

**OSHTEMO CHARTER TOWNSHIP  
PLANNING COMMISSION**

**MINUTES OF A MEETING HELD JANUARY 10, 2019**

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**Agenda**

**PUBLIC HEARING: CONDITIONAL REZONING ORDINANCE AMENDMENT  
CONSIDERATION OF AN AMENDMENT TO SECTION 53.000 *CONDITIONAL  
REZONING, SUBSECTION 53.510: REVERSION OF ZONING* TO OUTLINE THE  
STEPS FOR THE REMOVAL OF A CONDITIONAL REZONING IF THE APPROVED  
DEVELOPMENT AND/OR USE DOES NOT OCCUR WITHIN THE REQUIRED  
TIMEFRAME ESTABLISHED BY THE ORDINANCE.**

**OLD BUSINESS**

**a. AGRITOURISM ORDINANCE DRAFT**

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A meeting of the Oshtemo Charter Township Planning Commission was held Thursday, January 10, 2018, commencing at approximately 6:00 p.m. at the Oshtemo Charter Township Hall.

MEMBERS PRESENT:                   Ollie Chambers  
  Ron Commissaris  
  Dusty Farmer, Secretary  
  Micki Maxwell  
  Mary Smith  
  Bruce VanderWeele, Vice Chairperson

MEMBERS ABSENT:                   None

Also present were Julie Johnston, Planning Director, James Porter, Township Attorney, Martha Coash, Meeting Transcriptionist, and one interested persons.

**Call to Order and Pledge of Allegiance**

Vice Chairperson VanderWeele called the meeting to order at approximately 6:00 p.m. and invited those present to join in reciting the "Pledge of Allegiance."

**Agenda**

Vice Chairperson VanderWeele asked for a motion to approve the agenda.

Ms. Johnston asked that an additional item, "Lighting Ordinance," be added to item #10: Any Other Business.

Vice Chairperson VanderWeele asked for a motion.

Mr. Chambers made a motion to accept the agenda with the proposed addition. Mr. Commissaris supported the motion. The motion was approved unanimously.

### **Public Comment on Non-Agenda Items**

The Vice Chair determined no one in the audience cared to comment regarding non-agenda items and moved to the next agenda item.

### **Approval of the Minutes of December 13, 2018**

The Chair asked if there were any additions, deletions or corrections to the Minutes of December 13, 2018. Hearing none, he asked for a motion.

Ms. Maxwell made a motion to approve the minutes of the Minutes of December 13, 2018 as presented. Ms. Farmer supported the motion. The motion was approved unanimously.

Vice Chairperson VanderWeele moved to the next agenda item.

### **Election of Officers for 2019**

Ms. Johnston noted the former Chairperson, Ms. Cheri Bell, left the Planning Commission when she was appointed to the Township Board. Ms. Johnston indicated the officers to be elected for 2019 were Chair, Vice Chair and Secretary and asked for motions and action for the three offices.

Ms. Farmer nominated Mr. VanderWeele for the office of Chairperson. He accepted the nomination. Ms. Johnston determined there were no other nominations and asked for a motion.

Ms. Farmer made a motion to elect Mr. VanderWeele as Chairperson for 2019. Mr. Commissaris supported the motion. The motion was approved unanimously.

Ms. Farmer nominated Ms. Smith for the office of Vice Chairperson. She accepted the nomination. Ms. Johnston determined there were no other nominations and asked for a motion.

Mr. VanderWeele made a motion to elect Ms. Smith as Vice Chairperson for 2019. Mr. Chambers supported the motion. The motion was approved unanimously.

Ms. Maxwell nominated Ms. Farmer for the office of Secretary. She accepted the nomination. Ms. Johnston determined there were no other nominations and asked for a motion.

Mr. VanderWeele made a motion to elect Ms. Farmer as Secretary for 2019. Mr. Chambers supported the motion. The motion was approved unanimously.

Chairperson VanderWeele moved to the next item on the agenda.

### **Appointment of Planning Commission Liaison to the Zoning Board of Appeals**

Ms. Farmer nominated Ms. Maxell to serve as Planning Commission Liaison to the Zoning Board of Appeals. Hearing no other nominations and determining Ms. Maxwell was willing serve in that capacity, Ms. Johnston asked for a motion.

Mr. Chambers made a motion to appoint Ms. Maxwell as the Planning Commission liaison to the Zoning Board of appeals for 2019. Ms. Farmer supported the motion. The motion was approved unanimously.

Chairperson VanderWeele moved to the next agenda item and asked Ms. Johnston for her report.

### **PUBLIC HEARING: CONDITIONAL REZONING ORDINANCE AMENDMENT CONSIDERATION OF AN AMENDMENT TO SECTION 53.000 CONDITIONAL REZONING, SUBSECTION 53.510: REVERSION OF ZONING TO OUTLINE THE STEPS FOR THE REMOVAL OF A CONDITIONAL REZONING IF THE APPROVED DEVELOPMENT AND/OR USE DOES NOT OCCUR WITHIN THE REQUIRED TIMEFRAME ESTABLISHED BY THE ORDINANCE.**

Ms. Johnston said the suggested amendment was brought to the Planning Commission at the September 13<sup>th</sup> meeting with requested changes to address how the Township revokes a conditional rezoning. According to current language under Section 53.510, Township Staff would first have to request the reversion process be initiated at a Township Board meeting then, if approved, the Planning Commission would have to hold a public hearing and the Township Board would have to hold two readings.

The Ordinance process seems redundant and over-regulatory as Section 53.510 clearly states if the use is not established according to Section 53.500, which provides a 12-month window, the land reverts to its former zoning classification. To ensure this happens, the Township would just need to record a revocation of conditional rezoning with the County Registrar of Deeds, removing the conditions established on the property. On November 8, 2018, the Planning Commission reviewed new language for this amendment based on the September 13 discussion. The following language was approved at the November 8<sup>th</sup> meeting for a public hearing.

#### **Section 53.510 – Reversion of zoning.**

*If the approved development and/or use of the rezoned land does not occur within the time frame specified under Subsection 53.500, then the land shall revert to its former zoning classification as set forth in MCL 125.3405 (Michigan Zoning Enabling Act, Public Act 110 of 2006).*

*The reversion process shall be initiated by Township staff who will send a notification letter to the property owner indicating a Revocation of Conditional Rezoning will be recorded with the County Registrar of Deeds. The property owner will have 30 days from the date of the notification letter to provide proof to the Planning Director that the development and/or use of land has commenced. If satisfied, the Planning Director will halt the Revocation of Conditional Rezoning. If proof is deemed unsatisfactory, the Planning Director will notify the property owner who may then appeal the Revocation to the Township Board within this same 30-day period. If no appeal is filed, the Revocation of Conditional Rezoning will be recorded and the land shall revert to its former zoning classification.*

She recommended after the required public hearing the Planning Commission forward a recommendation of approval to the Township Board.

The Chair asked if there were questions for Ms. Johnston.

Responding to questions she indicated the property owner would be allowed a 30-day window after being noticed to respond and provide documentation that progress towards developing the use has been made. The notice would be sent in a way that would verify delivery. Progress must be made within a 12-month period or the conditional rezoning revocation process would begin. If proof of progress is not satisfactory to the Planning Director, the property owner could appeal to the Township Board for an extension. If the property owner does not respond to the notice the revocation process would begin. If the conditional zoning is revoked, the property owner could return to the Planning commission with a new request to rezone the property.

Attorney Porter said the process does not automatically terminate since it is a property right which requires a reasonable process. The amendment satisfies the due process requirement.

Chairperson VanderWeele determined there were no public comments on the amendment. Hearing no further comments from Commissioners, he asked for a motion.

Mr. Commissaris made a motion to forward a recommendation of approval of the amendment to the Conditional Rezoning Ordinance to the Township Board for approval. Ms. Maxwell supported the motion. The motion was approved unanimously.

Chairperson VanderWeele moved to the next item on the agenda.

## **OLD BUSINESS**

### **a. Agritourism Ordinance Public Comment**

The Chair asked Ms. Johnston for her report.

Ms. Johnston provided the most up-to-date draft of the Agribusiness and

Agritourism Ordinance for Planning Commission review. Based on the comments received from the public at the December 13, 2018 meeting, staff made a number of updates to the draft ordinance for the Planning Commission's consideration.

In addition to the draft amendments, Ms. Johnston indicated there was still the outstanding item special events and the number allowed per year the Planning Commission wanted to review. At the November meeting, there was some discussion about a potential sliding scale for agritourism special events. The Planning Commission was interested in investigating a way to possibly regulate these events based on type and size. Staff developed a table for consideration by the Commissioners.

A few edits to the draft ordinance were made followed by extended discussion centered on the table and determining possible numbers of special events based on type and size. Board members felt the table was a good approach for regulation and discussion resulted in agreement on a number of changes, but it was decided to pick up the discussion at the next meeting.

Chairperson VanderWeele asked if there was public comment.

Mr. Paul Graham spoke. He felt the conversation was informative and expressed his appreciation for the thoughtful consideration members gave this ordinance. He said it seems to be a macro track trying to capture all the possibilities. He suggested they make sure there is a mechanism in place to respond to individual requests, which might not fit into the ordinance. He thought the ordinance would be good for the Township, but that it needs to be managed for both farmers and neighbors' way of life. He was impressed with the Board's approach.

Chairperson VanderWeele moved to the next item on the agenda.

## **ANY OTHER BUSINESS**

### **a. Lighting Ordinance**

Ms. Johnston said the Planning Commission was asked by the Township Board to look at the Lighting Ordinance to see if changes are needed. She had hoped to work on that in November, but with all the other things they have to work on she did not want to overwhelm the Commission. It is clear the ordinance does need to be addressed, but she wanted to prioritize all the work before the Board. She suggested that the Agritourism Ordinance be finished first followed by Lighting Ordinance and then the Maple Hill Sub-Area Plan Ordinance.

She hoped to get to the Lighting Ordinance at the February meeting and distributed a copy of the investigative work she has done so far for review by Commissioners before discussion in February.

Chairperson VanderWeele suggested the Township Board be informed the issue has been considered and it has been determined the Lighting Ordinance does need to be looked revised.

Ms. Farmer will inform the Board their direction has been followed and that the Planning Commission will move forward.

### **PLANNING COMMISSIONER COMMENTS**

Mr. Commissaris asked whether joint meetings are held with the Township Board to set goals and objectives.

Ms. Farmer explained two joint meetings are scheduled during the year including the Township Board, Planning Commission, Zoning Board Authority and others, but they are not focused just on planning.

Ms. Johnston said she would talk with the Township Supervisor about the possibility of a joint planning meeting regarding annual goals and objectives, perhaps at the beginning of each year.

Ms. Smith noted Drake Road will be closed this summer for road work.

### **ADJOURNMENT**

Hearing no further comments, Chairperson VanderWeele asked for a motion to adjourn the meeting.

Ms. Farmer made a motion to adjourn the meeting. Mr. Chambers supported the motion. The motion was approved unanimously.

The meeting was adjourned at approximately 8:07 p.m.

Minutes prepared:

January 12, 2019

Minutes approved:

January 24, 2019