

**Elk Rapids Township
Planning Commission**

Meeting Minutes – Tuesday September 20, 2011

Vice Chair Smith 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

Absent: Renee Mischel

Also Present: Leonard Harrett, Zoning Administrator. Larry Nix, Planning Consultant. Audience 2.

Adoption of Agenda: M/S – Amos/Lundy. Agenda for 9-20-2011 meeting was adopted unanimously.

Election of Officers:

Sabty/Amos moved to reappoint the current Planning Commission officers for another one year term:

- Renee Mischel for Chairwoman
- Shen Smith for Vice Chairwoman
- Emile Sabty for Secretary

Passed 6-0-0

Approval of Minutes: M/S – Lundy/Amos. Minutes for 6-21-2011 meeting were approved unanimously.

Public Forum: None

Old Business

Medical Marijuana Zoning Ordinance

Vice Chair Smith reported about a meeting she attended at the County, in which a presentation by the County Prosecutor was made on Medical Marijuana. It was stated the County Prosecutor would challenge any zoning ordinance adopted by an entity within the County which regulates the processing of MM in a residential district. He believes that such an ordinance would affect the property values in the residential district.

Mr. Nix advised that much activity is going on now relative MM. Right now the adoption of MM Ordinances is in a slow process mode until the subject is put in prospective and is more clarified. More interpretations are taking place especially after the Michigan Court of Appeals weighed in on the subject. The current law does not address where MM is dispensed or how. This has to be settled by the Supreme Court and/or the Legislators. What will be decided then, we hope that it is clear, and then be able to apply it to our work.

Mr. Sabty raised some questions about the growing and dispensing of MM which he felt that the process did not address. Should growing and dispensing of MM be done only in the confines of the primary residence? A caregiver for five patients can grow 60 plants, 12 per patient; should the 60 plants be separated at all times into five independent groups, including separate storage of finished product for each patient? Where is the product sold to the patient, is it inside the house, outside the primary residence, or off the premises? A caregiver having 5 patients would be raising 60 plants, suppose two patients drop out, what would happen to the 24 plants on hand, who gets them, do two new patients inherit them, how is this handled?

Vice Chair Smith asked Mr. Nix to review the concerns raised and report on the findings at the next scheduled meeting.

New Business

Medical Marijuana Moratorium Extension

Mr. Sabty reported that at the last TWP Board meeting on September 13, 2011 a new six month Medical Marijuana Moratorium extension was adopted, "Township Ordinance 4-2011" will take effect on October 14, 2011.

Correspondence - None.

Public Comments

Mr. Lawrence Nemshick, a neighbor of Mr. Richard Igo, asked about the disposition of Mr. Igo's letter to the Zoning Administrator and if it is going to be discussed at this meeting.

Vice Chair Smith responded that this item is not on the agenda for PC discussion, the letter does not ask that it be included on the agenda; that there is a process for doing that which any resident can use. Mr. Harrett stated that Mr. Igo indicated verbally, that with his wife they were going to be present at the meeting to ask questions.

Mr. Nix was asked to comment, and stated that this item is not on the agenda. Upon reviewing the letter of 8-22-2011, Mr. Igo raised a couple of questions, and is asking the PC to render an opinion on them. From a procedural aspect the PC does not interpret the Zoning Ordinance. The Zoning Administrator is responsible for answering such concerns by the public. In such a case a person asking a question can ask for a written response from the Zoning Administrator. If he does not agree to the answer he receives, he can appeal the determination of the Zoning Administrator to the Zoning Board of Appeals. Interpreting the Zoning Ordinance is not the responsibility of the Planning Commission.

Mr. Nemshick continued to reiterate that the letter sent to the Zoning Administration should be considered for discussion at this meeting.

Mr. Sabty stated that earlier in the Year, Mr. Marshall Wright attended a PC meeting and during the Public Forum spoke of a complaint he received from Mr. Igo about rentals, and the possibility of changing the ordinance. Now, we are receiving a copy of a communication from the Zoning Administrator about such a complaint that he received. Is this something that is going on in the background, or is it something that ought to be handled upfront and through the proper procedure? Until then, and as was indicated so far, this is not a PC agenda item, nor is it an item to be handled by the PC. We should let it end here.

Members Comments

Vice Chair Smith opened a discussion about the two "Future Agenda Item,"

Home occupation/home business zoning: It was brought out that the Ordinance Section 2.12 addresses this subject as permitted in an R Zone upon approval as a special exception as provided in Section 19.07. With that it was determined that what is in the Ordinance is sufficient and the item should be dropped from the agenda.

M/S – Derenzy/Lundy. Move that "Home occupation/home business zoning" be removed from the Future Agenda Items. **Passed 6-0-0**

Mobile homes outside mobile home parks: Mr. Nix advised that the Ordinance Section 2.04 "Mobile Homes and House Trailers" and the Definition of "Dwelling, Single Family" adequately covers this subject. Arbitrarily, single wide mobile homes are not permitted in the TWP; only double wide ones can be located in any place where single home dwellings are allowed. Mobile homes not meeting those standards are allowed in a mobile home park, provided for in the PD Zone. Currently this procedure handles this subject and it should be dropped from the future agenda items.

M/S – Sabty/Lundy. Move that "Mobile homes outside mobile home parks" be removed from the Future

Ms. Derenzy asked that the agenda include an update on the Village/TWP joint PC committee doing work on the Master Plan.

Discussion on the function and duties of the formed joint committee ensued:

It was stated that TWP PC Members, Renee Mischel, Jean Derenzy and Dorance Amos are on the joint committee and that beyond the first joint meeting nothing had transacted yet. That there is no desire what so ever by the TWP to merge the two Planning Commissions together, which is contrary to what was thought up at the meeting then.

It seems that the Village had a grant to perform such a study. Statute indicates that where there are two adjoining entities, they can form a joint PC for a specified purpose, which is being done here for the purpose of preparing a common grounds part of the Master Plan that serves both municipalities. There seems to be confusion as to preparing one document that serves both entities or is it to have two.

Mr. Amos stated that at the first joint meeting, we went in to talk about common interests and try to come up with common solutions, but what was presented then was for one Planning Commission, one Zoning Administrator, one formula. The Village was looking in that direction and was surprised that the TWP was not. There was conversation about how much the Village and TWP were alike, but in reality they are not. We may share common boundaries, but that is all. They were surprised that we were not there to work on consolidation but that we were there to work only on common interests within the Master Plan. The Village had a grant to work on such a project and they were pursuing it.

Mr. Harrett stated that it seems that a common Master Plan book is still alive for both units of government.

Ms. Derenzy stated that when asked to serve on the joint committee it was her understanding that it would be for the purpose of one master plan for the Village and TWP with common interest, but not for one entity.

Mr. Sabty stated that his understanding of the joint committee when it was initiated that they wanted to discuss the Master Plan, that it seemed that there are areas that are common and serve a common interest and can be handled jointly up to a point beyond which each entity would go their own way to serve their different interests.

Mr. Larson indicated that yes, a Master Plan can have an opening section that deals with common grounds, but as to the whole Master Plan it does not fit to be so.

Vice Chair Smith stated that the TWP is a very nice and coherent place to live in. Over the years the TWP Planning Commission had done an excellent job of protecting this area to make it a desirable place to locate and live in it. As a PC group we have over 70 years of combined service that is devoted to serving and improving the TWP and its resident's interests. If the service score is in the "excellent" category, why would we want to merge with another entity with no apparent positive improvement over what we already have now?

As to the suggestion of a joint committee update to be included on the agenda, it was indicated that it should not be a problem to have a PC member serving on the joint committee give a report.

It was brought out that the TWP Master Plan of April 2007 needs to be updated every five years, or by April 2012. It is suggested that the Planning Consultant should start the review process if we expect to meet the due date.

M/S – Smith/Sabty. Move to have the Planning Consultant review and recommend any updates needed to the TWP Master Plan of April 2007.

Discussion:

Ms. Derenzy stated that she would prefer waiting for the joint committee to report on the Master Plan before we update the TWP Master Plan.

Mr. Sabty stated that by statute, we need to update the Master Plan every five years, and that date is approaching. When and what is decided at the joint committee, if acceptable, can be applied to the updated Master Plan.

Vote - Yes to approve. Amos, Larson, Lundy, Sabty, Smith.
No. Derenzy

Motion passed 5-1-0.

As there was no further business Vice Chair Smith adjourned the meeting at 7:45 PM.

The next scheduled quarterly meeting will be on Tuesday December 20, 2011 at the Government Center, 315 Bridge Street.

E.S.Sabty, Secretary
9-20-2011

Approved 12-20-2011

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