

**RECONVENED CHEBOYGAN COUNTY BOARD OF COMMISSIONERS
CHEBOYGAN COUNTY PLANNING COMMISSION
Joint Meeting
December 20, 2017**

The Reconvened Cheboygan County Board of Commissioners and Planning Commission Joint Meeting was called to order in the Commissioners Room by Commissioner Wallace at 7:00 P.M.

Roll called and a quorum present.

Present: Commissioner Karen Johnson, Richard Sangster, Michael Newman, Cal Gouine, Roberta Matelski and John Wallace, Patty Croft, Harold Borowicz, Michael Kavanaugh, Charles Freese, Stuart Bartlett, Chum Ostwald, Sharon Lyon and John Jazdyk.

Absent: Commissioner Bolinger and Stephen Churchill (Excused)

Staff: Scott McNeil, Karen Brewster and Jeff Lawson

Commissioner Wallace gave the Invocation and led the Pledge of Allegiance.

Motion by Commissioner Sangster, seconded by Commissioner Gouine to approve the agenda as presented. Motion carried with 6 yes, 0 no and 1 absent.

Citizens Comments

Board of Canvassers Chairman Dale Giddings stated he was not aware of any shortcomings with the current election equipment, but, whatever system that was going to be used there were two criteria's that needed to be met. First, there must be paper ballots, which was the bedrock of any good voting system. He stated this was the only way that a recount could be held to make sure the voting equipment was accurate. Secondly, the tabulators must be programmed to operate separately from the internet. The internet was vulnerable to hackers and he wanted to stress the importance. The voting system must be fair, secure and accurate.

Old Business – None

New Business

County Clerk Register Karen Brewster stated that Secretary of State Johnson announced this summer that the State Administrative Board approved a 10-year contract with three vendors with optical-scan voting systems that read and tabulated paper ballots marking the votes. Michigan's voting equipment that had served the State over the past 12 years, was nearing the end of its expected lifespan and needed to be retired. She was asking for approval to apply to the Secretary of State for a grant to purchase a new voting system with Dominion for all precincts, which included precinct

tabulators, Absent Voter Counting Board (AVCB) tabulators, accessible voting devices for use by individuals with disabilities, and related Election Management System (EMS) software.

Partial funding for the new voting system would be provided by the State, and would include a combination of Federal Help America Vote Act and State appropriated funds in the amount of \$40,635. The State's Budget also included the support for years 1-5. An annual extended service and maintenance expense for years 6-10 in the amount of \$3,383 to be paid by the county.

Discussion held on election training, installation of the new voting equipment and transmission of results through VPN (virtual private network).

Motion by Commissioner Gouine, seconded by Commissioner Johnson to adopt the following resolution in support of the Cheboygan County Clerk's Office to apply to the Secretary of State for a grant in the amount of \$40,635 to purchase a new voting system for all precincts, authorize the chairperson to sign and approve the necessary budget adjustment.

RESOLUTION 17-15

WHEREAS, the Cheboygan County Clerk's Office wishes to apply to the Secretary of State for a grant to purchase a new voting system for all precincts, which includes precinct tabulators, Absent Voter Counting Board (AVCB) tabulators, accessible voting devices for use by individuals with disabilities, and related Election Management System (EMS) software; and

WHEREAS, partial funding for the new voting system will be provided by the State, and would include a combination of Federal Help America Vote Act and State-appropriated funds; and

WHEREAS, the County and local jurisdiction funding obligations would be required with estimated details available on the attached quote (Cheboygan County's initial expense was at \$40,635 with an estimated annual expense of \$3,383 for years 6-10); and

WHEREAS, the Cheboygan County Clerk plans to begin implementation of the new voting system in 2018.

NOW THEREFORE, BE IT HEREBY RESOLVED that the Cheboygan County Board of Commissioners authorizes the County Clerk to sign the proposed vendor selection and quote for a State Grant Application on behalf of Cheboygan County.

A roll call vote was taken. Motion carried with 6 yes, 0 no and 1 absent.

Joint Discuss of Planning and Zoning Matters

Commissioner Wallace stated that there was a copy of the County's Mission and Vision statement along with the Strategic Planning – Budgeting Process that was handed out.

Administrator Lawson stated that this was a chance for the Board of Commissioners and the Planning Commission to have a joint discussion on topics relating to Planning and Zoning and also a chance to review some of the procedures. The Board of Commissioners meet each Spring, usually in March or April and had a policy discussion meeting to set the Board's Goals and Objectives. Goals focus the direction on an organizations work under the guidance from the Vision and Mission Statement. The goals of the Board of Commissioners were as follows: public safety, economic

development, quality of county services, recognizing social issues, addressing multiple facility needs and collaboration service. The steps of the strategic planning-budgeting were to develop goals, identify objectives and outcomes; appropriate funds to meet objectives that were designed to produce the outcomes that support the goals of the organization and review, monitor, and analyze.

Planning Director Scott McNeil stated that the Master Plan was adopted in early 2015 and took approximately two years of work. The Master Plan was a requirement for any Planning Commission under the Planning Enabling Act of 2008 where all Planning Commissions were required to develop a Master Plan. Also the Zoning Enabling Act of 2006 required a zoning ordinance be based on a Master Plan, which spelled out specific requirements that the plan should include. Since the adoption of the Master Plan, the Planning Commission has reviewed some of the goals, objectives, and recommendations within that plan and has brought forth some changes to the zoning ordinance amendments, which the Board of Commissioner have approved over the last couple of years. Some of these included use terminology review. He stated that the Master Plan itself was a vision for the future. It provided guidelines for land use making decisions.

Goals and objectives were formed directly from input gathered from Cheboygan County stakeholders. A listing of the brief process overview of actions and zoning ordinance amendments, which had been adopted or were in development pursuant to goals listed in the Master Plan. Create a new, user friendly zoning map. An audit of the rezoning amendments was completed. Zoning maps were updated accordingly. New maps were added to the zoning ordinance and the GIS department updated the zoning mapping system for internal use and use on the Cheboygan County website.

The master plan had zoning change recommendations regarding the P-LS Lake & Stream Protection zoning districts. Refine this zoning district to better identify water resources in need of protection rather than everything that was on the USGS topographical map. Amendment #131 was adopted, which rezoned property located on ponds, drains and intermittent streams from Lake and Stream Protection to a zoning district consistent with the surrounding area over the entire county.

The master plan goal was to refine for clarity in the allowable uses in each district; create a table of allowable uses within the ordinance and create consistent terminology of permitted uses. Also it listed all permitted uses in each district rather than referencing allowable uses in other zoning districts. A seven point work plan was developed with items 1 through 3 of the work plan being addressed. As a result of this ongoing project amendment #135 regarding use listings was to be deleted, #140 regarding assembly uses, #141 regarding uses related to convalescent homes have been adopted. Proposed amendment #144 relative to office and service uses and #145 regarding restaurant and bar uses have been subject to public hearings and have been recommended for submission to the Board of Commissioners. Another proposed amendment relative to vehicle repair and gasoline sales was near completion.

The master plan provided some update on the PUD (Planned Unit Development) language, which considered allowing other uses and PUD rezoning options to provide more flexibility. Action on a PUD zoning ordinance amendment was developed, which would provide conditions and approval process to allow a mixing of uses currently allowed in different districts. Further discussion would continue with regard to the approval as a rezoning, which would include approval by the Planning Commission and the Board of Commissioners or provide for approval by the Planning Commission only as allowed under the Zoning Enabling Act of 2006. He stated a byproduct of the PUD discussion produced amendment #136. This amendment provided for an approval process and standards for a Planned Project. Provision of the amendment included the ability of the Planning Commission to reduce setback, parking and dwelling size requirements in conjunction with approval of an overall mixed use development plan for property within a single zoning district.

Commissioner Sangster questioned where the issue with tiny houses was coming into play. Mr. Freese stated that there was a ZBA case coming up and he would really like some guidance from the Board of Commissioners.

Mr. McNeil stated that tiny homes should be run through the Planning Commission process as opposed to the ZBA approving it, but tiny homes was certainly a trend. The minimum square footage was 720 sq. ft.. If the home was within 500 feet of the river or the Lake & Stream Protection zoning district, a minimum width requirement of 24 feet, 14 feet in a residential zoning district and with no minimum width in an agriculture or forestry zoning district.

Administrator Lawson stated that Mr. McNeil identified the process, but if there was a case in front of the ZBA, the ZBA would have to make a decision on that. Several years ago, this was part of the general discussion of the master plan, but it might not have been referred to as tiny homes. The Planning Commission should research the topic, approve preliminary language and provide a recommendation to the Board.

Commissioner Sangster stated that the appeal of these tiny homes was to conserve energy with strong concerns about the environment to live efficiently especially in later years of being on a fixed income.

Sharon Lyon stated that she would rather see someone living in a tiny home versus living in their car. If there were rules and regulations, these homes could be quite nice. Charles Freese stated that the zoning ordinance could only regulate these homes in certain ways such as size and setback requirements. The way that a tiny home would look would not be something that would be under the control of the zoning ordinance. He stated there were some areas where these tiny homes would be fine and he was just looking for some guidance from the Board of Commissioners.

Mike Kavanaugh stated that the Planning Commission would do some basic research on the subject and then bring it back to the Board of Commissioners for review. There were a lot of benefits to small homes, but there could be a lot of disadvantages. Planning Commission would use caution on where they would go, but would not be able

to restrict the type of siding that would be used. He felt that it was worth the research and there were other areas in Michigan that were allowing them. If there was a specific area set, then a homeowners association could restrict the height, siding and any of these other issues.

Commissioner Wallace stated that this was the goal of the Board of Commissioners to always have public safety first and encourage economic development. It was the consensus of the Board of Commissioners to have the Planning Commission move forward with research because tiny homes located at the right place do have a benefit.

Commissioner Johnson stated that Cheboygan County did not do a good job with the enforcement and maintenance of the property code, which was part of the State of Michigan Building Code. There was a little pamphlet from Building Code that addressed these issues such as blight, not having the proper siding on the home and things like that. She stated that one of the things that she noticed was that the zoning ordinances were not clear and concise when the Planning Commission made decisions. Then the Building Department did not enforce them word for word where the Planning Commission had indicated. In particular, bonding becomes an issue and this needed to be addressed.

Charles Freese indicated that this had been an issue that he had been concerned with for years. He stated that the Planning Commission does a pretty good job of evaluating each issue that comes before them. The Planning Commission puts a number of restrictions on almost every one of the items that were passed. Once it was passed, it then becomes an enforcement issue. There has been a problem with enforcement for as long as he had been around. If there wasn't a person that could go out and check these items that they put restrictions on and see that they were being followed, it didn't do any good.

Mike Kavanaugh agreed that enforcement has been a problem, especially special use permits, which was a request from a developer to do something in a zoning district that was not normally done. He stated that the Planning Commission didn't put any restrictions on that were not reasonable and enforcement needed to be worked on.

Administrator Lawson stated that in the past, there had been a lot of discussion on enforcement and with moving forward with staff changes. When changes were set under a special use permit say in the spring, there were a number of employees that could check the progress of the provisions when they were in the field. In moving forward, the plan was to hire another enforcement officer, but if any of the other inspectors were out there and witnessed something, he would want them to take notes. There should be an immediate review with any project launched. He stated that he thought that part of the issue was for example when a development had been there three or four years, then there needed to be a provision where they take a number of plans per year and re-inspect them possibly on staffing's down time. When enforcement got to a standard where the County needed to take court action, there was a very specific process outlined and legal counsel was involved with guidance. He stated that he had talked with Commissioner Johnson and she had suggested that maybe there

should be more clarification to the public and to possibly discuss it at the Planning Commission or even at the Board level. When the County did enforcement especially in a situation when heading towards court action, the public could be better informed of what that process was.

Charles Freese stated that in the number of amendments that had taken place from the zoning ordinances, he has tried to see that the changes that were made were loosened up rather than being tightened as far as homeowners rights as to what they could do on their own property. Most of the amendments that have taken place in that regard have been positive. When you look at the number of amendments that have been made to the zoning ordinances in the past several months, a lot of these amendments have been nothing more than clarifying terms and straightening out things that were wrong from the beginning in the ordinance. If a term was going to be used, it would have to be defined and consistent all the way thru the ordinance. He explained that there were two ways of zoning. For example an ordinance that specified what could be done in the various zoning districts, identifying each and everything that could be done or there could be an ordinance written where in various zoning districts there could not be certain things done. This Planning Commission was set up as to what could be done in each of these zoning districts. With the revolution of what was going on in the county, there were new uses coming up that were not in the ordinances. This would make a change in the zoning ordinances.

Mike Kavanaugh agreed that most of the revisions and amendments that the Planning Commission made were to loosen up ordinances such as the camping requirements and setbacks on the lake and stream restrictions. If Mr. Freese found a problem, it was brought up to the Planning Commission. There have been a lot of changes, but the reason why they came up has been for refining their definitions. He stated that moving thru these ordinances as they have been was essential to getting them straightened up.

Commissioner Sangster suggested as a policy, going back through and reevaluate these ordinances and amendments because this would be a good exercise to keep a check and balance system.

John Jazdyk stated that based on where the Planning Commission was at right now, they were just looking at what they had in order to make it better. There was a whole other world out there and if the group would like to, the Planning Commission could look into other forms of zoning that was available.

Charles Freese stated that one example would be Emmet County. Emmet County's zoning ordinances were made simple and small with the difference being that Emmet County had each of their townships doing their own zoning. Cheboygan County only had one township that did their own zoning, which was Burt Township. If all of the townships were doing their own zoning, Cheboygan County would have a simple ordinance. He stated that this was not going to work in Cheboygan County. The Planning Commission has patiently been waiting for correspondence back from Tuscarora Township after having scheduled several meetings and a draft of the regulation had been mailed to them asking the township for their comments. This has

been ongoing for approximately eight (8) months. Commissioner Wallace asked for further information from the Community Development Director.

Administrator Lawson stated that in other counties the Planning Commission had provisions set up for a specific time period such as one (1) month, which allowed the townships time to review the wording and give the Planning Commission feedback. Then after that, everyone knew what the process was and would move forward. Patty Croft stated that this had been addressed with the township with no results.

Charles Freese stated that what people do not realize was that on a special use permit there were a certain number of questions that needed to be answered. If the questions were answered positively, the Planning Commission had to grant the special use permit because it could not be legally turned down.

Commissioner Johnson commented regarding the SUP's and the list of questions and things that had to be met. With regard to putting on the restrictions, a yes answer with restrictions was actually a no answer. These get put thru, but if you were to answer the questions with the information that was provided by the client, these answers could be no. Instead the Planning Commission goes thru and makes restrictions instead of turning the questions back to the client to fix and then bringing it back to the Planning Commission with the requirements as to what they want met. There may be restrictions put on that might ultimately could not be met, but the restrictions were put out there and an SUP was granted, which might lead to some confusion.

Charles Freese stated that if a question had to be answered in the affirmative and it could be answered in the affirmative if restrictions were there, the Planning Commission was going to have to grant it. For example if a person would want to use a driveway in a particular location and there was a reason for public safety and it could not be there, then it would be granted, but not with the driveway in that location. He stated that if it was at the other end of the property, there would not be a problem. The client could not be turned down because the Planning Commission did not like the idea.

Commissioner Johnson stated that when a client comes in and was presented with the list of questions that they needed to answer, which was based off of the information that they provided to the Planning Commission. This was not the information that the Planning Commission was going to hand back to the client. She believed that the client needed to come back to the Planning Commission with what their intentions were and what they intended to do. If it wasn't approved, then the client automatically knew that they had to do something in order to bring this back before the Planning Commission to get it approved.

Charles Freese stated that this was where they were supposed to be supplying support to the general public. Mr. McNeil receives applications where they come in on the back of paper napkins, which to him was not an acceptable site plan. Mr. McNeil works with these clients, sometimes at great lengths, trying to get them to come up with the information that needed to be there. He stated that if you were relying on clients to

come in with a complete site plan, 70% of the applications would be turned down and would never make it to the Planning Commission.

Scott McNeil stated that the ordinance would refer to the additional requirements that the Planning Commission would be putting on the special use permit as conditions. There was a section in the zoning ordinance that sets forth as to what can or cannot be a condition. He stated that he was not aware of any plans that were not clear on what they intended to do. The Planning Commission would see that and would say that on this particular case because of the surroundings or because of the testimony, they were in need of additional information. This additional information would be the conditions, which was the general course of action.

Charles Freese stated the garbage disposal business could have been located at other places that would have been a great deal better for this operation than the proposed location, but for whatever the reason, the applicant wanted it to be in that location. It was up to the Planning Commission to approve, disapprove, or approve it with enough restrictions to insure that it wouldn't cause the type of problems that they could anticipate. He summarized the numerous restrictions and stated that with these restrictions, it would have prevented any real problems occurring, if only they had been followed. Now there was a pending court action. He stated that in his opinion everything that came up to the Planning Commission and the Zoning Board of Appeals, he tried to look at it from a stand point of, is it legally sustainably the decisions that they make. If it was going to automatically result in ending up in court, then there was a problem and this was not being handled correctly. Legal Counsel would be contacted. In the past several years, they have done a pretty good job of staying out of court.

Commissioner Wallace asked the Planning Commission if they were getting enough education or training. Mr. Freese stated that most of them had extensive training early on, but some of them haven't had any training. The basic training that they had gone through was many hours of extensive training, which was very beneficial. Ms. Croft stated that a refresher course would be very helpful. Mr. Jazdyk stated that he did not receive any training and it would be helpful, because most of his learning had been on the fly. Mr. McNeil stated that the tools that they have had in the past for training hadn't been offered. There was the Citizens Planner course offered through the MSU-E, but it was a multidimensional course that took several months to complete and often times, the Planning Commission were not able to have the time to put towards this type of training. Mr. Freese stated that Brian Graham came over a couple years ago and gave them several hours of training on what they could or couldn't do to keep them out of trouble.

Administrator Lawson stated that the staff would work with the Planning Commission over the next couple of months to talk about the Citizens Planner course offered through the MSU-E, which could be held here on site or reviewed on line. He stated that in the next couple of months, MSU-E would be interviewing for another educator who would be based here out of Cheboygan County, which would be another resource. His primary job would be to educate on land use issues and zoning.

Community Director Scott McNeil summarized the Planned Unit Development (PUD) ordinance that was currently in the zoning ordinance, which didn't really take advantage of the flexibility that was allowed under the Zoning Enabling Act. The current PUD provided for much like the planned project ordinance that was passed, which allowed certain deviations from development standards, but only allowed the development of uses that were allowed in one single particular zoning district. When, in fact, a PUD could mix uses from many different zoning districts into one development. A PUD draft amendment had been put together that sets forth the ability to mix uses on a much higher level than was currently existing in the zoning ordinance and provided that flexibility in the some of the development standards. The ordinance that was last presented to the Board of Commissioners set forth the criteria for a PUD, which included some of the standards for development and reductions in the minimum lot sizes and minimum lot widths. There were some requirements for some open space that set up the ability for pre-application conferences where the proposed developer could sit down and talk about the development in general terms with the basic conceptual plan. The current amendment sets forth a process by which the Planning Commission would review it and sets forth the requirements for an existing conditions plan and a new plan for development. A PUD was proposed to be in a rezoning district. When a rezoning was going to occur, this was a law change that was going to require the approval of the Board of Commissioners. This amended document also proposed for the Planning Commission to make a recommendation and then a final decision to be made on that PUD by the Board of Commissioners. The Zoning Enabling Act also allowed for a PUD to be approved by the Planning Commission only, which was more like a special use permit. Since the last discussion about PUD's, there has been varying degree of thought as to whether a PUD should be left to the Planning Commission or whether the Board of Commissioners should be involved in the rezoning type of situation. Legal Counsel has provided a legal opinion in that regard.

Charles Freese gave a summary of when the PUD came before the Board of Commissioners and summarized the review process, which would take several months of meetings, if the Board of Commissioner would want to take this on, as their responsibility.

Community Director Scott McNeil stated that with the approval process, there were specific standards and the standards were viewed, exhibits were cited with each standard and the approvals have to be reviewed based on each particular standard that was in the ordinance. This would require some extra work from the Board of Commissioners if they did not want to accept the Planning Commission's findings, which they could do under the ordinance.

Commissioner Wallace stated that the Planning Commission had the most important job and felt that the Planning Commission should make the final decision. It was the consensus of the Board of Commissioners to have the Planning Commission consider the PUD's and to approve or deny them.

Administrator Lawson stated that he would have Mr. McNeil prepare the draft language and to check with legal counsel on that format and then bring the specifics of that

criteria being reviewed back to the Board. Then from there the comments would be sent back to the Planning Commission for final draft of language and recommendations.

Board/Planning Commission Comments

Commissioner Sangster commented that he was glad to have the opportunity to discuss these issues with the Planning Commission because, as a Commissioner, they only hear the bad things. Cheboygan County was up for development and he just wanted to make sure that the county was pushing forward with what they had to work with.

Chum Ostwald commented that the thing that needed to be looked at was the time element. This was a big problem with the public and he didn't know what the answer was. Commissioner Sangster commented that this would fall under Goal #3 "Quality County Service – To work diligently to provide courteous, efficient, quality services."

Citizens Comments

Carl Muscott citizen of Tuscarora Township thanked the Board and Planning Commission for their comments. He appreciated Commissioner Wallace's comment on how hard the Planning Commission worked. This was a great group of people and one of the best volunteer groups in the county. He has watched the whole process on the PUD and the current wording was much too restrictive. If you were looking for flexibility from a PUD, then it should be much broader and it had to allow the Board of Commissioners to be involved because you cannot reach across separate zoning districts with a PUD. He invited everyone to read it.

Motion by Commissioner Wallace, seconded by Commissioner Newman, to adjourn to the call of the Chair. Motion carried with 6 yes, 0 no and 1 absent. Meeting adjourned at 9:04 P.M.

Karen L. Brewster
Cheboygan County Clerk/Register

John B. Wallace
Chairperson Board of Commissioners

Charles Freese
Planning Commission Secretary