

**Elk Rapids Township  
Planning Commission**

Meeting Minutes – Tuesday March 15, 2011

Chairwoman Mischel called the meeting to order at 6:30 PM at the Government Center, 315 Bridge Street.

Present: Dorance Amos, Jean Derenzy, William Larson, Jim Lundy, Emile Sabty, Shen Smith and Renee Mischel.

Also Present: Leonard Harrett, Zoning Administrator, Larry Nix, Planning Consultant. Audience of 2, Tom Brady & Marshall Wright

**Adoption of Agenda:** A question was raised regarding whether the minutes for the December 21, 2010 meeting, during which a quorum was not established, should be included in the agenda; because a meeting took place, it was decided to amend the Agenda to include the December 21, 2010 minutes for approval.

**Approval of Minutes:** M/S – Derenzy/Lundy. Minutes for October 19, 2010 meeting were approved unanimously.  
M/S – Lundy/Sabty. Minutes for December 21, 2010 meeting were approved unanimously.

**Public Forum**

Mr. Marshall Wright stated that he chairs the Birch Lake Owners Association. He received a copy of a letter addressed to Mr. Harrett, TWP Zon Adm from a resident on Timber Lake Drive in which he complained about his next door neighbor who is selling his house, but at the mean time has been renting it on short time basis. Because the area is zoned R-1, he wish to see that the renting practice is stopped. Mr., Marshall would be talking with the complaining owner when he comes up for the summer. In the interim, he asked the PC to make this an urgent Agenda Item, and to revise the R-1 & R-2 Zoning Ordinances to allow renting in those two zoned districts, where now it is not allowed, with a condition that no signs are to be allowed that advertise rentals.

After discussion, there were no indications of a positive reception to the proposal. Chairwoman Mischel stated that she will get in touch with the Township Attorney and ask for an opinion.

**Old Business**

**Subdivision Control Ordinance & Land Division Ordinance Review:**

Mr. Nix, referring to the newly distributed draft copies, explained the few changes made recently to improve on the proposed ordinances. He again emphasized that the updated two ordinances are TWP Board Ordinances and are not part of the Zoning Ordinance, though they are referred to in name only. The New State Act made it necessary to update the two ordinances. The review time frame in the ordinances has been reduced. Being Township Board Ordinances, there is no need for a public hearing when adopting the two ordinances. The Subdivision Development Ordinance required substantial changes, while the land Division Ordinance required minor ones. We may have not used these ordinances in the past, but it is important that we make the necessary updates in case they are needed.

Ms Smith advised that on the last page, the last entry in the document under **Effective Date**, the newspaper name should be left blank or show only “Local News Paper”. There was concurrence.

M/S – Smith/Sabty. Move to approve the update amendments to the Subdivision Control Ordinance as presented, and the Land Division Ordinance as presented with a change to the Effective Date Section, leaving the newspaper name blank or referring to it as Local News Paper.

Vote. Yes – Amos, Derenzy, Laarson, Lundy, Sabty, Smith, Mischel  
Motion passed 7-0-0.

Mr. Nix will supply a finished document of the approved ordinances to be passed on to the Township for their review and approval.

### **New Business**

#### Township Zoning Map:

Mr. Nix advised that the two suggested typographical adjustments, brought up earlier, were completed and the current map reflects that. Four enlarged copies brought over will be forwarded to the Township.

Ms. Smith brought up the correction made for lots 33 & part of 34 to R-3 “Bayview Cottage Condos” on North Bayshore Drive. Though the previous Zoning Maps in the Township showed this property zoned R-3; she felt that it is in error; it should be R-1 like the rest there. That the Township has only one area designated R-3 on S Bayshore. Keeping the R-3 zoning designation on lots 33 & part of 34 might create a future problem should someone acquire the property to build a Condo complex on such a small area. The Township past records may have an answer; if not, the adjustment to the R-3 zoning designation should be considered.

It was explained that the adjustment research done involved the past minutes between 12-18-1986 and 6-29-1990 for both the Planning Commission and the Township Board meetings as listed in the letter of 12-6-2010 on the subject (copy on file). Past minutes of 1989-11-7 state that this property and the Lamb/Kalis PD property are to be excluded from the change of E to R-1 for that area. Since that time all past Township Zoning Maps used for various reasons show lots 33 & part of 34 “Bayview Cottage Condos” to be R-3. Over the past 21 years if that was in error it would have been corrected by now. At the same time, the Antrim County parcel numbering system show the five structures on lots 33 & part of 34 numbered as 05-06-160-001-00 thru 005-00 and with 160 to be “Bayview Cottage Condos”. The same is true of the PD designation of 360 for “Elk Rapids Beach Resort”. Those who voted then to make the zoning change must have viewed the two designations as being different from all the other parcels around them that were changed to R-1 and were identified in the parcel numbering as 350 for “Elk Rapids Shores”.

#### 2011 Update Budget and Meeting Dates

The new 2011 budget for the Township Zoning & Planning was discussed. It was brought up that the PC budget has funds to cover six meetings. Other budget items for legal and contract services were adjusted accordingly. As to the frequency of holding meetings, the consensus was that because of Township general budget overall reductions the Planning Commission should keep their scheduled meetings at quarterly frequency with the ability to hold a special meeting if it becomes necessary.

M/S – Larson/Smith. Move that for 2011 the Planning Commission continue to hold their regular meetings on quarterly basis and to call for a special meeting if it is deemed necessary. **Approved 7-0-0.**

#### Medical Marihuana

Lately more attention has been given to this subject at various communities with some of them writing new ordinances while others putting a moratorium on the subject. It was felt that the ER TWP PC should bring up Medical Marihuana for discussion and a possible approach.

Mr. Harrett, Zoning Administrator explained that he was approached by a resident inquiring about adding medical marihuana distribution to their business. As medical marihuana was not an approved business in the TWP he referred them to various parts of the ordinance that would deal with site plan review process and related subjects.

General discussion of the subject “sale of medical marihuana” brought up that at present this is still a small issue, but could grow to massive proportions if not kept under control. As to its legality, though Michigan voted its approval in 2008, there is little doubt that allowing a federally banned drug to be sold is problematic. Similar to

the Montana experience since 2004 on medical marihuana, Michigan seems to be moving on the same track to repeat that experience. In time the problem would expand. If it is to remain legal, it needs to remain strictly medical, and nowadays that is a problem facing many local governments on how to regulate their ordinances to keep it under control. No one entity has a complete answer. On the State level, not much is being funneled down. Ordinances written on this subject have left many questions unanswered. Others chose the moratorium approach with the hope that the questions would be answered by the end of the moratorium and they can proceed to writing their ordinances. But what if the moratorium expires with no new guidance? Would they be obligated to write an ordinance that would be short of their anticipations? What if the State Legislators did not write new laws? These are problems facing municipalities as they consider medical marijuana, which is a new subject to cope with. Using the "What If" shield does not solve the problem on hand. Under these circumstances, what approach should the ER TWP Planning Commission take?

Mr. Nix was asked to express his views and recommendations. He advised that, in considering the discussion and without trying, it seems that moving in the direction of writing an ordinance on this subject or go the moratorium approach, may not produce a comprehensive answer. At present the Elk Rapids Township Zoning Ordinance does include one remedy to this subject if it was to become a reality. The recently revised Section 19.07, Special Exception, would become the basis for an application review when properly submitted, and Sec 19.07-H, when it is determined that the use is not addressed by the ordinance, would authorize the development and adoption of specific review standards for that proposed special exception. In other words, a Special Exception approach to a business request, would within the scope of the process require the development of an Ordinance on the subject, should it come to that.

With that, the subject phased out without going into exploring and discussing regulating by ordinance of Medical Marijuana/Home Occupation/Primary Caregiver, as related to the Michigan Medical Marihuana Act of 2008 (MMMA).

### **Correspondence**

Chairwoman Mischel made available received circulars and notifications announcing various planning related meetings or seminars by different organizations in the area. Those interested can call for reservations.

**Public Comments:** None

### **Members Comments**

Chairwoman Mischel asked for input on which future agenda item should be brought forward for review at the next meeting. Of the agenda items that were approved for future review on June 15, 2010; and by a majority vote of **4-3-0**, "**Home occupation/home business zoning regulations to maintain the rural residential character**" was selected as an agenda item for the next regular meeting.

As there was no further business Chairwoman Mischel adjourned the meeting at 8:35 PM.

Next scheduled meeting will be on Tuesday June 21, 2011 in the Government Center, 315 Bridge Street.

E.S.Sabty, Secretary  
3-15-2011

**Approved 3-28-2011**

Minutes are subject to approval at the next regular Planning Commission Meeting.