

## SAUGATUCK TOWNSHIP PLANNING COMMISSION

March 24, 2014

The Saugatuck Township Planning Commission held a regular meeting on March 24th, 2014 at the Saugatuck Township Hall, 3461 Blue Star Highway, Saugatuck, Michigan 49453.

**Present:** Chair Maggie Conklin, Dayle Harrison, Joe Milauckas, Kathleen Miller Cook, Bill Rowe, Brad Rudich & Ed Welk

**Absent:** None

**Also Present:** Zoning Administrator Al Ellingsen

Chair Conklin called the meeting to order at 7:02 pm

### III. Review & Adopt Agenda

- Conklin asked to move “Review of Budget” & “Review minutes” after “report from HFC” to accommodate people in audience. Rudich does not have budget reports ready, they can be removed from agenda
- Board also moved “Outdoor Sales & Service Request” right after “report from HFC”
- Milauckas noted that the minutes for the October 21<sup>st</sup> & December 16<sup>th</sup> meeting also needed to be approved. Milauckas also wants to add (as listed in the January minutes) “request from Rowe with regard to the Township Attorney billings & statements” & “discussion on the new zoning administrator job qualifications” . Conklin said we can add the Township Attorney, although Rudich said he does not have the information readily available, so it will be moved to the next meeting in April.

The job description has been added as 11a on this agenda

Rowe moves to accept agenda as amended, Milauckas second. Passes unanimously 7-0

### IV. Public Comment & Correspondance

None

### V. Report from Hydraulic Fracturing Committee and discussion regarding Hydraulic Fracturing – Sherry Batzer – Cooley Law School

Rudich wanted to thank Sherry Batzer for her hard work with this committee. He referenced the memo that he had sent out requesting the commission notice some map work and zoning changes that have to be accomplished as well as work needed to complete the fracking ordinance. Sherry has also supplied a memo detailing the ordinances the committee was going to tackle. The first step will be to look at all the minor errors and fix before putting anything in place – so that the old errors don’t throw out what is trying to be accomplished. Rudich requested a public hearing on grammatical non-substantive changes. Sherry mentioned that she has also worked with Sheridan in regards to substantial changes such as the definition section that needs to be reviewed by the Planning Commission as well as Zoning Administrator. Once the minor changes are ironed out, the substantive changes would then be presented to the PC. Larry Dickie attended a meeting in Ottawa County (with Cook as well) and received a list of information from the presenter, who is also the Township Attorney, Ron Bultje. This information supports that the changes the Committee is hoping to make seem to be right in line with what was presented, which is ideal. Committee would like a copy of this handout to review.

## **V. Report from Hydraulic Fracturing Committee and discussion regarding Hydraulic Fracturing – Sherry Batzer – Cooley Law School (continued)**

Commercial Zoning is ideally (the most critical problem) the first section that will be addressed once fundamental changes are updated. Sherry expects the non-substantive and commercial changes to be completed at least a week prior the next meeting in April.

Harrison has read Rudich's letter in regards to the fracking committee's recommendations and he feels that it was not the committee's recommendation but more of Rudich's personal statement because this was not voted on (as Brad was only voting member present at this meeting). There are things in there that Harrison would not agree too as part of the committee's recommendations. Rudich stated it was voted on months before and that this was the course of action to be taken. Harrison went on to say there was discussion in previous PC meetings, regarding to how they should approach this process such as internal zoning, procedural process like setting up guidelines to special approval uses/site plan review or just continue and try to do peripheral things. Harrison says this has not happened yet. Harrison states an example of the problem with #2 in the memo is it's not going to happen (after discussion with road commission). Sherry said that what Harrison says about improving Site Plan Review process in regards to fracking is correct. Sherry also feels calling it a "fracking ordinance" will bring to much negative attention and legal action, she suggests using the ordinances on this list as a way to regulate anyone who would attempt to frack in the township. Instead of saying "no you can't do this" – you are saying "you can do this, but must follow all these steps", which would make this not an ideal place to do fracking and they (people looking to frack) would search elsewhere. Sherry said as a local government you can regulate where fracking takes place, but not necessarily how....Harrison said he is on board with the ordinances, but is concerned that would be final remedy. Cook attended meeting w/Bultje and is very comfortable with what he has presented and didn't see how there are any more corners left to squeeze and committee is being very comprehensive and doesn't see what is left to cover.

Conklin would like to tackle the fracking ordinances in this order

1. Grammatical and non substantive language next month (April).
2. Change the use grid commercial zone (May)
3. Enhanced site plan review (very extensive and will take more time, hopefully initial glance would be in May).
4. The ordinances (this will take quite awhile).
5. Township board approval (final step).

Sherry suggested the noise and nuisance enhanced ordinance should be near one of the first tackled (in regards to ordinances) Regarding a proposed new township wetlands ordinance, Milauckas wants to know what the advantage of the benefit of getting involved in review process versus letting the state handle it? Sherry said for better local control, and Milauckas is correct you are taking on extra responsibilities, although more attention to detail would be paid locally and state would be more prone to allow overriding of ordinances versus local government. Harrison said the truck route is something they should definitely do because it would control where the trucks go and better protect our township.

Milauckas asked Sherry how she got involved in helping with this committee. Sherry runs a clinic in Grand Rapids with Coolidge Law School. She started this clinic for students to work with local governments on projects (ordinances, revisions, etc). She is an attorney and has a staff attorney that works with her as well to watch over and review the work of the students. She is employed by the law school; the township does not pay her to help with our ordinance writings.

## **V. Report from Hydraulic Fracturing Committee and discussion regarding Hydraulic Fracturing – Sherry Batzer – Cooley Law School (continued)**

Larry Dickie added that a lot of local officials are way behind on the fracking issues compared to where we are here in Saugatuck Township.

Rudich moved to add Cook to the fracking committee. Rowe second. Motion passes unanimously 7-0.

## **VI. Examine request to add “Outdoor Sales and Services” to the C-3 Zone as a permitted use or a SAU.**

John Kramer w/Kramer services, a local landscape contractor based on out Ganges Township is requesting a permit for open air sales of landscape materials on a retail seasonal basis at the old Fleming oil property. They have also promised to clean up the property and remove the Marathon sign that currently exists on this property. They have an option to lease this property, 2 parcels, one is 5 acres is the 10 acres. One parcel is C-3 the other is industrial zone. Ellingsen said the point of them requesting this is because the use wasn't allowable in the past, so the PC would have to allow the permitted use of this land and a possible site plan review. The PC would just have to add in the grid and in the text (body of the ordinance) that this would be an allowable use. Conklin would like to know what this opens up if we allow this use (any negative?). They could also request a re-zone but that seems unlikely. Milauckas wanted to know if they could do contract zoning as this may be a case to use it. Ellingsen said they have not done those in the past. When there is an existing use it's easier to grant a permit, currently this property does not have an existing use. Harrison asked how much land will be used and will there be any buildings. They said no buildings, and no large equipment with the exception of one truck. They (Kramer) want this location due to the visibility and high traffic. They want to sell materials but mostly pick up jobs (landscaping) by using the location. They have done this in Holland for the last 11 years with no covered building and have done well. Harrison doesn't want to see a lot of building materials on the land. Kramer said they will have an attractive operation, which is what helps their retail sales successful. Harrison & Milauckas want to know how they can put conditions/criteria on this to protect ourselves. Milauckas also wants to know why we allow it in C1 & C2 but not C3. Ellingsen did not know what the logic was behind that. Harrison said we only have so much commercial space and what is listed are things that are compatible within the entire commercial district (like hotels, grocery stores, etc). They believe they will operate on this property as long as they can, if Fleming gets an offer on the property they expect they would be gone at that point. Milauckas asked their time frame, Kramer says they would like to do it ASAP (this year) and if they cannot do it this year they will do next year, they have a 3-year lease on the property. Rudich mentioned they will do extensive changes on the property. Conklin asked if anyone has any negative things this change will bring. If PC does decide to update this ordinance there will be a public hearing. Milauckas said we need to address this and handle it soon, Ellingsen noted that section 40-468(13) of our ordinance needs to be amended since the planning commission may not be able to grant special uses that are not specifically listed as special uses. Rowe asked Ellingsen opinion – he said C-3 zones is generally for big box stores and he cannot really see it being an issue as its allowable in C-1 and C-2. Milauckas thinks we should get Mark Sisson in on this one. Ellingsen said he spoke with Sission and this is the course they have decided (to ask PC to consider special use on C-3 zone)

Conklin said she will get more information and answers and the PC may or may not be able to get something done in the next couple meetings. It was suggested to Kramer to put in application for a zoning text amendment. Milauckas would like something from Mark. Harrison suggested putting a copy of the lease in the application as well. This will be added as an agenda item most likely next month once Sisson gets Conklin the information she needs.

***\*Five minute break called by Conklin***

## **VII. Review minutes of January 27, 2014, December 16, 2013, and October 21, 2013 meetings**

### **i. October 21<sup>st</sup> 2013 meeting**

- Changes to section IV under Harrison's comments.....Updated "walking trail" to state Dugout Road. Removed "better handle" and put "more detail". Also added at end of paragraph "Harrison requested more information about alternatives, such as number of buildings and lower heights"  
Harrison moves to approves October 21, 2013 minutes as amended. Milauckas supports. Passes unanimously 7-0

### **ii. December 16 2013**

- Removed "no" from section 5. And changed "agenda items" to "packet items"  
Rowe moves to approved December 16<sup>th</sup>, 2013 minutes as amended. Welk second. Passes unanimously 7-0

### **iii. January 27, 2014**

- Cook requested to be listed as Cook in all areas, in roll call she was listed as Miller.
- Milauckas requested to clarify that approved minutes are the only ones to be published, not drafts (even in the PC packet posted on website)  
Rowe moves to approve January 27, 2014 minutes as amended. Rudich second. Passes unanimously 7-0.

## **VIII. Continuation of discussion – Revert remaining R-4 area to R-3B and R-2, and potential amendments to the R-3B, Section 40-337 regarding Critical Dune areas.**

Ellingsen says this is very simple.... Does everyone agree the R-4 should go away? Rudich mentioned the Township board has made this recommendation and revert back to what it was before. Most if not all residents in this area have requested this action be taken as well (reverting R-4). Harrison said the R-4 was designed to prevent people from doing whatever they want on their property. Cook feels this is a relevant point, how much land is really left in the R-4 and who is on it (Ellingsen says less than 12 acres). Rowe wants to point out that the people who Ellingsen refers to in this district are constantly coming to ZBA to use their property because they are in this restricted district that wasn't designed to control those properties, it has no purpose on those properties.

There was some debate within the Planning Commission as to whether or not the Township Board can change ordinances or zoning without planning commission participation. Welk stated that the Township are elected officials and can change any ordinance they choose to. Harrison & Milauckas disagreed, and that the change has to go thru the Planning Commission. Rowe agreed that the Board has all the authority. Milauckas says here is the question: does the state law require that a zoning ordinance FIRST go thru the Planning Commission before it goes to the board, or can the board surpass them and decide they want to change the zoning ordinance within the community without involving the Planning Commission being involved. Milauckas is not sure that the answer is yes. Harrison sees a fundamental misunderstanding of how the process works. He does not feel the board has the absolute authority the Planning Commission has the right to do the zoning and administrative part of the process. Conklin said she will find out this answer.

Milauckas moves the Planning Commission set for public hearing at the next meeting that the R-4 zoning district be reverted back to the previous zoning that was in existence prior to the establishment of the R-4 district. Rowe second. Passes unanimously 7-0.

## **VIII. Continuation of discussion – Revert remaining R-4 area to R-3B and R-2, and potential amendments to the R-3B, Section 40-337 regarding Critical Dune areas. (continued)**

Discussion on motion:

Harrison has issues with setbacks from the Oxbow lagoon, the layout estates can get a PUD with maybe 12 units in there without the Planning Commission not being able to do anything about it. Rowe thinks these are issues that should be discussed during the public hearing. Harrison thinks that the PC should think about these prior to voting and that the PC should resolve these issues prior to having the public hearing. Rudich suggested having a separate meeting for the public hearing because we have such a full plate for the next meeting. Ellingsen said you would generally have a draft ordinance in place prior to the public hearing, so PC will need to recommend that the R-4 be eliminated. Milauckas suggested that we just do it at the beginning of the regular meeting to save cost and time. Conklin asked Harrison to bring a list of his concerns to this meeting. Ellingsen will ask from Mark or Ron to get text for this notice

## **IX. Discussion regarding reverting part of Industrial Zone to Agricultural or Residential Zone.**

Goes back to a letter received from John Haggerty on Old Allegan Road who is located in the industrial zone. Ellingsen mentioned that this started because half of his property is industrial and the other half isn't. He said there was someone wanted to build a barn in the industrial zone with a non-conforming residence existing on the property and to do so they would have to be granted a use variance by the ZBA in order to do so. Ellingsen wants to know why we have so much industrial zoning and have to issue all these variances. Conklin assumes that this industrial zone was zoned that way because it floods and we don't want homes there and a section of it is the old landfill. This will be placed on a future agenda (at bottom) to discuss further. In response to the letter that was sent – the Planning Commission is taking it under consideration; this is a longer term issue that cannot be solved quickly.

## **X. Township Board Updates and Planning Commission Comments, with Mr. Rudich.**

Rudich has compiled a report, as requested, from the last year and a half of bills so the PC could see total spending that went thru planning and legal fund. Rudich also has updates for the fracking committee – he would like to stress that Aarons (Sheridan) recommendation is to get it done as soon as possible before they get that recodified.

## **Xa. Discussion on zoning administrator job qualifications**

Township board has already put together this job description

Milauckas commented that in a perfect world he would have liked if the Township board would have discussed and got some input from the PC as they work with that person day in and day out.

## **XI. ADJOURN**

Rowe motioned to adjourn. Rudich second. Passes 7-0.

Meeting was adjourned at 10:10p

Elizabeth “Birdie” Holley, Recording Secretary