staff Introduction

At the Township Board meeting on September 9, 2019 the Board proposed a conditional use revision to accommodate indoor shooting ranges within the Township with a request for the Planning Commission to review that request.

The motion by the Board was:

“Amend Zoning Ordinance: Add as a Conditional Use within Mixed Use Commercial and Industrial Overlay Zones – “Enclosed Indoor Firing Ranges”. Section 1.5 of the Mixed Use Overlay Zone – “Relationship to Other Laws” that references more restrictive or higher standards referring to the Firearms Ordinance 61 (below), remains unchanged.”

Staff reviewed sections of the ordinance that would be affected by the proposed amendment. There are five affected sections in the Township Zoning Ordinance.

The first item recommended was in the definitions for Ordinance 61 *Firearms*, they asked that the same definition be put into the Zoning Ordinance to prevent discrepancy in language.

The second recommendation would be to look at the commercial district and add as a conditional use “sport shoot range” or “range”. This would also have to have “indoor” added so it would match the definition. The third would be adding the same wording to the industrial district.

The fourth change would be in the mixed-use district as the definition was also included in the mixed-use overlay district.

The last change would be for the actual conditional use, for the mixed-use district, would be included as an “indoor shooting range(s)”.

Throenle commented the discussion for the Commissioners is to look at the ordinance to make sure it makes sense by adding these changes and continue on to making this a conditional use in the overlay and industrial districts.

Commission Discussion

Mahaney commented he did not have a heading for mixed use, he does have heading for industrial and agricultural. Throenle answered that is due it being a different section in the ordinance.

DeGroot discussed the concerns regarding the conditional use permit section 16.2 Item 5 in the Zoning Ordinance which states:

“The conditional use shall not be hazardous to adjacent property, or involve uses, activities, materials or equipment which will be detrimental to the health, safety, or

welfare of persons or property through the excessive production of traffic, noise, smoke, odor, fumes or glare.”

DeGroot stated this goes back to the question of burden of proof as stated in Item 10 and 11:

“Failure of continued compliance with those federal, state, or local statutes, regulations, and ordinances as they existed at the time the conditional use was issued may result in Planning Commission review and revocation of the Conditional Use Permit.”

“A conditional use permit shall not be effective until the applicant has provided proof that they have obtained all other required permits or licenses.”

DeGroot pointed these sections out to the Commission to show them there is one more section that is the basic determination the Planning Commission has in its Zoning Ordinance. This sections states:

“The Township Planning Commission may impose conditions with the approval of a conditional use which are necessary to ensure compliance with the standards for approval stated in this section and any other applicable standards contained in this Ordinance. Such conditions shall be considered an integral part of the Conditional Use Permit and shall be enforced by the Zoning Administrator. In addition, the Township Planning Commission shall also consider the activity levels of the proposed use and may impose conditions to insure the preservation and protection of property values of adjacent properties.”

DeGroot pointed out to the Commissioners they questioned, for indoor shooting ranges, the determination of mitigated versus 100%, backstop impenetrable or not, manufacturer’s standards. These are defensible positions of the burden of proof of in the Zoning Ordinance that your Zoning Administrator can use. He suggested the Planning Commission understands this section before they look at the definitions due to, they are listed under conditional use and can be enforced.

Mahaney thanked DeGroot for his comments. Soucy agreed the Zoning Administrator has power to curtail something bad from happening but feels the Commissioners should get conditions established to prevent this from happening.

Throenle stated he felt this was the point made by DeGroot. When an applicant comes to him for a conditional use permit that is the conditions are established, not through the Zoning Ordinance, due to each case being looked at differently. Throenle stated he is held to the conditions presented.

Soucy felt consistency is important and feels there would not be consistency this way. Throenle commented stated even if the language was not firmly planted in the Zoning Ordinance there could be issues. He also stated that until an ordinance is updated there is a standard to be held to. Soucy stated the State law supersedes and Throenle stated it would depend on how it is written and worded.

DeGroot suggested GAAMPs (Generally Accepted Agricultural and Management Practices) as they change. He further explained a more concerning feature in the Township that concerns him more than indoor shooting ranges are the GAAMPs under the Right to Farm Act. They change every year, when you look at what is compliant or conditional use this year could be different next year. He also commented that whatever is developed has to be inspectable, defensible, and enforceable and if it is in the Zoning Ordinance it needs to be enforceable by the Zoning Administrator, not a third party

Soucy stated he would envision this to be the conditions in the ordinance that were added by the Commission would be a guideline for future Commissions.

DeGroot commented that he would recommend strengthening the conditional use section within the ordinance. He also stated that he feels the current conditional use section does not require a true findings of fact determination. He suggested that within the conditional use application process and ordinance the Planning Commission should have a defensible findings of fact section. He asked the Commission if this would be enough to satisfy the requests from the Commission.

DeGroot went on to explain to the Planning Commission that under the State Planning and Enabling Act, "findings of fact determination" is a requirement under special use obligation, that the Planning Commission state exactly why they have come to the findings of fact, whether by approval, denial, or tabling, and specify by chapter and verse defensible by the Master Plan and Zoning Ordinance sections. In stating this, DeGroot strongly suggested the Planning Commission add a sentence in Section 16.2 that states:

"By resolution the Planning Commission determines in each case a findings of fact determinate on the Township Master Plan and Zoning Ordinance before final resolution of the application."

Maynard stated this would create a historical body for reference. DeGroot answered it would not only create a historical record that would be defensible in court and would also show future Planning Commissions why the determination for that site was reached.

Soucy stated his understanding was "by resolution the Planning Commission determines in each case findings of fact before resolution"

DeGroot told the Commission if they were willing to act on the contingency of the information from tonight, the information for the conditional use section can be brought back to the Planning Commission at the next meeting to reflect the suggested sentence.

Maynard stated she would like this revised language to come back to the Planning Commission next month.

Throenle asked the Commissioners if he could have a discussion next month regarding the language that was proposed in terms of location and conditional use,

with the understanding it will come back to the Planning Commission, for review with the additions added.

DeGroot told the Commission that if they agreed with the change mentioned in Soucy's statement, they have the opportunity to have all ordinances come back with at next month's meeting. The drafts would be available, there would be no action on them, but the public hearings could be held at next month's meeting.

Throenle stated the Commissioners can review the information so it can be brought back next month close to the way they want it. Rhein stated they did need to change the definitions. Throenle stated the definitions would be changed to read:

"Indoor sport shooting range or range". The actual definition would be "Means an area designated, designed, and operated for use of archery or firearms such as rifles, shotguns, pistols, silhouettes, skeet, trap, black powder or any other similar sport shooting." Throenle went on to say this is the wording that was put into Ordinance 61 *Firearms* and the same definition would also be put into the Zoning Ordinance. He would bring it back next month with this language in the revised document along with the section revision that was recommended.

Soucy asked if there is a special use presented as a special use permit request and they also have a site plan, could they bring in the site plan first? Throenle answered the conditional use would be first.

DeGroot interjected that he and Throenle have had lengthy discussions regarding this. He stated there have been discussion regarding process within the Zoning Ordinance. He suggests the Planning Commission think about regarding site plan and conditional use. He told the Commission to think of a conditional use site plan as a concept plan, the applicant would have to show the Planning Commission how they were going to use the facility and/or property and how it would affect the adjacent communities but it will not show all of the setbacks and all the other information at that stage as it does not have to at that point.

DeGroot went on to explain that the developer would have an idea, the developer would come to Township staff to discuss the idea, develop a concept plan, staff have a discussion to decide if it is conditional use opportunity for that particular zoning district, then come before the Planning Commission to discuss the idea, concept plan, get a conditional use permit granted, and then onto site plan review. He also explained the Commission has an educational opportunity in the conditional use opportunity, and the Planning Commission's motion to appeal this to court. However, if the site plan meets the ordinance, the Planning Commission is bound by law to approve it regardless of feelings about use. If the plan does not meet the spirit of the ordinance the Commission has the right to deny or table. If it were to be denied because it did not meet the ordinance, it would then go to the Township Board.

Mahaney asked if the Commission were to miss something on the conditional use application or hearing, could it be brought up during the site plan review. DeGroot

answered the Commission could ask the applicant but they are under no obligation to comply. Mahaney stated the real work is done under the conditional use hearing. DeGroot answered only if it is a conditional use opportunity but it does not get into a site planning situation.

DeGroot explained the *Master Plan* is the document of the Planning Commission and the *Zoning Ordinance* is the enforcing document of the Township Board.

Mahaney stated he would still like a separate ordinance for shooting ranges. If something gets missed under conditional use, by a future Planning Commission, it could proceed and there would be guidelines in place to follow.

DeGroot explained many communities talked about this but where would it end as there will be more conditional uses coming about. He stated the way the conditional use ordinance is written in our regulations now; he is not sure the Commission could enact a guideline that would allow the same rights they have now. The burden of proof is not on the us to help the developer develop within the Township, it is on the developer to prove to us that he can develop within the Township according to our guidelines.

Mahaney stated it goes back to his argument that the burden of proof can be put on the developer/owner to be 100% lead free. DeGroot stated the Commission may want to do this in the future but under the current conditional permit use right now he does not think this is possible. This restriction still exists now. Mahaney feels conditional use is a powerful weapon.

DeGroot explained that section 125 of the Planning and Enabling Act specifically calls out special uses. We have chosen to change the word "special" to "conditional" and he suggests the Planning Commission look at that.

Mahaney suggested that under the permitted use section, his thought was to take shooting ranges out of the mixed-use overlay zone but leave it in the agricultural and industrial zones. Throenle interjected they would have to go back and change Ordinance 61 *Firearms*, which was just modified this evening, to remove it from the mixed use overlay and add agricultural as a permanent district.

Throenle stated once this ordinance goes into effect with whatever changes, the applicant still would have to come back and get a conditional use permit, they have to go before the Commission before they can open the doors, assuming that was the direction the Commissioners took.

Mahaney stated he does not feel these ranges should be part of the business district. Throenle also told the Commission, as a courtesy of the site plan review, he sent out notices to the neighbors within 500 feet of the project. This has been a couple of months now, but to date he has not heard any negative comment of having a shooting range in that area other than the comments this evening.

Throenle also stated if conditional use is listed, the Commissioners have the power to list the conditions the applicant has to meet to be able to open the doors. If the

applicant is denied based on the conditions, they have the option of going to court.

Soucy asked if this could be tabled until the next meeting and Throenle stated it could not as he needed to know the language that has to be brought back.

Soucy asked Mahaney if there would be any place in the mixed-use zone that would be acceptable for a shooting range, given the right conditions. Mahaney commented he was not sure it would fit in anywhere in the mixed use.

Milton stated he liked the flexibility the ordinance gives the Planning Commission currently. Mullen-Campbell, Bushong, and Rhein agreed with Milton. Mahaney stated that would be the majority, even though he is against it, the majority would speak.

Throenle stated he would request a motion from the Commissioners to advise him of the acceptable language to be brought back next month.

Commission Decision

Rhein moved, and Milton seconded the Planning Commission move forward with the changes made and discussed tonight to be presented at the next Commissioner meeting.

DeGroot asked for clarification for the record that Staff will bring back in a package the changes suggested for Ordinance 61, 34-19-05 (proposed Zoning Ordinance revision) and article 16.2 to include the language suggested by the Planning Commission to include the basic definition of finding of fact. This would be presented as a package of three separate ordinances to come back to you at the next Planning Commission meeting.

Throenle commented that one additional piece, the definition in Ordinance 61 *Firearms*, will be added as well.

Rhein moved, Milton seconded to these additions to his motion as well.

Vote: Ayes: 6 Nays: 1 (Mahaney) MOTION CARRIED

Throenle asked for clarification, from the Planning Commission, that the intent of the motion was for this to come back next month for a public hearing. Rhein answered yes, that was part of it.

B. Ordinance 67 Marijuana Establishments Discussion

Mahaney asked the Planning Commission to end the meeting move the discussion for Ordinance 67 *Marijuana Establishments* to the next meeting. Mullen-Campbell asked if there was a deadline for this and was told no.

Soucy felt it was tricky and stated his concern was this could be subject to a public referendum that requires 5% of the 3118 voters in the community that voted for governor. This would be only 156 people to overturn this. Soucy feels the need for due diligence to draft ordinance language to prevent this from happening.

Throenle suggested the Commission to send their corrections, questions, comments,

or concerns regarding the proposed ordinance to the DeGroot, Township Manager so they can be addressed at the next meeting.

IX. PUBLIC COMMENT

Bill DeGroot, 2017 Wetton – plans a review of what is happening with ordinances according to changes in Michigan Tax Law regarding recreational marijuana in the City of Marquette, Negaunee, and City of Iron Mountain. Will also do an analysis of the impacts of commerce over federal law. He will also have information regarding Colorado and California, to see how it looks today after becoming a recreational state.

He is currently reviewing the opportunity of the Michigan Association of Planning to perform a training session before the annual meeting in January to discuss the Michigan Planning and Enabling Act and the Michigan Zoning Enabling Act. He has asked the Township Board to invite the Planning Commission and the Zoning Board of Appeals so everyone is there and can get an understanding of State laws and how they can help us. This will help set our priorities as we enter the new year.

He also has connections with the State Leadership of Michigan Association of Planning, and they are willing to come here for a training session. If there are other opportunities you would like briefs on, he is willing to bring experts in for training sessions as brief agenda item.

Public comment closed at 9:49 PM

X. COMMISSIONER'S COMMENTS

Rhein - None

Milton – None

Maynard – None

Mahaney – Mentioned that there were many items on the 2019-2020 Planning Commission Priorities that had been completed and the Planning Commission should review this to see what they would like to tackle. He asked the Commissioners to glance at it before the next meeting to get a direction for future meetings.

Soucy – There will be an Asset Management conference at the Holiday Inn on October 30th which coordinates with the TMC (Transportation Management Council) conference all are welcome to attend. The summit will begin at 2:00 PM and is free to attend and the TMC conference will be \$25-\$35 to attend. Throenle asked this information to be emailed to him.

Bushong – none

Campbell – none

XI. DIRECTOR'S REPORT

Throenle asked if the Commission was ok with the function ability of the tablets used for the meeting packets. He stated the Commissioners could always ask if they wanted a paper copy of any of the meeting materials.

Throenle also asked if there were any items the Commissioners would like to see on the

agenda, for next month, other than the hearings discussed this evening. Mahaney inquired what would be on the agenda as of now and Throenle commented that the following would be on the agenda:

1. *Ordinance 61 Firearms* for public hearing.
2. *Zoning Ordinance* for public hearing.
3. The marijuana talks that were not discussed this evening due to the length of the meeting.

The Commissioners agreed this would be a full agenda. DeGroot commented that the recreational marijuana discussion would be a lengthy discussion and one worthy of taking time in discussing.

XII. INFORMATIONAL ITEMS AND CORRESPONDENCE

- A. Minutes – Township Board, 09.09.19
- B. Township Newsletter – October, 2019
- C. Minutes – City of Marquette Planning Commission, 09.17.19
- D. Minutes – City of Marquette Planning Commission, 10.01.19

XIII. ADJOURNMENT

Meeting adjourned at 9:13 PM

Submitted by:

Planning Commission Secretary

Donna Mullen-Campbell

CHARTER TOWNSHIP OF CHOCOLAY PLANNING COMMISSION MINUTES

Monday, November 18, 2019

I. MEETING CALLED TO ORDER BY: Tom Mahaney at 6:04 p.m.

ROLL CALL

Members Present: Tom Mahaney (Chair), Susan Maynard (Vice Chair), Donna Mullen-Campbell (Secretary), Don Rhein (Board), Kendell Milton, Ryan Soucy

Members Absent: Cory Bushong (Vice Secretary)

Staff Present: Dale Throenle (Planning Director/Zoning Administrator), Richard Bohjanen (Township Supervisor), Bill DeGroot (Township Manager), Tony Carrick (Chocolay Police Sergeant), and Lisa Perry (Administrative Assistant).

II. ADDITIONAL AGENDA ITEMS / APPROVAL OF AGENDA

Throenle told the Commission the date listed in Section XII.A for the Township Board Minutes should have been 10.14.19, not the 09.09.19 listed on the Agenda.

Motion by Milton, and seconded by Rhein, to approve the agenda as revised.

Vote: Ayes: 6 Nays: 0 MOTION CARRIED

III. MINUTES

October 21, 2019

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

Vote: Ayes: 6 Nays: 0 MOTION CARRIED

IV. PUBLIC COMMENT

None

V. PUBLIC HEARINGS

A. Proposed Ordinance 61 Firearms Revisions Public Hearing

Staff Introduction

Throenle advised the Commission there is a change in format how the sections are presented in the packet.

Throenle stated at the Township Board meeting on September 9, 2019 the Board proposed a revision to *Ordinance 61 Firearms* and to the Township Zoning Ordinance to accommodate indoor shooting ranges within the Township, with a request for the Planning Commission to review that request.

Language proposed by the Board for *Ordinance 61 Firearms* was:

"Firearms discharged within indoor, totally inclosed, noise mitigated, & lead mitigated, firing ranges located within Commercial or Industrial Mixed Use Overlay

Zones”

Staff suggested revising proposed language the ordinance for Commissioner review as follows:

- Updating proposed language from the Board for section 5 to a “formal” format and language clarification
- Adding PUD to the restricted zones in section 3 of the ordinance, as it was overlooked in the previous revision of the ordinance
- Reordering the zoning districts in section 3 to make the section easier to read

At the October meeting, Commissioners revised the proposed language to specify that exempted shooting ranges must be indoor and clarified the proposed definition language regarding shooting ranges.

Throenle told the Commission he had a conversation with Richard Bohjanen (Doc), Township Supervisor, to cleanup a definition which was presented to the Commission. This change in wording would make it more specific to what the ordinance would be referring to.

Public Hearing

Scott Emerson, 119 Lakewood Lane – He is a Board-certified medical toxicologist. He has a comment in the packet but wanted to congratulate the Planning Commission for their denial of the firing range at their July meeting based on zoning and public health safety concerns. He feels changes from 100% lead free ammunition to lead mitigated ammunition would not assure public health and safety. He feels lead dust is still a problem.

He stated 100% lead free indoor firing range is the best way to go, would be easy to enforce, and the violation can be assessed as in the ordinance. It would also lead to uniquely clean ranges here in the Upper Peninsula. Stated the Federal is the largest ammunition manufacturer in the United States and they are moving to 100% lead free for all of their hunting and sport shooting ammunition.

Jude Catallo, 119 Lakewood Lane – Has a comment in the packet. She feels best protection for the Township and the residents would be lead free.

Public hearing closed at 6:20 PM.

Commission Discussion

Mahaney asked the Commissioners if they had any other comments after reviewing the packet and listening to public comment.

Maynard stated that she will personally remain consistent in her comments, as a founder of the Chocolay Township Raptor Center, that she wants to see 100% lead free in the ordinance.

Mahaney commented that 100% lead free has been an issue with the ordinance. He stated there is lead free ammunition available and he feels it would not impede the business from having an indoor shooting range and it would protect the citizens of the Township. He feels strongly if they are going to make an ordinance, they should do it right now.

Mullen-Campbell stated after doing more research she now shares the same views regarding 100% lead free ammunition.

Milton stated people will still purchase lead ammunition as it is less expensive. Maynard added the Raptor Center has done research and found there are more eagles that come in the winter with lead poisoning. They understand that hunting is an important recreational and economic part of the Upper Peninsula, but she feels with all the expenses that go along with hunting, the difference in price between lead and non-lead ammunition is a tiny piece of the overall hunting trip.

Mahaney told the Commission the ordinance is not trying to stop you from buying lead ammunition for hunting. Milton stated if lead is going to be taken out of the environment, lead manufacturers and ammunition suppliers will follow, that is the way the economics work.

Mahaney stated it is already happening as California is 100% lead free and manufacturers are making lead free ammunition. If he was a hunter, he would take the option of not breathing lead dust and buy the lead-free ammunition regardless of the price. It is all a personal choice. He added that we are not telling people they cannot shoot in the indoor range; we are just taking a safety measure to protect their health and that of the surrounding environment.

Maynard feels with the ammunition companies going to lead free and California is already lead free, it sounds like it is the industry that is leading this. Her question was, will we follow them? If we do follow them, it could lead to others following and create a snowball effect.

Maynard added that she knows we cannot take lead out of the environment, but we could take steps to minimize it and eventually eliminate it.

Mahaney it could be looked at from the standpoint of not hurting the business but encouraging the people who are afraid of lead contamination in an indoor shooting range to shoot outdoors where they feel safer. Mahaney stated he does not see this as a bad thing, it may increase more use of the facility being lead free.

Milton commented that he does not see this as bad either, but he will continue to go with whatever the price dictates. He has an older gun that only uses paper shells, he must go to gun shows and special places to buy old ammunition for it. He stated they do not make lead free in paper shells.

Maynard stated she is not telling people to not hunt or hunt with lead, she hopes they would not use lead, but this is about an enclosed environment and the Commission has an opportunity to make it healthier in this instance.

Rhein felt by making the indoor shooting range lead free, it could lead to a facility being built that does not have the vacuums, filters and other safety precautions; someone could go in and shoot with lead, that would go right into the atmosphere. He also feels that if the ammunition companies are going to lead free, eventually it will all be lead free.

Soucy commented that he was on the fence regarding lead. He knows there are animals that are affected and that is disappointing but there is a major study beginning in Marquette. Michigan State University and Northern Michigan University are doing this study on sustainable tourism and what it means to our community; how to promote it to define us. He feels the indoor shooting range factors into the sustainable tourism; would making the change to lead free ammunition make us a leader in sustainable tourism. He is leaning towards the lead-free ammunition as well.

Maynard stated there are many things that we, as people, would take as “normal”. She added, for instance, cosmetics had lead in the manufacturing. Mahaney commented that there was lead in water pipes and are now having to be replaced due to the dangers.

Mahaney stated the Commission has the opportunity to take this step for others in the future to look at, to see the awareness. He has no questions regarding the rest of the ordinance.

Throenle interjected and told the Commission the lead-free discussion comes down to enforcement. He asked the Commission, from the Zoning aspect, three questions.

First, who would be certified to do the testing to assure it is 100% lead free? Second, how frequent would this have to occur? Third, how do you insure the person entering did not have lead on them before entering the range, causing a contamination of the range that could lead to a fine for the owner.

Throenle also asked what type of testing would be done prior to a person entering the unit. He stated if the unit is to be 100% lead-free, there would be an issue, from the enforcement aspect, on determining how it got there if lead was found.

Mullen-Campbell asked if there was a way to leave the 100% portion out of the text for the ordinance. Throenle added that Mullen-Campbell had an interesting point, something for the Commission to consider. If they were to leave the ordinance at mitigate, with the intent as ammunition changes to lead-free by the manufacturers, this would take care of itself. This would keep the owner from getting fines that the owner did not cause. This would also help with the sustainable tourism aspect as it would show that the Township is heading in the direction of lead-free.

DeGroot interjected and told the Commission that the comments tonight by Throenle were extensions of conversations they have been having after reviewing past comments by the Commission and the public.

DeGroot stated there are many older homes with lead-based paint in the area. If a contractor works on one of the those and decides to use the indoor shooting range, DeGroot is concerned any lead-based contaminant could give a false reading for lead in the range as a result of the worker entering the range.

DeGroot personally believes in 100% lead-free in everything, would love to be the first in doing this, but as the Township Manager his question is how to enforce this through the police and what are the techniques to promise and insure that the Township staff is competent, trained, and has the ability to enforce this on a daily basis by understanding the enforcement techniques that are designed for indoor shooting ranges. The issue at hand is not hunting or shooting lead ammunition, it is the ordinance and the defendability of the ordinance for indoor shooting ranges.

As the Township Manager he wants to bring the Township an ordinance that will protect the residents at all costs which means it needs to be enforceable. As the Manager, his responsibility is to put this into a procedure that Staff can implement.

DeGroot also stated if the enforcement of the ordinance, regarding lead, were to go to court, it would be the Township’s responsibility to prove that the business was in violation, not a contaminant brought into the range by a person coming into the business. He added that the integrity of the ordinance would be called into question if the Township were to go to court by way of the enforcement tactics, the enforcement of the ordinance, and unified control of the ordinance. Even though DeGroot agrees with the toxicology, he does not have a certified person on staff to take tissue

samples nor does the Township Police have the ability to take blood samples to prove it. The proposed enforcement strips take samples from the air and cannot be used to prove if lead came from a gun or not.

Emerson explained that according to the recommendation of the National Toxicology Registry for the firing ranges is there is a clean room with a clean, disposable suit provided to change into. His main concern is that there is always a range officer on duty that inspects the ammunition and asks if the gun is cleaned before entering the range.

Sergeant Carrick, Firearms Instructor for Chocolay Township, interjected. He told the Commission he is responsible for the cleaning and maintenance of the Township weapons. His firearm has been cleaned and has not been fired since but he would guarantee there would be lead found on it; it is impossible to get all of the lead out of it. He also told the Commission that blood level tests would not be accurate due to employees being active in shooting when off duty. How do you hold the employee responsible for what they do when off duty; you cannot do that.

Mahaney stated there is a penalty incorporated within the ordinance but asked how one would know if the velocity was not within the range of the unit; it would be up to the owner of the range. The same could be done if it was posted as lead-free, the owner to check before they enter. He also asked how the noise would be mitigated. He stated there are many ways to enforce penalties, but they need to reach a decision they feel would be safe for everyone, if they cannot do this why enforce anything?

Throenle commented that if they could take the emotion out of the subject and decide where we want the Township to be, it could be achieved if we state, "mitigate lead with the intent of getting to the 100% lead-free". He added that by establishing 100% lead-free Staff would have to figure out the enforcement. Would the enforcing officer have to remove their clothing and weapon due to the lead before entering the unit?

Mahaney suggested studying the law in California due to the State being 100% lead-free.

DeGroot interjected by stating the Planning Commission was required this evening to hold a public hearing and discuss the opportunity to change an ordinance that would then go to the Township Board for concept and discussion at that level. At that point in time, the Township Attorney would be engaged. He suggested, as an alternative, the Planning Commission state mitigate versus 100% lead-free and ask the Township Attorney to weigh in with his professional opinion of defending the Township in litigation and/or suggesting to the Township Board how this should be worded.

Maynard commented instead of concentrating on the 100% lead-free environment, maybe they could state that all ammunition used in the indoor shooting range must be lead-free and mitigate the environment as much as possible today. This would help the exposure of any additional lead being introduced into the environment inside the range. The ammunition would be lead-free, but the environment would be mitigated.

Mahaney stated if felt like a compromise and he liked it. Throenle made the draft changes to the ordinance exceptions that states:

(C) Firearms discharged within indoor sport shooting ranges that are totally enclosed and impenetrable by manufacturer-allowed calibers and velocities, mitigate noise, mitigate lead, require the use of ammunition labeled as lead-free and are located within the Mixed Use Overlay District or the Industrial (I) zoning district, and comply with all external government agencies including health and safety.

Soucy asked for clarification, before making changes, if this is the appropriate spot in the ordinance or would it be better in the conditional use section due to it being a police powered ordinance versus in the *Zoning Ordinance* where their special use could be revoked as the penalty.

DeGroot answered with the clarification on the enforcement side is the ordinance has the penalty built into it for violation. The Commission should decide which way they feel more comfortable with. DeGroot went on to explain that in the special use the Township has an opportunity to revoke the special use permit so that can never do it from that site again. The burden of proof for the Township becomes much greater to be able to revoke the special use.

Mahaney felt it should be put in the ordinance as they would have to follow the ordinance before they went into a special use.

Sergeant Carrick asked to speak to the Commission, Mahaney agreed. Sergeant Carrick looked up 100% lead free ammunition laws in California on his phone and stated that all the ammunition listed allowed for 1% lead so they should not be labeled as 100% lead-free.

The Commission decided to remove the wording “100%” and replace it with “ammunition labeled lead-free”.

Commission Decision

Maynard moved Milton seconded, that after providing required notification to the public, holding a public hearing and considering public input, the Planning Commission recommends that the Township Board approve proposed Ordinance 61 Firearms as revised.

Vote: Ayes: 5

Nays: 1 (Rhein)

MOTION CARRIED

B. Proposed Township Zoning Ordinance 34-19-05 Revisions Public Hearing

Staff Introduction

At the Township Board meeting on September 9, 2019 the Board proposed a revision to Ordinance 61 Firearms and to the Township Zoning Ordinance to accommodate indoor shooting ranges within the Township, with a request for the Planning Commission to review that request.

The Board voted to send the following instructions regarding the Township Zoning Ordinance to the Planning Commission for consideration:

“Amend Zoning Ordinance: Add as a Conditional Use within Mixed Use Commercial and Industrial Overlay Zones – “Enclosed Indoor Firing Ranges”. Section 1.5 of the Mixed-Use Overlay Zone – “Relationship to Other Laws” that references more

restrictive or higher standards referring to the *Firearms Ordinance 61* (below), remains unchanged.”

Staff identified seven sections in the Township Zoning Ordinance that were affected by the change:

- II Definitions – Sport Shooting Range or Range
- IV Zoning District Regulations – section 4.5.C
- IV Zoning District Regulations – section 4.6.C
- 5.5 Use Definitions
- 5.5.C Conditional Uses
- 16.2 Basis of Determination and General Standards
- Reordering the zoning districts in section 3 to make the section easier to read

At the October meeting, Commissioners reviewed the affected sections, and added additional revisions to section 16.2 Basis of Determination and General Standards.

Throenle stated he felt the Planning Commission heard and discussed what they needed in the previous agenda item. With that there will be sections in *Zoning Ordinance 34-19-05* that will have to be revised to match the changes made to *Firearms Ordinance 61* and he asked to proceed with the public comment portion.

Mahaney asked Throenle if the indoor shooting range applicant is approved or if they would still have to get a conditional use permit. DeGroot interjected and stated they would have to get a conditional use permit. Soucy commented that the site plan was approved, not the special use.

Supervisor Bohjanen interjected and told the Commission he felt they would not need the special use according to the ordinance, as it was at the time the site plan review took place. Throenle told Mahaney it would be a discussion outside of this meeting to get that answer.

Bohjanen stated it was an accessory structure that was already included in the zoning district at that time before it was modified. Soucy added that it was never included in the Zoning Ordinance as an accessory use; there is existing case law that states if the use is not listed in the ordinance it cannot be approved. Soucy added he could go back and do the research to find the court case, but he feels this would not be approved. Throenle stated he would look at this again, but they can finish this portion as this conversation is not relevant to this discussion.

Public Hearing

Scott Emerson, 119 Lakewood Lane – Has concerns about including this to the Mixed-Use Overlay Zone because with the distance requirements, this could include some residential areas. Feels it should be confined to the Commercial section of the Mixed-Use zone; has no issue with it being in the Industrial section. Feels it could be close to school and it should be in a more restricted geographical area. Even though a resident would have to get a conditional use permit he has concerns of any future Planning Commission not applying the conditions.

Public hearing closed at 7:23 PM.

Commission Discussion

Mullen-Campbell asked if there were apartments near the location of the indoor shooting range. Rhein commented that it would be a confined unit and meets all specifications of the weapons being used.

Throenle stated if you look at the underlying zoning for the Mixed-Use district it is restricted to commercial and it was not added to residential. Throenle also reminded the Commission that it does not matter what Commission is sitting here it would still have to be looked at as a conditional use. If the conditional use is to be looked the whole neighborhood aspect would be looked at as part of the application. He does not feel this needs to be applied but that would be the Commissioner's decision.

Throenle continued to go through the changes in the document that would be needed. A summary of the changes is as follows:

Comparison for Zoning Ordinance 34-19-05 of Current Township *Zoning Ordinance* with requested changes is listed below.

| Number | Change | Revised Document Page | Revised Document Impact |
|--------|---|-----------------------|--|
| 1 | II Definitions – Indoor Sport Shooting Range | 12 | New definition |
| 2 | IV Zoning District Regulations – 4.5.C | 25 | Added text |
| 3 | IV Zoning District Regulations – 4.6.C | 26 | Added text |
| 4 | 5.5 Use Definitions | 51 | New definition |
| 5 | 5.5.C Conditional Uses | 59 | Added text |
| 6 | 16.2 Basis of Determination and General Standards | 137 | Added text, corrected spelling and punctuation |

Throenle noted for the Commission in the Zoning districts this is not listed as a conditional use in the residential district but is listed as a conditional use in the commercial district. Throenle also stated the final section was in the site plan review in the application section.

Mahaney asked if there was ever a written statement on special use or if it was a decision the applicant went on. Throenle stated there was not, it was never in there and that was basically how it was done.

DeGroot reminded the Commission this was a contention with some of the Commissioners at the last meeting by not having this written statement as part of the public record. There was discussion of strengthening this language.

DeGroot explained that the belief was all findings of fact and conclusions forming the basis of the decision would include judgements of the Master Plan, judgements of a Zoning Ordinance, regulatory ordinances, and subjects that are regulated by the Township Board that would allow the Planning Commission to make a full and informed conditional use findings of fact.

Soucy stated the findings of fact make the Planning Commission decisions defensible in court; DeGroot agreed. Mahaney commented it made sense to have the language included but did not realize it was not already part of the process.

Soucy stated he had done some research and stated the Department of National

Resources (DNR) has a large document they reference, produced by the National Rifle Association (NRA), for the design and operation of shooting ranges. He added that PA 269 from 1989, amended in 2012, that reference the generally accepted practices. He just wanted to bring the process of the DNR to the attention of the Planning Commission; maybe it would be good for the Planning Commission to follow. Bohjanen interjected and added that PA 269 is included in the agenda packet.

Soucy also suggested if they were to add something like this, it be added in Section 6, where general standards and other uses are discussed. It may help to have a more general outline from the NRA as he is uncomfortable approving a special use for a shooting range. Soucy feels he not knowledgeable enough with this and feels the NRA would be a good source of information with these guidelines.

Mahaney asked if this would be a basis of criteria and Soucy answered yes but general enough to be flexible for various situations.

DeGroot stated that a manufactured home park, wind energy or a lighting ordinance is similar to having a supplementary ordinance where a definition is expanded upon and could easily be added to this plan set going forward. It would have to generated but advises to not do it "on the fly" this evening as is would be too much of an issue. If this is what the Planning Commission would like he would like to work on the wording based on the Commissioner's comments and present information back to the Commission. This would create a stand-alone regulatory stance that would allow it to conform to the generally accepted practices that would list the impacts and remedies.

Mahaney stated this sounded like a direction of a separate ordinance for indoor shooting ranges. DeGroot stated it is not; it would be a supplemental ordinance that certain criteria would have to be matched.

Throenle asked Soucy how big the DNR document was. Soucy answered it is expansive and covers every different kind of situation with many sections. Soucy also commented there are specific chapters regarding indoor shooting ranges.

Throenle told the Commission based on that initial point and the holiday season upon us, it would be a minimum of ninety days for development of ordinance language research. Throenle added his recommendation would be to amend the ordinance with the intent, in the future, to add the language. This would prevent the delay of the ordinance therefore delaying the process. This would also give the Commission the opportunity to discuss and include other language, besides shooting ranges, at the same time.

Throenle also told the Commission he does not want to repeatedly open the Zoning Ordinance as it is costly to the Township with advertisements and such; it is confusing enough as it is. He also reminded the Commission an extensive breakdown of the Zoning Ordinance is something that is not done overnight and will not be ready for the next meeting.

Soucy asked if there were any indoor shooting range applications and Throenle answered the Lake Michigan Armory application is currently on the table. Throenle commented the site plan has been approved but the conditional use permit cannot be approved due to the language not being approved.

Soucy feels they should get it right the first time, do not rush into approving anything without all the considerations put in front of them and included in the ordinance.

Throenle offered a suggestion that if language was sent to the Township Board for

approval, the Commissioners could use the conditional use power currently in the ordinance to allow the Commission to look at the conditions without the language having to be in the ordinance. The language could then be strengthened based on any conditions that may be part of the discussions versus being held to the language that may have been forgotten.

Mahaney agreed with Throenle and would like to see the language approved so the Commission would have the authority to deny the application for any reason they may find. He also agrees with Soucy and go in the direction of the Commission having the power of conditional use.

Soucy stated he may be able to support that if the Township could purchase a copy of the NRA source guidebook. Throenle asked if it was available at the local library and if Soucy would email him the title. Soucy said he would check on that.

Throenle asked the Planning Commission Chairperson to have a motion for Throenle to go forward with this, if this is what the Commissioners would like.

Commission Decision

Soucy moved Maynard seconded, that the Planning Commission request the Zoning Administrator to acquire and share with the Planning Commission a copy of the NRA 2012 Range Source book.

Vote: Ayes: 6 Nays: 0 MOTION CARRIED

Mullen-Campbell moved Rhein seconded, that after providing required notification to the public, holding a public hearing and considering public input, the Planning Commission recommends that the Township Board approve proposed amendment 34-19-05 to the Township Zoning Ordinance as revised.

Vote: Ayes: 6 Nays: 0 MOTION CARRIED

Planning Commission Chairman asked for a five-minute recess.

VI. PRESENTATIONS

None

VII. UNFINISHED BUSINESS

A. Recreational Marijuana Update

Staff Introduction

Throenle stated DeGroot would be the lead on this discussion. DeGroot reminded the Commission and the public that the Township Board took the position to opt out of the medical marijuana years ago and months ago for the recreational marijuana.

He stated recently there have been several communities across the Upper Peninsula that have changed their perspective and opted into recreational marijuana and a regulation for various reasons.

DeGroot stated he had been following this issue for some time. Due to his

background as a Community Planner there may be larger issues, such as this, that the Commission will see him take the lead on. He and Throenle will be a tag team on issues. These issues will be looked at from a Community Planner perspective versus a Manager perspective.

He told the Commission that they had looked at the marijuana topic, the State law, and the changes that have been happening around the Upper Peninsula to give the Planning Commission the update they requested.

DeGroot looked at where the law stands, where the community stands, and how this will filter into the changes that may be made by the Planning Commission.

As of now there 1,773 different municipalities in the State of Michigan, 1,373 of which are listed as "opted out", even though this was a voter-driven initiative.

DeGroot told the Commission what is unclear and has not been defended is the talk we are going to have about reopening the "opt out" ordinance and potentially recommending an ordinance, in the future, to the Township Board for approval. This is so new there is no case law and State law guidelines are unclear if once "opted out", one can change and opt back in.

DeGroot would like to take the approach that the Commissioners would like to opt back in; how do we look at this and what opportunities do we have? Staff has put together the pros and cons of what other communities have done.

DeGroot stated Iron Mountain had blighted downtown buildings and is looking at this as economic revival for the downtown. He added there is information about Colorado and Washington in packet, both which have had legalized marijuana, recreational and medical, for a long time.

The City of Marquette looked at the voting results with the 2018 November General Election results where 70% of the voters wanted marijuana legalized to serve as the base for their decision.

DeGroot added that staff does not offer any decision making only the update that was requested and finalized by saying if Chocolay Township accepts this, according to State law they must accept all aspects. He does not believe Chocolay Township would benefit from the commercial aspect due to the ordinance being wide open in the City. He does, however, feel Chocolay Township would have the best opportunity with the micro business, research, agricultural, and production side of marijuana. He also told the Commission that Northern Michigan University had approached Chocolay Township a couple years ago to have a research-based center.

DeGroot stated he is not advocating any position; he is suggesting there are opportunities if the Planning Commission would like to define a character and deliver an ordinance to the Board of acceptance for certain provisos. It may be an opportunity for the Township to gain long term tax base if it were agricultural / research-based verses commercial based where we could be in competition that could lead to a "dark store" situation.

DeGroot told the Commission there is an abundance of research available that he would be willing to compile and share with the Commission if they were to choose moving forward with this.

Commission Discussion

Maynard asked how Chocolay Township voted on the marijuana in the 2018 election. DeGroot answered that staff had looked at this and he believed it was 54% in favor.

Mahaney asked what the surrounding communities have done; DeGroot answered that Sands has voted marijuana in, Negaunee is wait and see, Ishpeming is looking at opting back in, Iron Mountain is wait and see, and Munising is in the process of opting back in also.

DeGroot told the Commission that the evidence from Colorado, which has a similar governmental system to the Upper Peninsula, is this is a very personal choice, not something forced upon the community or something that a community has to abide by. We have an opportunity to review and develop an ordinance if we want.

Maynard asked if the understanding was there are three aspects; retail establishments, micro businesses and agricultural. DeGroot answered that was correct. She asked if the community were to opt in would all three aspects would have to be accepted; DeGroot answered yes but reminded the Commission he felt Chocolay Township would be most competitive in the micro business or agricultural aspect. She stated her memory was that those two aspects were the most appealing to the community.

Mahaney stated he felt there were five separate categories in the State law; the growers, the processor, the retailer, the testing facility, and the transporter. Mahaney continued these are five separate licenses to be applied for through the State.

Maynard asked if it was safe to assume that the growers and the research people would not be cash businesses. Throenle interjected and told her no, it would not be safe to assume. DeGroot commented he could not make a safe assumption as he did not know enough about that.

DeGroot told the Commission that it gets fuzzy on the research and federal compliance sides. In the past it was stated that if a business chooses to go this path there would be a loss of federal funding due to marijuana being against federal law. In his research with Colorado and Washington, he does not see where any federal funding has been removed from a local government that has complied with local State law. If we move forward and write this ordinance, we have to comply with State law first as our opportunity of defense. As far as federal regulations, it is still illegal except under certain provisions.

DeGroot told the Commission that as of now there are 30 states that have adopted some form of voter-led regulation to have a State law that requires medical or recreational marijuana that is acceptable. At some point there will have to be regulation change, DeGroot just does not know when that will be.

Milton commented to the Commission that they thought the sign ordinance was going to be bad. Mahaney commented they could adopt the same ordinance that Marquette has.

Emerson asked to interject, Mahaney allowed it. Emerson stated he was the one who talked with Northern Michigan University to look at the agricultural aspect in Chocolay Township. He also stated there could be two different cannabis aspects. He feels the medical cannabis should always be organic and there would be a high demand for organic. The Commission could add wording in the ordinance stating no harmful chemicals could be used.

Soucy told the Commission that his belief is that the tax revenue would come into the community is dependent on having a retail operation and how many. If a community did not have any, they would not receive any of the tax revenue "windfall".

Mullen-Campbell commented that she was watching a special on 60 Minutes regarding California that the people with the legitimate businesses are not making the money they as they cannot compete with the people growing it illegally and shipping it out of state. Maynard commented that it appears that the tax revenue has dropped; Mullen-Campbell stated in California it has.

Throenle reminded the Commission to consider, in regard to the tax revenue, that for two years no entity would receive any revenue from marijuana, as the communities that are looking for this for an economic boost will not see any revenue for at least two years.

DeGroot added that he was not looking at the taxation windfall or suggesting it. He was looking at State revenue sharing, and the way it has been dwindling and we do not get what we did before from it. The State law is set up as a buy-in basis.

DeGroot told the Commission the taxation he was referring to was land use equalization. This would be looked at as the long-term benefit to the community when doing property tax evaluations as it would stay local and it may be an opportunity to strengthen our long-term tax base.

Maynard mentioned a discussion previously about the retail side and cash businesses and Sergeant Carrick had discussed the potential for theft as there would be cash around as it was not able to be put in a bank due to marijuana still illegal on the federal side. DeGroot answered this was true and Colorado is facing this now.

Rhein commented that the micro growing facilities can be an eyesore. He has witnessed them in the Garden peninsula; they must be fenced in and some people do not care how their fence looks.

Maynard stated the research is important as it is a Schedule 3 drug but the amount of money, nationally, is not going towards the research. She has concerns about the affect on mental health and thinks it would be a big contribution if Northern Michigan University could spend time on the research in that aspect. Rhein is a believer in the medical based product.

Mahaney commented that the Planning Commission could put restrictions to the number of retail businesses allowed. DeGroot agreed yes, they can limit the number of permits.

DeGroot recommended the Commission make or pass a motion where the Planning Commission ask the Township Board if they would like the Planning Commission to generate a draft ordinance, this would be proper policy. He reminded them the ordinance that is in place now is to "opt out".

Maynard added the alternate option is "status quo" and DeGroot commented yes, the Township would stay as "opted out". Maynard asked if the Commission could get answers to questions asked tonight before petitioning the Board. DeGroot answered the questions as he understood were:

1. The limitations of the number of permits - this we know we can do.
2. The opportunity of restrictions within applications of the law – we cannot do as we must comply with the law as our best defensibility.

Mahaney suggested the Commission should go to the Board to get approval before doing the research. DeGroot answered that this would be the proper etiquette. Soucy asked if it would be prudent for the Commission to include a recommendation stating the reasons why the Commission is considering this. DeGroot stated that support of the resolution would benefit the clarity of the resolution to the Board; this would help them to understand the position of the Commission.

Soucy asked the Commission to prepare some points they would like included in the recommendation to the Board. Soucy commented that one would be industry diversification within the central Upper Peninsula. This could be an opportunity to participate in. Mahaney added it could be classified as the economic viability.

Mullen-Campbell stated research, Soucy added partnership and coordination with a research institution. DeGroot suggested including a point about the residents voting in favor of accepting this.

Commission Decision

Soucy moved Milton seconded, to request that the Township Board consider requesting for the Planning Commission to draft an ordinance based on the following considerations:

- economic viability
- coordination in participating with research institutions
- following the will of the residents of the community based on the results of the 2018 election,

and to allow the investigation of the Michigan marijuana ordinance laws and regulations, and to amending Ordinance 67.

Vote: Ayes: 6 Nays: 0 MOTION CARRIED

VIII. NEW BUSINESS

None

IX. PUBLIC COMMENT

Scott Emerson, 119 Lakewood Lane – Agrees with Soucy regarding the Lake Michigan Armory; does not agree the Board approved a site plan review based on the Zoning Ordinance, specifically the firearms ordinance and was not listed as a principle or conditional use in any zone. He felt the Commission did a great job tonight and is pleased with the way this Planning Commission is functioning. He also likes the ideas of the marijuana ordinance.

Bill DeGroot, Chocolay Township Manager – Advised of a training session opportunity for the Board, Planning Commission, and Zoning Board of Appeals members on December 3rd, 2019 at 6:00 PM. The Michigan Association of Planning will present this based on the Planning Commissioner's tool kit but he asked them to elaborate on the rules between the Township Board and Planning Commission and Zoning Board of Appeals as related to the Michigan Enabling Laws passed in 2008 and 2006. Just needs an RSVP.

Public comment closed at 8:34 PM

X. COMMISSIONER'S COMMENTS

Rhein - None

Milton – Commented that the Zoning Board of Appeals would like the Planning Commission to look at an ordinance in Chocolay Township regarding “tiny homes”.

Maynard – None

Mahaney – Appreciates public comment and feedback is good to hear when tackling different ordinances.

Soucy – None

Campbell – None

XI. DIRECTOR'S REPORT

Throenle does not have a report but has a request to see what the Commissioners would like to see on the next agenda.

Mullen-Campbell suggested shelters for the bus stops. DeGroot commented he was asked to be on the Marq-Tran board.

Rhein suggested the infamous sign ordinance.

Maynard would like to take up the tiny home subject.

DeGroot stated ordinance and Master Plan reform have been on the list for some time and would like to get approval from the Planning Commission to start a framework to get them looked at and done in a timely manner. Mahaney asked what this was in reference to and DeGroot stated an example in the Zoning Ordinance, the sign and lighting sections where the standards need work for enforcement due to changes in case law. He would like to look at complaints, actions by the Zoning Board of Appeals actions and Zoning Applications regarding conditional uses; these areas dictate where the ordinances have problems. Focus on correcting those first and build a framework from there to address the rest. He would like to work on this to get the Zoning Ordinance and the Master Plan to get them up to current case law and current interpretation; this also allows them to be clarified with the ordinance.

Soucy commented there was a work plan approved with priorities; he would like to look at this to see where they are at.

Throenle stated the Recreation Plan will be on the next agenda so they can get it moved on. It is on the website for review.

XII. INFORMATIONAL ITEMS AND CORRESPONDENCE

- A. Minutes – Township Board, 10.14.19
- B. Township Newsletter – November, 2019
- C. Minutes – City of Marquette Planning Commission, 10.15.19
- D. Correspondence – Emerson

- E. Correspondence – Olsen
- F. Correspondence – Mulcahey
- G. Correspondence – Catallo

XIII. ADJOURNMENT

Meeting adjourned at 8:44 PM

Submitted by:

Planning Commission Secretary

Donna Mullen-Campbell

CHARTER TOWNSHIP OF CHOCOLAY PLANNING COMMISSION MINUTES

Monday, December 16, 2019

I. MEETING CALLED TO ORDER BY: Tom Mahaney at 6:00 p.m.

ROLL CALL

Members Present: Tom Mahaney (Chair), Susan Maynard (Vice Chair), Donna Mullen-Campbell (Secretary), Cory Bushong (Vice Secretary), Don Rhein (Board), Kendell Milton, Ryan Soucy

Members Absent: None

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

II. ADDITIONAL AGENDA ITEMS / APPROVAL OF AGENDA

Motion by Rhein, and seconded by Bushong, to approve the agenda as written.

Vote: Ayes: 7 Nays: 0 MOTION CARRIED

III. MINUTES

November 18, 2019 Planning Commission meeting

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

Vote: Ayes: 7 Nays: 0 MOTION CARRIED

IV. PUBLIC COMMENT

None

V. PUBLIC HEARINGS

None

VI. PRESENTATIONS

None

VII. UNFINISHED BUSINESS

A. Recreational Marijuana Update

Staff Introduction

The Planning Commission was granted the permission by the Township Board to amend Ordinance 67 Marijuana Establishments. DeGroot explained there are some items that are unfolding within the industry that will make the next steps of this ordinance challenging.

DeGroot told the Commission that the Board agreed that there is an opportunity for

the Township to play a part within the industry, especially in the agriculture heritage and to support the “supply chain” effort within the industry. State law also includes a commerce side, but the Township could choose not to focus as heavy on the permitting process of those.

The Board felt the Commission should create dialog, have a public discussion, and end with a possible ordinance.

DeGroot told the Commissioners that draft Ordinance 70, that was included in the packet, was started four months ago but has not progressed much farther. He added it does comply with State law but may not go as deep into some areas of opportunity.

DeGroot stated this may offer the chance to focus on certain areas within the Township, such as agricultural areas or research along the corridor, through a Request for Proposal (RFP) process. By doing this it would allow us to see if there are any applicants out there and what does it mean. In the past, Northern Michigan University (MNU) research department had contacted the Township in the past to partner, they cannot be the applicant and it would be good to have to have a long-term taxable entity as the landowner that would benefit the tax rolls. Private Partnerships may be best opportunity, similar to what Iron Mountain has done.

The Commission has this opportunity to discuss this further and how it should look. In the three weeks since the start of this industry, there is now a new codification from the State within the permitting process. It states that all applicable businesses must have Union workers involved in the employment of the business. This has put some of the small businesses in a tight spot. This is not in the law but is in the permitting process within the Secretary of the State office. This will have to be worked out.

DeGroot suggested the best opportunity for business growth in the Township would be RFP process. After the perspective of the ordinance, then have a recruitment for that type of design and move forward from there. He reminded the Commission there is no timeline or obligation, as the Township has opted out of recreational marijuana, but we also see the possible benefit to the community by having this public conversation.

Commission Discussion

Maynard stated she supports the research for health effects of marijuana because the federal government has not put any money into the research due to it being a schedule three substance. Her feeling is any effort made in research would be a good thing.

DeGroot commented that he would like the Commission or the Township to officially reach out to the NMU research program to see what their request was, what it is they are proposing, and if the request still exists.

DeGroot added there are many effects that need to be understood before they can either write an independent ordinance or change the existing Zoning Ordinance.

Maynard clarified that that there were “three legs to this stool”, they are the agriculture, research, and retail; if the Township wants one, they would have to have all three.

DeGroot answered that was true but municipalities can control the levels in which they permit. All of the opportunities are included in an opt-in ordinance but the number of permits for each can be decided upon and set. His suggestion would be to

have more permits for the “supply” side versus the retail side. He referenced neighboring Sands Township has two permitted medical marijuana establishments, which have the right to also permit under the recreational side as well. He stated there would communities around Chocolay that would need supply. He is not sure of any State sanctioned suppliers in the Upper Peninsula at this point.

Milton asked what the RFP would be put out for. DeGroot answered it could be for the actual request of the required permits similar to what Iron Mountain did for their permits. Iron Mountain actually put a RFP for the interest in permits, they gave bonus points for rehabilitation of existing buildings or certain land use characteristics. This would allow someone who has an application in to the State have a local letter of support and apply for the proposal and describe their business plans.

Soucy asked if this would take the place of the “lottery” system that other communities have done. DeGroot replied it was similar to that. DeGroot also stated that he did not know how many, if any, permit holders were in Chocolay Township due to the “opt out” ordinance currently in place. Throenle interjected that there are zero at this point.

Milton also asked if the Planning Commission or the Staff would be responsible for doing the RFP reviews. DeGroot commented legally he did not know if it would be the Board with the aid of the Planning Commission or what the role of the Planning Commission would be in the process as it is premature to understand what the industry standard is.

As of now DeGroot only knows of one or two communities that have done the RFP process and he would like to contact them on how the process was run and also have the Township attorney contact their attorney. Any way that this goes, it would still be a permit process that would end with Board action.

Milton commented that it didn’t seem very expeditious to run it through the Planning Commission. It would take three to four months. DeGroot commented it would not be a very expeditious process no matter what and the applicants would understand due to it being so new.

Soucy asked if it had to be a Union worker involved in the construction or an actual employee be in the Union. DeGroot answered that it is not construction based, it was employee based. This was from an article in the Free Press and DeGroot is not sure how this will change the permitting process.

Mahaney asked how long the City of Marquette worked on their ordinance. DeGroot commented it was most of the year, but it was in the fall when they adopted an ordinance; and they are still working on where to go within their Zoning Ordinance. DeGroot reminded the Commission that the City of Marquette felt compelled as they had 70% of their voters voted for Proposal 1.

Mahaney commented he read in their Planning Commission minutes that part of the criteria was the policing within certain districts. DeGroot commented that after reading ordinances in Washington and Colorado, that some of the burden is the industrial look of the establishments. DeGroot added it may not just be the stand-alone ordinance they create but the Zoning Ordinance may also have to be adjusted; doing this is the job of the Planning Commission.

Mahaney asked if the State has combined the licenses where you could grow, process, and retail marijuana all in one place. DeGroot stated they are if that is what the community wants. It would still be a local compliance issue and permits would be

yearly, they would have to petition to change the permit. The Township could not deny but they can limit the number of specific permits; certain situations also depend on the land use permit. Bushong commented that it could be regulated by zoning district as well. DeGroot commented this is the reason he does not feel this is just a stand-alone ordinance. Looking at the uses will be a big part in the permitting process.

DeGroot reminded the Commission that Proposal 1 only passed by 54% in Chocoday Township and could still be a controversial subject. He added that listening to public comments and talking to people in the community it appears to be accepted as research and agriculturally based with limited retail base.

DeGroot explained to the Commission he does not expect any decisions tonight, just wanted to present what discussions are needed in the future and also told them this will not be a quick process.

Rhein stated the only problem he has is the fencing around the growing facility. He is familiar with these and they do not look nice. Suggested alternate options such as indoor growing facilities. Mahaney stated those are issues to be addressed when drafting the ordinance. DeGroot stated that hydroponic facilities are popular downstate.

DeGroot stated the plant will grow in almost any condition, just depends on the quantity needed from it to be a supplier. Maynard asked if it was an annual or perennial plant; DeGroot's understanding was that once it was producing it would keep producing and can become excessive very quickly.

Soucy added there is a potential for excess due to the cap on the amount one person can have. DeGroot added the production would be State certified to limit what you can grow.

Maynard is concerned what would happen if the value of the crop would decrease over time what would happen to the buildings, would they become blighted? DeGroot did not know the answer directly but has read about this happening in California. She felt the research aspect would be more immune from this.

Commission Decision

The Commission agreed to discuss this topic in further detail at upcoming meeting once Staff has prepared a guideline for full public review and involvement.

B. 2020 – 2024 Recreation Plan

Staff Introduction

Throenle advised the Commission that the draft Recreation Plan has been available for public review for over 30 days and there have been only two comments from the public or public entities. One comment was regarding the number of items in the Recreation Plan and the other was from Keweenaw Bay Indian Community (KBIC) stating they would like to be involved in any recreation development going forward.

Throenle proposed that the Commissioners discuss any changes that they would like tonight so the plan can be forwarded to the Township Board, for public hearing, to meet the March 1, 2020 deadline. This is the deadline it needs to be to the DNR.

Commission Discussion

Mullen-Campbell asked for clarification as she had read that there was some

involvement from Gwinn and Sands Township is parts of the plan. Throenle explained that there are relationships with other local governmental entities that are cooperatives or regional recreational opportunity. Some grants are determined by relationships with neighboring governments.

Mullen-Campbell also asked the status of the ATV trail in Chocoday Township. Throenle advised the Commission that the organization promoting the trail has not returned with the additional information needed to move forward, this is the reason it has not come back to the Planning Commission.

Mahaney asked the status of the Silver Creek little league expansion. Throenle answered there was a change in leadership and have chosen a different direction. As of now they have committed to finishing the moving of the fence on the little league field but not with a plan for expansion; Throenle added he will look at it again in the spring.

Mahaney asked if there were any grants that the Township is currently looking at. Throenle commented that there is nothing substantial in 2020, if there is something it will have to be looked at in the next month as the grant applications are due early in the year. Anything recreational will also depend on the budget.

The Commission agreed it was a thorough plan.

Commission Decision

Mullen-Campbell moved, and Soucy seconded that after providing required notification to the surrounding government entities, public agencies and the public, the Planning Commission recommends the Township Board approve the 2020 -2024 Recreation & Natural Resource Conservation Plan as written.

Vote: Ayes: 7 Nays: 0 MOTION CARRIED

VIII. NEW BUSINESS

None

IX. PUBLIC COMMENT

None

X. COMMISSIONER'S COMMENTS

Campbell – Asked for meeting dates for 2020. Throenle answered the Township Board approved them, the first meeting for the Planning Commission in 2020 is January 20, the Commission can look at them and determine if there are any conflicts. Mullen-Campbell also asked if there was a joint meeting and Throenle answered there would be on February 17 at 5:30.

Bushong – None

Soucy – Thanked the Township for the tremendous job on keeping the pathways cleared with the amount of snow.

Maynard – Agrees with what Soucy said.

Milton – Merry Christmas to everyone.

Rhein – Merry Christmas.

Mahaney – Will be resigning his position on the Planning Commission tonight. Thanked the Board and Staff for the help over the years. It has been fun and a good run.

Manager DeGroot advised the Commission that the Board will vote on a recommendation from the Supervisor for the replacement of Mahaney at the January meeting. Once that is decided, the Commission will vote on the election of officers at their next meeting.

XI. DIRECTOR'S REPORT

Throenle stated the next meeting is January 20, 2020 at 6:00 PM. Thanked Mahaney for helping him over the years. Wished everyone a Merry Christmas and a Happy New Year.

XII. INFORMATIONAL ITEMS AND CORRESPONDENCE

- A. Minutes – Township Board, 11.11.19
- B. Township Newsletter – December, 2019
- C. Minutes – City of Marquette Planning Commission, 11.12.19
- D. Minutes – City of Marquette Planning Commission, 11.19.19

XIII. ADJOURNMENT

Meeting adjourned at 7:02 PM

Submitted by:

Planning Commission Secretary

Donna Mullen-Campbell