

# CHEBOYGAN COUNTY PLANNING COMMISSION

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## CHEBOYGAN COUNTY PLANNING COMMISSION MEETING WEDNESDAY, APRIL 3, 2013 AT 7:00 P.M. ROOM 135 – COMMISSIONER’S ROOM - CHEBOYGAN COUNTY BUILDING

**PRESENT:** Bartlett, Freese, Kavanaugh, Borowicz, Croft, Ostwald, Lyon, Churchill, Jazdyk  
**ABSENT:** None  
**STAFF:** Scott McNeil, Steve Schnell  
**GUESTS:** Linda Krause, Jack Krause, Ralph Rehmen, Judy Ostwald, Fred Goddard, Hilda Goddard, Art Doty, Melanie Hart, Tom Hart, Tony Matelski, John F. Brown, Bob Lyon, John Moore, Gary Stranally, Lee R. Schley II, Crystal Schley, Bob Morris, Mary Lou Pifher, Janet Vance, Jon Vance, Paula Paolino, Samantha Brown

The meeting was called to order by Chairperson Croft at 7:00pm.

### APPROVAL OF AGENDA

The meeting agenda was presented. **Motion** by Mr. Freese, seconded by Mr. Borowicz, to approve the agenda as presented. Motion carried unanimously.

### APPROVAL OF MINUTES

The March 20, 2013 Planning Commission minutes were presented. **Motion** by Mr. Churchill, seconded by Mr. Kavanaugh, to approve the meeting minutes as presented. Motion carried unanimously.

### PUBLIC HEARING AND ACTION ON REQUESTS

**Michigan Pure Ice Co. LLC/Daniel Uber** - Requests a Special Use Permit for Manufacturing, production and processing (Section 6.3.9.). The property is located at 126 S. Straits Hwy., Tuscarora Township, parcel #161-001-200-004-00 and is zoned Commercial Development District (D-CM).

Mr. McNeil stated this application is for a manufacturing use in the Commercial zoning district. Mr. McNeil stated this property should be familiar to most of the Planning Commission members as there were previous special use permit approvals granted for shuttle bus assembly, wholesale warehouse and outdoor storage. Mr. McNeil stated a site plan review was also approved for auto sales. Mr. McNeil stated this manufacturing use is for ice making. Mr. McNeil stated the manufacturing use requires the Planning Commission to make an additional determination that the operational effects are no greater than the other uses permitted in the district with respect to noise, air, radiation, vibration, smoke, odor or dust. Mr. McNeil stated the property is not proposed to change and the ice making equipment will be located indoors.

Mr. Schley explained that the first year he will only have one ice machine but may change later depending on the number of customers. Mr. Schley stated there will be minimal noise. Mr. Schley stated the building is fully insulated and condensers will be located on the south side of the building and will not be any louder than an average air conditioning unit. Mr. Schley stated the ice machine and bagger are electric. Mr. Schley stated the only equipment inside the building that will make noise will be the freezer which has two compressors. Mr. Schley stated the freezer will not make a lot of noise. Mr. Schley stated there will not be any emissions.

Mr. Kavanaugh asked for the number of employees that will be hired. Mr. Schley stated for the first year it will be himself, his wife and three employees. Mr. Schley stated eventually he would like to have three or four drivers. Mr. Kavanaugh asked how many employees will there be inside the facility. Mr. Schley stated that bagging ice is usually a three man process. Mr. Churchill asked if the hours of operation will be from 7:00am – 7:00pm and if bagging ice will only take place during these hours. Mr. Schley stated he has a 5 ton ice machine and the capability of a 10 ton holding bin. Mr. Schley stated the machine can run all day long without anyone bagging ice. Mr. Schley stated bagging will happen in the afternoon. Mr. Churchill asked if there is any noise related to the bagging process. Mr. Schley stated no. Ms. Lyon asked how much water will be used. Mr. Schley stated in a 5 ton machine he will use 1425 gallons per day which is 59 gallons per hour. Mr. Schley stated the machine will run all day long. Ms. Lyon asked if it will have an effect on the aquifer and if the DEQ will have to be notified. Mr.

Kavanaugh stated the Health Department evaluated the well and isolation distance. Mr. Kavanaugh stated the septic and water supply were approved. Mr. Kavanaugh stated this is a minimal use compared to many other uses in regards to the impact on the aquifer. Ms. Croft asked how many trucks will be at this site. Mr. Schley stated 2. Ms. Croft asked how many trailers will be at the site. Mr. Schley stated there will be a small trailer and an ice box that will be stored behind the building.

Ms. Croft asked for public comments. There were no public comments. Public comment closed.

**Motion** by Mr. Freese, seconded by Mr. Kavanaugh, to grant the topography waiver request. Motion carried unanimously.

The Planning Commission reviewed and approved the General Findings. The Planning Commission reviewed and approved the Finding of Fact Under Section 18.7 and the Specific Findings of Fact Under Section 20.10. **Motion** by Mr. Kavanaugh, seconded by Mr. Borowicz, to approve the special use permit based on the General Findings, Finding of Fact Under Section 18.7 and the Specific Findings of Fact Under Section 20.10 with the stipulation that Health Department requirements be met, ice trailer be stored behind the building and Construction Code requirements be met. Motion carried unanimously.

**Tuscarora Township** - Requests a Special Use Permit for Construction of a Sewage Treatment Plant (Section 7.3.12.). The property is located at Brudy Rd., Tuscarora Township, parcel #162-030-300-001-03 and is zoned Light Industrial Development District (D-LI). *(This item was tabled at the 03/20/13 Planning Commission meeting)*

Ms. Croft stated that an e-mail was sent by Mike Ridley, Tuscarora Township Supervisor, asking that the request be tabled until the April 17, 2013 Planning Commission meeting. Ms. Croft stated the engineers are waiting to hear from the DEQ on a variance for the isolation zone and they are working out details with property owners to provide water service in the event that the variance is not granted. **Motion** by Mr. Kavanaugh, seconded by Mr. Churchill, to table this request until the April 17, 2013 Planning Commission meeting. Motion carried unanimously.

**An ordinance to amend the Cheboygan County Zoning Ordinance No. 200 to provide for Indoor Storage Facility as a use requiring a special use permit in Commercial Development (D-CM), Light Industrial Development (D-LI) and Agriculture and Forestry Management (M-AF) Zoning Districts and provide for Outdoor Storage Facility as a use requiring a special use permit in a Light Industrial (D-LI) Zoning District.**

Mr. McNeil stated this amendment is in regards to commercial storage for rent. Mr. McNeil stated indoor storage facility use is proposed for Commercial and Light Industrial zoning districts with a special use permit. Mr. McNeil stated indoor storage facility use is also proposed for Agriculture/Forestry Management zoning district with conditions. Mr. McNeil stated outdoor storage facilities will be allowed in Light Industrial zoning districts. Mr. McNeil stated a recent approval by the Planning Commission allowed outdoor storage in a Commercial district. Mr. McNeil asked the Planning Commission if this should be further reviewed. Discussion was held. The Planning Commission agreed to not make any changes to the proposed amendment.

Ms. Croft asked for public comments. An audience member asked if a variance would be required. Mr. McNeil stated no a variance would not be required. The audience member asked if a 6ft. cedar hedge would be required to block the view of the neighboring property. Mr. McNeil stated it would be required in the Agricultural/Forestry District and if located next to property that is zoned Residential. The audience member asked if the applicant will need the neighbor's permission. Mr. McNeil stated no. Discussion was held. Public comment closed.

**Motion** by Mr. Kavanaugh, seconded by Mr. Borowicz, to forward the proposed amendment to the Cheboygan County Board of Commissioners with a recommendation for approval. Motion carried unanimously.

**An ordinance to amend the Cheboygan County Zoning Ordinance No. 200 to add a new Section 17.23.1.k. to provide for property under the same ownership which are separated by a right-of-way to be considered contiguous relative to regulation of Private Storage Buildings in Residential Development (D-RS), Mixed Residential Development (D-MR), Lake and Stream Protection (P-LS) and Rural Character/Country Living (D-RC) Zoning Districts.**

Mr. McNeil stated this proposed amendment is in regards to private storage buildings which are for the owner's use and is not on the same lot as the house. Mr. McNeil explained that this amendment will provide properties that are separated by a right of way (that would be contiguous if not for the right of way) to be included in the total calculation for land area for private storage buildings. Discussion was held.

Ms. Croft asked for public comments. There were no public comments. Public comment closed.

**Motion** by Mr. Freese, seconded by Mr. Kavanaugh, to forward the proposed amendment to the Cheboygan County Board of Commissioners with a recommendation for approval. Motion carried unanimously.

## **UNFINISHED BUSINESS**

### **Discussion of Master Plan - Including Draft Goals and Objectives and Recreation Plan**

Mr. Schnell stated all of the items listed on the zoning plan are issues that the Planning Commission would like to address or were goals that were mentioned by the public during the public input process. Mr. Schnell reviewed the top proposed zoning changes on the zoning plan. Mr. Schnell explained that the shaded items could be combined into one item and moved to the top of the list. Mr. Schnell stated he has received more input from the Planning Commission which will be included in the zoning plan.

Mr. Schnell stated the Master Plan goals and objectives are still in the draft format. Mr. Schnell asked the Planning Commission members to contact him if there is anything on the list that should be expanded upon.

Mr. Schnell stated the process for the Recreation Plan should be complete by November 13, 2013. Mr. Schnell asked the Planning Commission members to comment on the previous goals and objectives and 5 year action plan. Mr. Schnell explained that with this input, these documents can be updated and included with the new Recreation Plan. Discussion was held. Mr. Jazdyk referred to the goal of creating a recreation manager position and noted that there are groups that coordinate these responsibilities. Ms. Lyon stated she is not sure that the position is necessary but it should be coordinated with a schedule so it would be more effective. Mr. Schnell explained that nine participating townships will be drafting their goals and objectives which will be included with the county's goals and objectives to be reviewed at a public meeting. Mr. Schnell stated there are maps of all the recreational assets in the county and he will ask for input on goals and objectives for these recreational assets. Mr. Schnell reviewed the goals and objectives from previous surveys and public input. Discussion was held regarding including a map of recreation areas on the county website. Mr. Schnell stated he will modify and make suggestions on the goals and objectives for the Planning Commission to review at the next meeting. Mr. Schnell stated he will also make suggestions on the action plan for the Planning Commission to review. Mr. Schnell distributed and reviewed a draft table of contents for the Master Plan. Discussion was held.

## **NEW BUSINESS**

No comments.

## **STAFF REPORT**

Mr. McNeil stated the Capital Improvement Plan, Commercial Farms and the lighting amendment will be the next agenda.

Mr. Kavanaugh asked if there is a requirement to notify adjacent property owners that the Tuscarora Township application has been tabled. Ms. Croft stated that the request is tabled to a specific date. Mr. McNeil explained that if the request is tabled it is to be done at a public meeting and it is to be tabled to a specific date. Discussion was held.

## **PLANNING COMMISSION COMMENTS**

No comments.

## **PUBLIC COMMENTS**

An audience member stated she attended the Tuscarora Township meeting. The audience member stated that Tuscarora Township starts each meeting by saying the Pledge of Allegiance. The audience member asked if the Planning Commission could start each meeting by saying the Pledge of Allegiance. Discussion was held. The Planning Commission explained that it has not been done in the past but it could be done at future meetings. **Motion** by Mr. Jazdyk, seconded by Mr. Ostwald, to say the Pledge of Allegiance before each meeting. Motion carried unanimously. The audience member stated that the public is not able to hear all of the Planning Commission comments due to the sound system.

Ms. Paolino stated the answers on the application are misleading. Ms. Paolino stated that in the 1970's this site (next to the Tuscarora Proposed Treatment Plant) was used as a garbage collection site. Ms. Paolino stated she is concerned about this and noted that there has not been any discussion regarding the previous use. Ms. Paolino noted that the application asks if the use will place demands on fire, police or other public resources. Ms. Paolino noted that the application states that "Operations and maintenance of the facility is to be funded by Tuscarora Township. Any other demands to public resources are minimal." Ms. Paolino explained that this statement leads one to believe it is funded by the whole township. Ms. Paolino stated it will actually be funded by 120 people. Ms. Paolino stated the application states there will be one employee but there will actually be one tech and two employees. Ms. Paolino believes the application is misleading. Ms. Paolino thanked the Planning

Commission for allowing everyone to speak. Ms. Paolino asked if there is someone who verifies the answers to the questions on the application. Discussion was held.

Mr. Vance stated he lives in Tuscarora Township. Mr. Vance read from Section 10.4.3 of Zoning Ordinance #200, "Landfills, open pits and industries producing, storing or handling toxic wastes or hazardous materials shall not be permitted within one half mile of the ordinary high water mark of any river, stream, pond or lake in this district." Mr. Vance stated that the Sturgeon River, a creek and a wetland area are located to the west of this site. Mr. Vance stated the Little Sturgeon River is located to the northeast of this site. Mr. Vance stated all of these bodies of water are within ½ mile. Mr. Vance believes a special land use permit should be denied based upon this reason. Mr. McNeil stated Mr. Vance is referencing requirements for the Lake and Stream Protection District. Mr. McNeil stated the Tuscarora Township wastewater treatment plant is proposed in a Light Industrial District and this requirement would not apply in this particular case. An audience member asked does it matter if the project is located in a Light Industrial District or Residential District when it will pollute the rivers and streams.

Ms. Vance stated she lives in Tuscarora Township. Ms. Vance referred to section 18.8 of Zoning Ordinance #200 and stated the Planning Commission may attach reasonable conditions to the approval of a special use permit. Ms. Vance read section 18.8a "Be designed to protect natural resources, the health, safety, and welfare and the social and economic well being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed special land use, and the community as a whole." Ms. Vance explained how she believes this project will cause great financial harm to the community. Ms. Vance explained that the Special Assessment District is too small to absorb the cost of the system as there are only 120 property owners that will be charged to pay back a loan of \$2,657,000. Ms. Vance stated her concerns regarding Paula's Café being assessed with 3 REU's equaling \$24,000 and the Inn Between being assessed with 7 REU's equaling \$56,000. Ms. Vance questioned how much of a financial sacrifice are the Special Assessment District property owners expected to make for the "good of the community". Ms. Vance stated these business owners suffered a loss of revenue due to the construction of the bridge that was recently built and are expected to pay for the proposed streetscape project and the proposed sewer project. Ms. Vance stated there has not been any data based surveys completed to determine the source and scope of environmental problems and where a system should be located and how it should be designed. Ms. Vance asked that the special use permit be denied on the grounds that the project does not meet all the requirements of Section 18.8a. *(Comments in full are attached. See Attachment A.)*

Mr. Morris stated he lives in Tuscarora Township. Mr. Morris stated he is concerned about what will happen if there is a default on the loan for the sewer project. Mr. Morris stated the DEQ should be advised that the dump is located close to the proposed site and this should be taken into consideration.

Mr. Duty stated he owns property in the Special Assessment District. Mr. Duty stated the dump that is being referred to is a dump that existed in the 1970's and 1980's. Mr. Duty stated this dump has no protective liner and also lacks cover. Mr. Duty stated he is concerned with the water flow that flows towards the Sturgeon River.

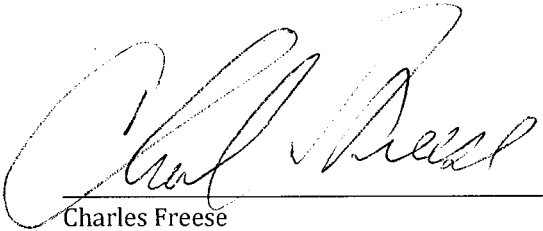
Mr. Jazdyk asked who verifies the answers are correct on an application and what bearing does this have on the Planning Commission's decision. Mr. McNeil stated that he receives the application and makes sure that it is complete but as the Planning Commission reviews the request adjustments are to be made if something changes. Mr. Schnell stated an important part of the process is the public hearing as the public may have different facts to provide. Mr. Kavanaugh stated the application has to be taken as submitted unless we know there is a problem. Mr. Kavanaugh asked what if an error was made on the application regarding volume of flow or number of employees. Mr. McNeil stated there may be some recourse as the Planning Commission makes findings that are specific. Mr. McNeil stated the Planning Commission can place a condition on an approval to meet requirements of the DEQ and Health Department. Mr. McNeil stated this condition may help some of the issues such as a former dump impacting the site. Discussion was held.

An audience member asked if the Planning Commission can require that the engineer attend the meeting to verify the information on the application and to answer questions. Ms. Croft stated that she believes they can require the engineer attend the meeting. Ms. Croft stated the Planning Commission can employ someone if there are any questions. Mr. Ostwald asked if the Planning Commission can require someone from Tuscarora Township attend the meeting to answer questions. Discussion was held. Mr. Freese stated he has not been in favor of requiring engineered drawings for every project reviewed by the Planning Commission. Mr. Freese stated he did not see the need for engineered drawings for a storage building for a homeowner. Mr. Freese stated this project is entirely different as it is a much bigger project and there is no reason for all of the information to not be provided and there is no reason why the Planning Commission can not look into the project and ask questions to show inadequacies. Mr. McNeil stated the project that the Planning Commission will be reviewing is the treatment plant. Mr. McNeil stated the Planning Commission will not review the financing of the project or the collection system.

Mr. Kavanaugh asked if Tuscarora Township can be contacted to ask if the engineer and legal counsel attend the meeting to provide answers to the bonding questions. Ms. Croft stated that the bonding issues are not part of the application. Mr. Freese stated the Planning Commission must look at more than just the treatment plant. Mr. Schnell stated the request was tabled and the Planning Commission shouldn't be talking about the application. Mr. Schnell stated the township will receive a copy of the minutes and will be aware of the public comments.

**ADJOURN**

**Motion** by Mr. Freese to adjourn. Motion carried. Meeting was adjourned at 8:37pm.

A handwritten signature in cursive script, appearing to read "Charles Freese", written over a horizontal line.

Charles Freese  
Planning Commission Secretary

According to the Cheboygan County Zoning laws, specifically Section 18.8, it says:

The Planning Commission may attach reasonable conditions to the approval of a special use permit. These conditions may include those necessary to insure that public services and facilities affected by a proposed special land use will be capable of accommodating increased service and facility loads caused by special land use, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner.

**Any conditions imposed, however, shall meet ALL of the following requirements:**

- a. **Be designed to protect natural resources, the health, safety, and welfare and the social and economic well being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed special land use, and the community as a whole.**

**I repeat : To protect the economic well-being of the residents and the community as a whole...**

I, along with many other people in the Township strongly disagree with the proposed sewer system for Tuscarora Township and believe this project will cause great financial harm to our community. We believe the proposed system is not economically or functionally viable for many reasons. The township board is trying to push through something that the people, who will be forced to pay the majority of the costs, either oppose the project as it is planned, or have serious concerns with the fairness and accuracy of the financial distribution. Bloated REU assignments, and very low budget projections indicate financial and operational red flags, and it is better to fix the problems now than to have constant and expensive damage control later.

Economically, the Special Assessment District is just too small to absorb the cost of this system. There are only 120 property owners that will be charged to pay back a loan of \$2,657,000. The Township Board has already imposed a 40 year lien on the affected properties, and at that rate, the system will have the second and third generations of machinery and parts installed, before the FIRST generation is paid for! In addition, the \$8,000 per REU cost is extremely high, and many of the small businesses have been assessed multiple REUs, such as Paula's Café, which has been assessed 3 REUs, equaling \$24,000. To pay herself back just that \$24,000, she will have to generate \$480,000 of revenue at a 5% profit margin! Interest will add another \$20,000 to the costs. She will have to get a bank loan for another \$3,000 - \$8,000 to cover the hook-up fees. In addition, there will be charges for monthly Operation & Maintenance fees. At this rate, she will be working for FREE for years to come!

Let me give you another example. The owners of the Inn Between were assessed 7 REUs, which equates to \$56,000. They will have to generate \$1,120,000 of revenue to pay back JUST the assessment costs, not to mention the other costs associated with this project. There is no doubt; this project will financially ruin many of the small businesses in our town, unnecessarily.

These same Special Assessment District property owners that have been assessed for this sewer project are the same property owners that have endured the loss of revenue because of a recently built bridge over the Indian River, and are expected to pay for a new Streetscape project starting this summer. These projects are being scheduled back-to-back. How much of a financial sacrifice are they expected to make "for the good of the community"?

Residents and businesses alike are either leaving or are preparing to leave the district if this system moves forward. It is a fact that those remaining will have to absorb the costs ... the bills will still have to be paid, because once we build this, there is no going back. The Board told the community we needed this for "economic development", but what development are they talking about? Do we sacrifice those who have already invested? At a Township Board meeting, someone

asked what would happen if someone could not pay their assessment. The response from the Board was "I guess someone will get a good deal at a tax sale".

The Board and their committee said it was imperative to combine the Sewer project with the Streetscape project, because not only would the streets be torn up anyway, but by combining the projects, it would save a \$1,000,000! Well, soon after the petitions were signed, it didn't take long for the two projects to be separated, and the \$1,000,000 savings just disappeared. We were told there would be an EDA grant of up to \$1,000,000 to help with the costs of the sewer project. This also proved to be false. They told us the Board would establish a Sewer Authority, made up of property owners within the district. Well, we were recently INFORMED this too was not going to happen. Their report led the public to believe that within the district, there were concerns of health and safety, along with environmental on-site problems. However, in depositions it was learned there were no known documented cases of any existing problems within the proposed district, health, safety, or environmental. The Township Board has repeatedly assured the citizens that the financial responsibility will rest solely upon the Special Assessment District, but with a little research, this too has proven to be false. In fact, the Township is listed as the "borrower", and we are all in effect co-signing for this loan. The planning of this entire project was done behind closed doors, in secret committee meetings, violating ALL open meetings act laws. The Board expects the people to have confidence and trust in their decisions, but trust seems to be an on-going issue for this Board.

We have independently, and informally, petitioned the property owners of the district, and as a result, property owners responsible for 186 of the 341 REUs assigned to the district, either oppose their current assessment, or want their assessment based on actual data, not estimates. Those property owners, representing 55% of the total REUs in the district, have serious financial concerns with the proposed system..

Although proponents of the sewer system have cited environmental benefits as one of the primary reasons for constructing the system, there have never been any data based surveys done to determine the source and scope of environmental problems and where a system should be located and how it should be designed to best address these problems. Vacant property on a hilltop two miles away from the lakeshore probably isn't the source of septic effluent seeping into the lake. Having the treatment plant on the highest land in the district only encourages disaster in case of failure and back-ups. Seepage beds flowing into the aquifers that flow into the Indian River basin, may not be the wisest choice. Putting effluent pipes across the middle of the Sturgeon River, the Little Sturgeon River, and through numerous protected wetlands, only puts our pristine waterways at higher risk than they are at present. I am sure you are aware of the sewer system failures right here in Cheboygan.

The point I am making is this. The Township as a whole does not support this project, because of the many times proposed sewer projects have been voted down by the community. Many businesses and residents of the affected district will be unable to financially support this system as it is currently planned. If, and when, there is an exodus from the district, those left behind will most certainly not be able to sustain the enormous costs. The only ones who will benefit from this project are the engineers who proposed, developed, and obtained no-bid contracts, and the "predatory developers" waiting to scoop up prime land on the cheap.

This proposed system was not designed to satisfactorily protect the invaluable natural resources of our community. The health and safety of the district will not be substantially improved. The economic harm done to the residents and to the community as a whole will be immeasurable.

In the interest of fairness and the future financial and operational viability of both the community of Indian River and the proposed sewage collection and treatment system, we would ask that you **DENY** the special use permits requested by the Tuscarora Township Board on the grounds this project does not meet **ALL** the requirements as stipulated in the Zoning Ordinance Sec. 18.8 A.