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**Charter Township of Kalamazoo
Minutes of a Planning Commission Meeting
Held on January 18, 2018**

A special meeting of the Kalamazoo Charter Township Planning Commission was conducted on January 18, 2018 commencing at 7:00 p.m. at the Township Hall.

Present were:

Jeremy Hathcock
Denise Hartsough
Fred Nagler, Chairman
Jim Cripps
Henry Dingemans

Absent was:

Tonnie Hitt

Also present were Township Manager Dexter Mitchell; Police Chief Bryan Ergang; Township Attorney Roxanne Seeber and approximately 25 additional interested persons.

Call to Order

The chairman called the meeting to order at 7:00 p.m.

Roll Call and Recognition of Visitors

Hartsough moved, supported by Dingemans to excuse Hitt. The motion passed unanimously.

Approval of Meeting Minutes

Cripps moved, supported by Hathcock to omit consideration of the minutes, considering that this was a special meeting. The motion passed unanimously.

Comments from the Public

None.

Correspondence Received

The Planning Commission had received a letter from Chief Ergang respecting the medical marijuana ordinance. The Township Manager indicated that he had received additional written correspondence related to the consideration of the medical marijuana ordinance. The Township Attorney stated that correspondence related to the ordinance would be held until the public hearing. The Planning Commission was in the working/deliberative process stage. The current emails were submitted to the Planning Commission and future ones would be held until the public hearing. The notice of public hearing would provide the date and time for public comment on the proposed ordinance once it was more than a working document.

1 **Old Business**

2

3 **Medical Marijuana Considerations**

4

5 Zoning Administrator and Planning Consultant Patrick Hudson was not present due to a death in the
6 family. Manager Mitchell filled in for him. Mitchell stated that he had been in conference with Hudson
7 and other staff members for much of the last several days. He invited Chief Ergang to present his
8 comments. Ergang began by saying that there is not a lot of empirical data available on the medical
9 marijuana effects on adjoining properties. Mitchell had inquired about clustering of uses. Ergang
10 applauded the Planning Commission for taking a deliberate and conservative effort at addressing
11 locations for medical marijuana. There are similar businesses that deal in controlled substances or adult
12 services, he said. Most of the data from California and Colorado show that clustering is often located in
13 lower socio-economic areas with primarily minority residents. This may be because there is more land
14 available at lower prices. Ergang advised taking a pragmatic approach. Chapman inquired as to
15 whether the family court could access data related to an increase in drug crimes among juveniles.
16 Ergang stated that he would inquire, but it was likely too early to determine effects of commercial
17 medical marijuana services because they have not yet opened for business. Hathcock inquired if crime
18 would go down once marijuana was legalized. Ergang indicated that it was not possible to predict any
19 particular outcome; however alcohol is legal and we still have drunk driving and drunk and disorderlies.
20 There may be some ancillary crimes that increase, such as drugged driving, he said.

21

22 Dingemans inquired about businesses with large amounts of cash available. Ergang stated cash
23 businesses with high value product would bring about a public safety concern. In response to an inquiry
24 from Nagler, Ergang stated that the safety and welfare of the community was the biggest concern.
25 Ergang indicated that keeping spacing distances from provisioning centers similar to adult uses would be
26 advisable. There were no additional questions for Chief Ergang and he was excused.

27

28 The Township Attorney indicated that she had received an email from Manager Mitchell in the
29 afternoon. It contained more recent comments and an updated ordinance amendment from Hudson.
30 Cripps and Nagler expressed disappointment that the information had been changed since they received
31 their packets. Each of them had spent considerable time on the draft. A current copy of the draft was
32 provided to each member.

33

34 Mitchell led the group through the Zoning Administrator's correspondence. Cripps indicated that the
35 safety compliance facility had been deemed to be similar to a laboratory. Laboratories were not allowed
36 in C-1 or C-2. Thus, safety compliance facilities would not be permitted in C-1 or C-2. Many of the
37 members agreed, indicating that they had previously decided this issue. Hathcock stated that available
38 commercial property would be very limited if the setbacks being considered were approved. The
39 Township Attorney reminded the group that the ordinance can always be amended.

40

41 The group next took up consideration of the insurance requirements. Hathcock did not see any reason
42 to treat the marijuana facilities any differently than other uses. He inquired as to whether insurance
43 was required for other uses. Dingemans recalled that insurance is required for gravel mines. The
44 Planning Commission members debated the insurance provisions. Cripps stated that he had inquired
45 of Nulty Agency regarding insurance parameters. That letter indicated that a \$1,000,000 minimum was
46 common. Mitchell suggested that a motion and vote should be taken on the insurance issue. Cripps
47 moved, supported by Dingemans to retain the insurance requirements, raising the minimum to be
48 provided to \$1,000,000 per occurrence and at least \$2,000,000 in the aggregate and requiring that the

1 Township be named an additional insured on the policies. Cripps indicated that his overriding concern
2 was the welfare of the community. He inquired as to what exposure the Township would have. The
3 Township Attorney indicated that the Township would be considered to be governmentally immune,
4 except for gross negligence. However, there was no way of knowing what kinds of issues would be
5 created by these facilities and how a creative person could try to find a “deep pocket” which may
6 involve the Township. Nagler wasn’t sure that the high level of insurance was required. He inquired as
7 to whether Cripps would reduce the numbers on his motion. Cripps stated that he would rather bring
8 the level of insurance required by the gravel pits up. The motion passed by a 4-2 vote with Hartsough
9 and Hathcock voting in the negative.

10
11 Chapman inquired about vocational schools. Mitchell stated that he had obtained a definition from
12 Google, which seemed to say that they were basically trade schools for people older than 16. They were
13 seen as alternatives to college. The Township Attorney indicated that the applicant should be required
14 to list the nearby schools, libraries and public parks on the application. Chapman stated that some
15 special needs children go to vocational schools very early. In addition, some vocational schools were
16 contained within the regular schools. Seeber indicated that if there was a question about the
17 classification of a particular school, the Township’s Zoning Administrator would make the initial
18 interpretation. Mitchell had suggested moving vocational schools down to the 500 ft setback and all
19 agreed.

20
21 The group next took up the issue of spacing distances from PUDs. Members of the Planning
22 Commission were able to name several PUDs. Some of these contained residential uses. After some
23 discussion, it was determined that there need not be any particular spacing distances from a PUD that
24 the underlying zoning would control.

25
26 Hartsough stated that there was an issue regarding trails. Nagler indicated that one of the township’s
27 main focuses was on constructing trails. Each expressed concern that spacing distances from trails
28 would remove most of the eligible properties from consideration. There was consensus from the groups
29 that trails would not be included in the setback requirements.

30
31 Mitchell next introduced the concept of where to measure from and to. He brought a copy of a Lansing
32 Ordinance and outlined its measurement standards from the edge of the building to the centerline of
33 the road. He thought that the Planning Commission had already decided on building line-to-building
34 line in the industrial areas. Mitchell inquired as to whether topography would matter. He gave a
35 demonstration showing that a short distance could become considerably longer if topography and
36 upward or downward angles were considered. Mitchell inquired as to whether lineal feet would be
37 utilized or whether there would be some consideration for topographical issues. The Planning
38 Commission undertook considerable discussion on the issues of measurement that had been presented.
39 Mitchell indicated that it would be easy enough for an applicant to find an engineer that would provide
40 the measurements. Staff, Mitchell said, suggested utilizing straight lines for measurements. Seeber
41 indicated that topographical issues were the classic reason for the granting of a variance. An applicant
42 with topographical issues could go to the Zoning Board of Appeals, she said.

43
44 The point of measurement was also a consideration. Cripps suggested that for residential buffers, the
45 edge of the residential outline should be used. Dingemans agreed with this. Thus, a map would show all
46 residential zones with setbacks. For industrial, Cripps stated, business to business would be a starting
47 point for consideration. Dingemans recalled that any type of improvement was to be counted for
48 setbacks. Mitchell stated that it had been discussed, but never voted on. The members entered an

1 extended discussion regarding setbacks. Cripps indicated that the measurement line was supposed to
2 be “to first improvement”. The group considered whether a parking lot was an improvement. Cripps
3 was formulating a plan. He was concerned about additions to adjoining buildings after the
4 implementation of a medical marijuana facility. Would that then make the medical marijuana facility in
5 violation of the ordinance, he wondered. During this discussion, Cripps ultimately suggested that the
6 setback line for the zoning district should be used. He reasoned that there can be no buildings in the
7 setback area. Therefore, there would be no issues with additions to adjoining buildings. They would all
8 have to meet the setbacks. Hathcock recognized that this measurement would provide an increase
9 from the prior discussion. The group discussed this issue, with all agreeing that measurement from
10 setback lines would be useful, with the exception of measurements from adjoining residential districts,
11 governmental line setbacks; and schools/libraries/playgrounds setbacks, which would be measured as
12 follows:

- 13 Residential—measure from edge of property line/residential zoning district to setback line.
- 14 Schools/Playgrounds/libraries—measure from building (school, etc....) to building.
- 15 Within industrial districts—use setback line to setback line. This would be for spacing distances
- 16 between provisioning centers; and
- 17 Municipal boundary setback of 250 feet—use municipal boundary line to medical marijuana
- 18 building.

19
20 Nagler indicated that measurement on topographical issues was difficult. He suggested using only
21 horizontal measurements. The rest of the group agreed.

22
23 Mitchell mentioned some areas near Ravine Road, with Cripps stating that those with topographical
24 issues could seek a variance. Further, he stated, all of the uses were special land uses, so there would
25 be a public hearing on any medical marijuana facility before it could be approved. The group next
26 discussed whether any part of a building could be used for a provisioning center. Nagler was concerned
27 that a person could get approval, and then move within the building. Cripps stated that a change in use
28 or site plan review would be required. Nagler noted that the fencing provision was not needed, as
29 some of the rules required fencing and the ordinance required fencing between competing land uses.
30 Nagler noted that the fencing contained in the ordinance is for screening.

31
32 The Planning Commission next took up the issue of odor. Mitchell had done some investigation on odor
33 detectors. Purchasing one or two of these was a viable option. A discussion ensued regarding where the
34 odor would be measured from, the potential affect to outdoor air by a person holding a door open for a
35 handicapped person, and the potential for neighboring property owners making complaints.
36 Dingemans suggested that no odor should be detectable outside of the building. Ultimately it was
37 determined that the odor would be measured at the property line (of the complainant) or of the facility.

38
39 Cripps next wished to address fire protection requirements. He stated that the NFPA 1 of 2018 had
40 marijuana facilities rules contained in it. The problem, he said, was that the state was not ready to
41 adopt the 2018 NFPA 1. The Township Attorney indicated that the 2018 code provisions could be
42 incorporated by reference within the ordinance.

43
44 Nagler indicated that the word “marijuana” is spelled with an “h” in some places in the proposed
45 ordinance. The group was all in favor of using the “j” spelling.

46
47 Manager Mitchell passed out a buffer draft map showing schools and library parcels, a 250 foot
48 township boundary buffer, a 500 foot residential buffer and a 1000 foot school and library buffer.

1 Hathcock reminded everyone that the facilities are all special uses. He inquired about timing. Seeber
2 outlined the noticing requirements and timing requirements. Hathcock next inquired about whether
3 the March 1 deadline for acceptance of applications could be met. Seeber stated that it could be met if
4 the Planning Commission would hold a special meeting on February 8. Manager Mitchell stated that the
5 Township Board would also hold a special meeting in order to get it done as well.

6
7 The chairman opened the meeting for public comment. John Taylor noted that the map showed only
8 about 12 or 13 eligible properties. He wanted to make sure that everyone has a fair shake in the game.
9 Those properties have now tripled in price and will just keep going higher. One person in the room
10 owned most of the eligible properties in Kalamazoo Township. He asked the Planning Commission to be
11 wary of making so many restrictions that some people are squeezed out.

12
13 Lloyd Owens works for a genetics firm. His property is at the 250-foot adjoining municipality border. He
14 wondered if Comstock was included, since it had not opted in. Nagler confirmed that Comstock would
15 be included. Owens added that a lot of people have a lot of time and money invested in medical
16 marijuana. They are losing out in other communities. He stated that the state had recently passed
17 banking laws that allow a bank to file a report so that it could accept more than \$10,000 in cash without
18 having to do an individual report for it. There are now 511 banks in the country that are taking medical
19 marijuana facilities as clients. The bank files a "special activity report". Pay Quick in town is willing to
20 take the cash.

21
22 Al Allie of 51 Mt Royal Drive in Kalamazoo could not see what areas were qualified in the map. He didn't
23 think that medical marijuana facilities were being treated the same as other businesses. "It seems like
24 reefer madness", he said. A medical marijuana facility, he said, is no different from a pharmacy. Is
25 there a variance process, he inquired. Is there an appeal process? Latino people have been using
26 marijuana for years. There is a lot of fear and reefer madness. He owns land in the township.
27 Everyone knows where this industry is moving. It is going to happen no matter what. The Planning
28 Commission should not be afraid of something that is going to happen no matter what.

29
30 Kari Panse, 4038 N. Westnedge, was here at the last meeting. She was concerned that she had no
31 opportunity for back-and-forth dialogue with the Planning Commission. They didn't have the dialogue
32 that they intended to have with the residents (last month when the conditional rezoning was offered).
33 Their business was there when everyone else started buying up properties. They were there before the
34 residents. They all knew about trucks, noise and traffic. No one ever came through and took a plant
35 and applied for a job. The 500-foot buffer is a joke, she said. There is now a zero buffer for liquor
36 stores. They are not controlled at all. Marijuana is not at a bud stage 24/7, she said. Those that are
37 presently operating are not creating additional problems for police and fire. She knows that there are
38 bad connotations, but it is not humorous. Those that were at the meeting last week already live near
39 grow facilities and they don't know it. 16% of the population uses medical marijuana. The businesses
40 that want to come in need a level playing field. Marijuana is medicine, she said.

41
42 Josh Bratigan has a client that is a large grower. They just secured a 1 million dollar facility in Kalamazoo
43 Township. You don't know who his client is, and he prefers to keep it that way. They don't advertise.
44 Their concern is the requirement for a special use permit. That will require notice for adjoining
45 property owners. They would prefer just to be a permitted use so that they can fly under the radar.

46
47 There is a race to the market, he said.
48

1 Adam Tucker of Vicksburg owns property in Kalamazoo. He suggested eliminating the timeline on the
2 carbon scrubbers. He appreciated the hard work of the Planning Commission.

3
4 John Brink of Clarkston Michigan is a campus consultant for “grow green”. He complimented the
5 Planning Commission on its process. He has been to a lot of other meetings over the last year and this
6 Planning Commission is one of the best. He applauded the Planning Commission for considering
7 secured locations where everyone will be happy. He agreed with the \$1,000,000 insurance minimums.
8 He said that their biggest concern is the potential for contaminants in the product. He also suggested
9 an umbrella policy. Good facilities will start with \$3 to \$5 million in insurance, he said. Two additional
10 audience members voiced concern that their property may not be eligible for a facility.

11
12 **Report of Township Board Representative.**

13
14 Hathcock stated that the Township Board was appreciative of the Planning Commission’s hard work.

15
16 **ZBA**

17
18 Nagler stated that the Zoning Board of Appeals had met and elected officers.

19
20 **Adjournment**

21
22 Hathcock moved, supported by Cripps to adjourn the meeting at 9:30 p.m. The motion passed
23 unanimously.

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28 _____
Henry Dingemans, Secretary