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Planning Commission Minutes 12/14/20

The Saugatuck Township Planning Commission met December 14, 2020 via video Zoom conferencing. Wells checked in members and guests via ZOOM.

1) Call to Order at 7:00 p.m. by Chairperson Israels.

A **Motion** was made by Rowe to conduct the meeting via video conference, ratify the procedures for public participation and meeting conduct as described in the Notice of Public Meeting. Seconded by Ihle. The Motion passed by unanimous roll call vote.

2) Roll Call

Present: D. Ihle, B. Rowe, R. Israels, J. Helmrich, D. DeFranco, D. Shipley

Present at 7:30pm: E. Welk

Also present: L. Wells, Planning and Zoning Administrator; N. Curcio, Township Attorney; J. Brode, Hydrogeologist with KLSWA

3) Approval of Agenda

Helmrich added to the agenda under item “C” of New Business setting a potential date in January for a joint meeting between the PC and Board to review issues related to the master plan.

Israels added to the agenda under item “A” of Old Business public comment.

A **Motion** was made by Rowe to approve the agenda as amended. Seconded by Helmrich. The Motion passed by unanimous roll call vote.

4) Approval of PC Minutes: October 26, 2020

Page 7: change “requiresd” to “required” last paragraph on page, line 4.

A **Motion** was made by Rowe to approve the minutes of 10/26/20 as amended. Seconded by Shipley. The Motion passed by unanimous roll call vote.

5) Public Comment:

No Public Comment

Public Comment Closed



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6) New Business

A. 2021 Meeting Dates and Schedule

Zoning Administrator Wells presented and reviewed proposed Planning Commission schedule for 2021.

A **Motion** was made by Ihle to approve the meeting schedule, with the PC meeting the 4th Monday of every month at 7pm in 2021, except in May, when the meeting will be held on the 3rd Monday, and December, when the meeting will be held on the 2nd Monday of the month. Seconded by Shipley. The Motion passed by unanimous roll call vote.

B. Updated Fillable Forms

Zoning Administrator Wells informed the PC of progress being made by staff on updating fillable forms, some of which were missing critical pieces of information and/or contained inaccuracies; the goal of staff was to make forms fillable in PDF format so that forms could be submitted digitally. Wells explained that staff has worked to consolidate forms and minimize redundancies, and has followed up with recommendations from the fire district.

Israels noted that all the forms are available on the Township website, which is helpful for anyone wanting to do business with the Township. Israels commended Wells and staff and acknowledged how much work has gone into the project. Israels suggested updating the Rules of Procedure for Planning Commission meetings, which has not been updated since 1994. Israels stated that Wells has made great strides for the Township and community and Israels and the other commissioners greatly appreciated it.

Shipley acknowledged how much work goes into transitioning from paper to electronic files, and stated that the work done by staff was excellent. Rowe also thanked Wells for her progress on updated fillable forms.

C. Setting a January Date for Joint Meeting Between the PC and Board

Commissioner Helmrich explained that despite the inability to meet in person due to COVID-19, the Board agreed that there were pressing matters that needed to be addressed and that the Board and PC ought to proceed with arranging a joint meeting via zoom. Helmrich proposed to the PC the following dates for a Board and PC joint meeting: Tuesday, January 5th; Tuesday January 12th; or Tuesday, January 19th.

Israels, Ihle, Shipley, and Rowe were available for any of those dates. Wells expressed concern that a January 5th meeting may be too close to the end of the winter holiday. DeFranco agreed



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with Wells, and stated availability on January 12th or 19th. Shipley asked Helmrich whether it would be too much work to hold the joint meeting a day before the general Board meeting. Helmrich said he would inquire with the Board regarding their preference for meeting on January 12th or January 19th.

7) Old Business

- A. **Zoning Ordinance Text and Map Amendment.** Consideration of an ordinance to add a new zoning section 40-595 to chapter 40 of the Code of Ordinances, Township of Saugatuck, Michigan and to amend section 40-586, to establish and provide regulations for a groundwater protection overlay zone; and consideration of an ordinance to amend the zoning map to rezone various properties in the Township to be a part of the newly created groundwater protection overlay zone.

Chairperson Israels opened the public hearing.

1. David Swan, 345 Griffin St, City of Saugatuck, President of the Saugatuck-Dunes Coastal Alliance (SDCA), hoped all PC commissioners read the letter submitted to the Township on behalf of the SDCA. In the letter, Mr. Swan asked for clarification on multiple points made at the October 26th PC meeting by Carl Gabrielse, attorney for N. Shore, regarding an agreement between the TWP and N. Shore. Having belabored those points in the letter, Mr. Swan focused his public comment on emphasizing that subsection D.4 in the proposed Groundwater Protection Ordinance should not be deleted, as it was in the red-line version of the proposal. Subsection D.4 concerned excavation, and Mr. Swan believed that subsection D.4 should be clarified and defensible, but excavation projects of a certain magnitude accompanied with the dewatering process should be prohibited in the proposed overlay district. Mr. Swan expressed that such a prohibition was quantifiable and defensible, because such excavation projects have been proven to alter the flow of groundwater, referencing hydrological modeling completed by Drs. Kendall and Heinemann of MSU, material included in the SDCA letter on file. Mr. Swan explained that the threshold excavation in the proposed overlay district should be 3,000 tons, which is what is permitted within MI's critical dune boundary, because 3,000 tons is approximately the amount of earth excavated in the construction of a single-family residence basement and foundation. Mr. Swan stated that if there were a larger, light industrial project, that project could be referred to the ZBA. Mr. Swan stated that excavation combined with dewatering or any activity that could alter the hydrology of the groundwater should be prohibited in the proposed overlay district. Mr. Swan encouraged the PC, working with the TWP attorney, to put subsection D.4 back into the proposed ordinance, stating that it was possible to make subsection D.4 quantifiable and defensible and, in doing so, follow science and good public policy.



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2. Scott Bosgraaf thanked the PC for allowing him to speak. Mr. Bosgraaf reviewed the changes made to the proposed ordinance, and expressed agreement with those changes that he believed to be good. Mr. Bosgraaf stated that Mr. Swan was talking about groundwater, when the proposed ordinance was a wellhead protection issue, and the wellheads under discussion sit on land where groundwater is located at a depth of approximately 200 ft. Mr. Bosgraaf did not see how the excavation activities cited by Mr. Swan would have any effect on wellheads. Mr. Bosgraaf reiterated that the changes made to the proposed ordinance were responsible, and that he believed the PC and staff understood what was needed.

Public Comment Closed

Jim Brode, a hydrogeologist working with Kalamazoo Lake and Sewer and Water Authority's (KLSWA) Wellhead Protection Program, presented on the Wellhead Protection Program and the TWP's proposed wellhead protection ordinance. Presentation is on file. Mr. Brode noted that the mission statement of KLSWA is to provide safe water for communities it supplies, and that the Wellhead Protection Program, founded in 2000, is a part of securing that mission. Mr. Brode reviewed the history of municipal adoptions of wellhead protection programs and the involvement of the state of MI in those efforts. Mr. Brode noted that the state recommended that municipalities update wellhead protection plans every 6-7 years; the plan under consideration by the TWP is from 2017 and Mr. Brode expressed that the TWP's plan is relatively contemporary and on target. Mr. Brode also noted that the TWP's participation in KLSWA's Wellhead Protection Program has accomplished a delineation of all the wellhead areas in the TWP.

Ihle asked if the map, found on pg. 8 of the presentation on file, indicated where wells are set and where those wells are drawing from existing aquifers. Ihle asked if the overlapping areas on the map indicated different aquifers at different elevations. Brode explained that the map indicated different operating well clusters, and that the modeling is based on the conditions of the aquifers derived from testing data from each well cluster. Brode stated that it is known that there are multiple aquifer systems, but it is unclear how they intersect. Ihle said he asked the question, because there was an earlier concern related to upper groundwater contamination, that the removal of soil could lead to contamination. Ihle said that it sounded like the aquifers in question were fairly deep. Brode explained that if a lake were to be created, the groundwater would adjust to the level of the new lake water, because a flat surface would be imposed on a sloped water table surface. Excavation and creation of a lake could alter water levels, but typically those alterations are most pronounced in the excavation or lake area and not farther from the excavation site. Brode explained that with the creation of a lake there are sometimes water chemical alterations, but in the present case we are dealing with a deeper aquifer system that is separate from the surface. Brode stated that it was difficult to say how the deeper aquifer connects with the shallower aquifers, because the geography can change dramatically through the area.



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Helmrich thanked Mr. Brode for the presentation. Referencing the map on pg. 8 of the presentation, Helmrich noted that a good portion of the delineated wellhead area was located in Laketown TWP. Helmrich asked Mr. Brode whether Laketown TWP had adopted a wellhead protection ordinance. Mr. Brode said that Laketown TWP had not adopted a wellhead protection ordinance nor have they been represented on the KLSWA's wellhead team. Mr. Brode noted that it was rare for a wellhead area to fall within a single political jurisdiction, that they usually cross municipal boundaries and it serves as a good opportunity for communities to work together. Helmrich asked if Mr. Brode was involved in the process of creating the red-line version of the proposed wellhead protection ordinance presently under consideration. Mr. Brode confirmed that he was part of that process.

Shipley stated that it seemed that the PC was looking to adopt the ordinance, and that the PC was struggling with subsection D.4 of the proposed ordinance pertaining to excavation, where staff recommended the removal of the subsection. Shipley expressed confusion with respect to the exact criteria by which a project would formally be identified as "excavation." As Shipley understood things, the proposed ordinance permitted the construction of single family dwellings in the overlay district, and, that being the case, asked what would be the major concern in prohibiting excavation. Mr. Brode recommended looking at the proposed ordinance as if the PC were in the driver's seat, that there was nothing in the proposed ordinance that was set in stone; the original proposed ordinance was a template brought by Mr. Brode and TWP staff to be considered and adjusted to fit the specific needs, demographics and geography of the TWP. Mr. Brode posed the question of whether it made sense to prohibit excavation in the proposed overlay district, and said that he struggled with saying that such a prohibition did make sense for he understood excavation as a low threat to groundwater quality. Mr. Brode also noted that if someone wanted to put in a large sand or gravel mine near a municipal wellhead that that probably would not be a good thing for the same reasons given above concerning excavation and lakes. Mr. Brode said that for the most part, ruling out excavation full stop in such a large area may not be realistic. Shipley stated that once we allow excavation, who would have thought that there would be a lake [referring to the Van Horn project] or a new marina [referring to the N. Shore property]. Shipley said that the above examples were of projects we assumed would never happen, and yet those projects were a reality. Shipley stated that she appreciated Mr. Brode's expertise. Shipley expressed that she felt as if the TWP was getting push back from one property owner [referring to the owners of N. Shore] who was nervous, but Shipley expressed concern for the entire community and that she was worried that the PC would get concerned about the language and swayed by one public comment. Shipley stated that the PC needed to protect the entire delineated wellhead area, and that she was worried about the future.

Tw. Attorney Curcio stated that he had comments regarding the language of the proposed ordinance.



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Helmrich thanked Shipley for her comments and noted that the Village of the City of Douglas and the City of Saugatuck would never have an occurrence where someone wanted to build a 6-acre water ski pond or a deep-water marina for 100 ft. yachts, because those municipalities do not have the room for such projects. Given that, Helmrich stated that the TWP was in a unique position in having so much land, and agreed with Shipley that the TWP must protect itself for the future. Helmrich noted that the present TWP Board and PC had inherited some projects from the previous administration and that the TWP had to be as careful as possible, because the TWP does have a lot of land and a significant portion of that land is within the proposed wellhead protection area. Shipley expressed that there were other areas where a marina could be constructed or where a large lake could be excavated, and she urged fellow commissioners to consider that the projects cited above could happen again given the large amount of land in the TWP. Shipley urged fellow commissioners to discuss the language to be sure that the PC was choosing the language for the right reasons. Helmrich noted that in looking at the red-line version of the proposed ordinance, only subsection D.4, concerning excavation, was removed and excavation is a broad term. Helmrich stated that he was intrigued with defining the term “excavation” and including some dimensional limitations, because the intent of the prohibition is not to have any effect on someone constructing a residential dwelling. Helmrich noted that the water features the PC is now grappling with will and have had a huge impact on the natural geography and the economic welfare of the TWP. Shipley stated that the PC should discuss dewatering. Ihle stated that it seemed like the PC was discussing two separate issues; the proposed ordinance concerned wellhead protection and the intent of the ordinance was not to limit development, yet the latter issue was the one to which the PC kept returning. Ihle stated that it seemed as if the PC was discussing future development that could come into play and was using the proposed ordinance as a tool to prevent that development. Ihle stated that he believed that any of those possible projects would have to be presented before and approved by the TWP. Ihle stated that he did not believe the TWP should use the proposed ordinance as a tool to limit future development. Helmrich stated that he did not believe that commissioners were suggesting that the proposed ordinance be used as a tool to limit future development, and that the issue concerned having certain protections in place. Shipley agreed. Ihle stated that the PC keeps talking about excavation. Helmrich stated that that is because the subsection concerning excavation was completely removed in the red-line version of the proposed ordinance. Helmrich stated that he wanted to know more about the process to determine whether the PC overreacted in fully removing the subsection concerning excavation and whether there was an alternative approach that focused on definitions, size issues, etc.

Israels stated that the PC should let Curcio speak given that Curcio said he had comments to give regarding the present issue. Curcio first addressed red-line items other than D.4. Curcio explained that language was changed in subsection D.1 such that it would be consistent with language found in the TWP Zoning Ordinance. Curcio explained that section D.7 was also altered in view of comments from the previous meeting; the substance of D.7 was made narrower to limit the prohibition of wells that could pose a problem to municipal wells, such that they are



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located within 1,000ft of a municipal well or they are large quantity withdrawal wells. Curcio noted that subsection D.4, which was struck from the red-line version of the proposed ordinance, was the second iteration of language presented to the TWP; language was originally altered because questions were raised as to whether D.4 could be interpreted as prohibiting excavation involved in the construction of a residential dwelling, which was not the intent of subsection D.4. In response, staff identified types of permits corresponding to the specific kinds of activities the ordinance sought to prohibit, landing on permits concerning Parts 301, 631, 632, and 637 of the Natural Resources and Environmental Protection Act. Curcio explained that that approach led staff into complicated technical issues surrounding those uses, and, in consultation with Mr. Brode, determined the activities identified posed a low-level threat to groundwater quality. Mr. Curcio also acknowledged that state law protects, from a zoning perspective, mining and the extraction of natural resources; while the TWP could still zone and prohibit mining in certain jurisdictions, regulations on mining are subject to higher scrutiny in court. Staff also had questions about how extraction restrictions would interact with a 2017 agreement that would enable the TWP in 2022 to purchase a prospective well site identified by KLSWA on the N. Shore property. Mr. Curcio said that staff would be happy to put language on extraction back into the proposed ordinance if the PC thought that was appropriate. Mr. Curcio said that suggestions about tying extraction prohibitions to tonnage removed was a workable concept, tying it to certain state permits was a workable concept, but it would require more work to overcome certain objections, especially considering Mr. Brode's judgment that extraction in general poses a low threat to groundwater quality. Mr. Curcio stated that the prohibitions in the proposed ordinance must be tied to ground water protection, specifically protection of well water and future well sites and cannot be used to address certain types of land uses that the PC might think are appropriate or inappropriate for other reasons. Mr. Curcio said that it was appropriate for the PC to talk about some of these types of development uses, but that it is probably better done through amending Special Land Use standards, amending Special Land Use map, or some type of potential changes outside the present ordinance. If the TWP were to have a large mining site being proposed next to an existing municipal wellhead site, Mr. Curcio believed that the TWP's existing Special Use Standards would already allow the PC to address that; if an application like that were to come to the PC, the PC could use existing standards to prohibit that use given the potential impact on the wellhead site. Mr. Curcio said that his remarks were not intended to persuade the PC one way or the other, but the intent was to offer transparency as to the rationale behind staff recommendations. Mr. Curcio said he and staff would be happy to help the PC put language back into subsection D.4 if the PC thought that was appropriate.

Shiplee asked whether Mr. Curcio thought or knew that the TWP had the ability to prohibit a mining project next to a municipal wellhead site. Mr. Curcio said that if a large-scale sand or gravel mine were being proposed on an adjacent property or very close to an existing well site, it would be appropriate for the PC to deny that application based on the compatibility standard of the TWP's Special Approval Use ordinance.



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DeFranco asked Mr. Brode if he had ever seen a wellhead protection ordinance legally challenged. Mr. Brode said that he had not personally seen that occur. Solid waste landfills and oil and gas extraction are regulated by the state of Michigan, and Mr. Brode thought the TWP would have an uphill battle if an oil and gas driller wanted to install a well or engage in exploratory testing right next to a municipal well site. Mr. Brode mentioned that a similar scenario occurred in Battle Creek; there was no wellhead ordinance in place at the time, but an oil and gas company wanted to drill quite close to a municipal well and the community was unable to prevent this activity. Mr. Brode said that there was a question here concerning how far this ordinance would go if someone wanted to pursue a state permitted activity near a TWP well site. Mr. Brode thought the TWP may be stretching itself in its ability to successfully prohibit some of the mentioned land uses, although adding it to the ordinance would add another level of protection that people would have to go through. Mr. Curcio added that the uses under consideration are protected by the state, which is not to say that local authority is totally removed but you need to have a strong reason to regulate or prohibit natural resource extraction. Mr. Curcio pointed out that subsection D.8 is also about natural resource extraction. While state law is very protective of natural gas and petroleum exploration, Mr. Curcio noted that Mr. Brode thought that these uses posed a significant threat to groundwater quality and so staff left the subsection in the proposed ordinance. Mr. Curcio stated that natural mineral extraction is a very litigated area of land use, and so there is reason to think carefully about what the PC wants to do with the provisions under consideration and how much benefit the TWP would get out of them. DeFranco asked Mr. Brode to confirm whether the passing of a Wellhead Protection ordinance brought with it a higher level of environmental scrutiny with respect to certain land uses in the wellhead protection area. Mr. Brode confirmed that to be the case. Mr. Brode added that with a wellhead protection ordinance you are looking for the community to recognize the existence and value of the wellhead area, and so when the TWP is making decisions in the future your GIS flags this area as within a wellhead protected area. Wells added that having a wellhead protection ordinance gives the TWP the ability to hire and rely on experts for other projects that occur within the wellhead area. DeFranco asked Mr. Brode if the TWP was already part of the Wellhead Protection Program or if membership is contingent upon passing the proposed ordinance. Mr. Brode said that the TWP is part of the Wellhead Protection Team and that the TWP is well represented and has been very active for at least as long as Mr. Brode has been involved. Mr. Brode noted that the TWP is part of a Water Authority that includes Douglas and the City of Saugatuck, each of which adopted a wellhead protection ordinance. Mr. Brode stated that it was not necessary to adopt an ordinance, but there was a benefit to having continuity in ordinances between all three municipalities. DeFranco asked Mr. Brode whether there was grant money available through the Wellhead Protection Program to fund a household hazardous waste (HHW) collection. Mr. Brode noted that the grant funds in question have been available every year since the early 1990's, but with COVID-19 the state decided not to fund the grant in 2020, consequently there are no funds available for any municipality in MI this year. However, Mr. Brode was confident that the state would fully fund the grant again, and that grant applications are submitted in June. Mr. Brode noted that something like HHW is a great non-regulatory



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strategy that keeps tons of materials out of protected wellhead areas. Mr. Brode encouraged DeFranco to talk with Mr. Daryl VanDyke of KLSWA to see if some of the available funds could be used for HHW advertising and education.

Helmrich asked Mr. Curcio if it was pertinent to ask questions concerning the agreement between the TWP and the owners of N. Shore that gives the TWP the right to purchase a prospective wellhead site for \$1 from the owners of N. Shore. Mr. Curcio said it was not that pertinent, but that it had been suggested by the N. Shore attorney at the previous PC meeting that subsection D.4 of the proposed ordinance was inconsistent with the agreement between the TWP and N. Shore. Mr. Curcio noted that the concern expressed by the N. Shore attorney was not a driver in staff's recommendation to remove subsection D.4 from the proposed ordinance, but he would be happy to answer any questions regarding that agreement. Helmrich stated that he assumed a version of the agreement existed that was fully executed (copy of agreement submitted to PC was unsigned). Mr. Curcio confirmed that this was the case, and explained that staff was unable to procure the signed copy in time for the PC meeting. Helmrich asked Mr. Curcio to locate the signed agreement. Helmrich asked if the option in the agreement was ever exercised by the TWP. Mr. Curcio confirmed that the option was exercised shortly after the drafting of the agreement. Mr. Curcio also noted that the test drilling referred to in the agreement was completed, and the results indicated the property was a viable well site. Helmrich expressed interest in locating the documentation of the well test results. Helmrich noted that the parcel in question, which is listed as exhibit 1 in the agreement, has a total tax due this year of just over \$2,100.00, and that the board would need to consider how to cover that tax bill. DeFranco asked whether there were conditions under which the property owner [N. Shore] could terminate the agreement. Mr. Curcio noted that now that the TWP has exercised its right, the owner is under contract to sell the TWP the land unless the TWP were to breach the contract, which could potentially include breach of implied covenant of good faith; if the TWP were to block the owner's ability to stage sand on the site, then the TWP would not be honoring what it said it would do when entering into the agreement. Mr. Curcio reiterated that this issue was not a factor in staff's recommendation to remove subsection D.4.

Israels asked if Mr. Curcio thought the TWP would be fine in eliminating subsection D.4, that the TWP would still be able to prohibit a commercial sand mining operation on a case by case basis or if staff recommended making further alterations to subsection D.4. Mr. Curcio said that if the TWP had a proposed mine immediately adjacent to a municipal well, the TWP could rely on existing Special Use Standards to deny the application; the decision may be challenged in court, but it would be a defensible reason to deny a sand mine under the existing ordinance. Mr. Curcio explained that the TWP has some controls on sand mining, but the TWP cannot entirely control mining under the existing regime or even if the original language of subsection D.4 were put back in place. Mr. Curcio stated that given Mr. Brode's analysis and the various legal considerations, the staff recommendation is to take subsection D.4 out of the proposed ordinance, because the headache may not be worth the benefit. Shipley asked Mr. Curcio to clarify the



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“headache” that would be involved. Mr. Curcio explained that he was referring to the possible legal challenges and the work involved in wading through the complicated technicalities of determining appropriate language that satisfies the intent of the ordinance. Mr. Curcio added that the PC might think working through those technicalities may be worth it, but it would involve a great deal of time and work and the possibility of going to court to defend it. Shipley stated that she would have preferred to hear more comment from the public. Shipley said that there were reasons for excluding and including subsection D.4, but she believed it was appropriate to include the provision and that she wanted to make sure the PC was choosing the proper language for the proper reasons. Helmrich asked whether the proposed ordinance required an additional public hearing given that there were changes made. Mr. Curcio explained that the changes under discussion would not require an additional public hearing given that the red-line version under consideration was well within the bounds of the ordinance that was previously considered. Mr. Curcio added that the PC could schedule another public hearing, but there was no legal or procedural issue in moving forward.

Helmrich expressed that he would like the PC to take some more time to explore some of the things that Mr. Curcio suggested could be done to subsection D.4. Shipley agreed. Wells asked Mr. Curcio whether the City of Saugatuck allowed mining and whether subsection D.4 was included in their ordinance because they do not have a special land use process to handle those types of uses. Mr. Curcio was unsure of the arrangement of the City’s zoning ordinances with respect to excavation. Mr. Curcio thought it was far less likely that the city of Saugatuck would receive those types of applications. Mr. Curcio added that the City’s ordinance did not clarify specific permits related to excavation, and it was at that point that TWP staff realized the ordinance language was so vague that it could be interpreted as prohibiting residential construction; the process of clarifying what types of excavation ought to be prohibited was overwhelming to staff and partly contributed to staff recommendation to remove subsection D.4. Mr. Curcio said that staff would be happy to further explore the issue.

Shipley inquired about a comment made by DeFranco about adding a subsection related to contaminants. DeFranco inquired about adding a subsection requiring the testing of soil when soil was procured from offsite. Mr. Brode noted that Part 201 prohibits people from bringing in contaminants and creating a contaminated site. Mr. Brode explained that a situation in which soil is brought onto a property from offsite happens all the time, and the logistics of managing a requirement that all off-site soil be tested for contaminants would be quite difficult. Mr. Brode noted that the TWP does have a requirement for the testing of wells at the point of sale, which is fairly unique. Mr. Brode added that he supposed that it would be possible to require soil testing for someone who is planning on doing a lot of filling on a site-specific basis or in site plan review, but he did not see that requirement as being a part of the proposed ordinance.

Israels stated that as a planning commission we do not want to prohibit development and yet we want to make sure we have protected wells and aquifers. Israels stated that she was unsure if the



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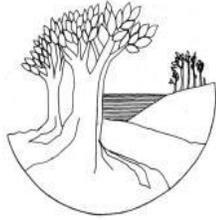
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PC was ready to make a decision. DeFranco asked Mr. Curcio if he could look into whether subsection D.4 was in conflict with the Michigan Zoning Enabling Act. Mr. Curcio said that he had done the research and that these things are not fully fleshed out in that there is statutory language that is clearly meant to be protective of certain uses, but it is difficult to say, on a case by case basis, what is going to be struck down the by court. Mr. Curcio explained that the goal of protecting well sites is an important governmental interest and it gives an ordinance like the one under consideration a good chance of surviving as compared to some other rationales that have been used for such prohibitions. Mr. Curcio stated that it would be more productive to discuss with Mr. Brode the specific thresholds related to mining that would constitute a significant threat to ground water quality. Israels asked if we were prohibiting specific excavation activities within a certain amount of feet, and would that be in relation to the aquifer or wellhead. Mr. Curcio said it would most likely be in relation to the wellhead or center of the well. Israels asked whether the ordinance would be prohibiting excavation more than a certain depth, because the TWP may be prohibiting normal building construction. Mr. Curcio stated that the TWP was well beyond the point where language in the proposed ordinance would prohibit a building permit of any type, and that staff and the PC are definitely talking about an activity requiring a state level permit. Israels noted that the state of Michigan has been increasingly favorable to sand mining, and that she would not want to do something that would land the TWP in court.

A **Motion** was made by Rowe to direct staff to review subsection D.4 and to offer the Planning Commission a recommendation for revised language. Seconded by Shipley. The Motion passed by unanimous roll call vote.

B. Master Plan Review

Israels stated that she submitted a document listing the specific interests of commissioners with respect to the master plan. Israels explained that reviewing commissioners' master plan interests would constitute a significant portion of the joint meeting with the Board in January, and that the PC would wait until the joint meeting to discuss commissioners' interests and the formation of subcommittees. Helmrich inquired into a reference from the previous PC minutes that stated that Israels would create a chart of planning commissioners' interests with respect to the master plan. Israels explained that she compiled commissioners' feedback into a document, but did not create a chart. Helmrich stated that the Board inquired into whether the master plan sub-committees had already been formed, and said that it would be preferable if the sub-committees were created in time for the joint meeting. Israels asked whether the Board or PC was establishing the sub-committees. Helmrich stated the PC was creating the sub-committees. Wells stated that the PC was considering three or four board categories: Housing, Connections and Mobility, Rural Character, Blue Star and Economic Development. Israels stated that she thought the Board would explain their strategic goals to the PC, and that the PC would form their subcommittees to fit the Board's strategic goals. Helmrich explained that the joint meeting is part of the process of



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the Board determining their strategic goals, and that the PC can inquire whether the proposed sub-committees fit with the Board's general vision of their strategic goals.

8) Public Comments

1. David Swan, 345 Griffin St, City of Saugatuck, thanked the PC for taking the time to seriously consider subsection D.4. Mr. Swan explained that one piece of excavation that was not sufficiently considered was dewatering; the process of dewatering that goes along with a major excavation project is something that can impact groundwater at significant depths. Mr. Swan encouraged the PC to reread the letter he submitted, because it details a hydrological study and the impact of dewatering on neighborhood wells. Mr. Swan stated that he will ask some of the hydrologists who work with the SDCA to provide analysis on how a major infrastructure project that involves dewatering could impact wells and to what depth.

Public Comment Closed

9). Board Discussion: Township Board Update Submitted by PC Member and Township Treasurer, Jon Helmrich

- The Township Board met on Wednesday, December 9, via Zoom.
- Public Comment. 11 members of the public spoke. One was on a suggested ORV ordinance, 10 were relative to the suggestion of creating a committee to consider the designation of a Historical District in and around the Kalamazoo River mouth (9 were in favor and 1 was against.)
- Several administrative items were considered including the COVID-19 Preparedness & Response plan, an application for a State CZM Grant for the study of Lakeshore Drive options, an opening on the ZBA, and the designation of a County-wide assessor.
- Discussion of the letter from the Army Corps of Engineers requesting Township input on the recent opinion from the National Park Service that land within the proposed North Shores marina development does qualify for Traditional Cultural Property designation, and by the Secretary of the Interior that the area is eligible for listing in the National Register of Historic Places. This is part of the ACE Section 106 review of historic property and the potential adverse effect of any proposed development on such designated land. Board voted to have Trustee Aldrich and Treasurer Helmrich work with Manager Graham and Counsel Curcio on the Township's response which is due Friday, December 18.



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- It was suggested that a public hearing may be in order regarding a suggested Historical Commission for the Township.
- Board agreed that the need to conduct a joint PC/Board meeting to review the Master Plan and related issues as soon as possible in early January via Zoom.
- Next Board meeting will be on Wednesday, January 13 at 6:00pm, most likely via Zoom.

DeFranco asked whether the Board would include in their letter to the Army Corps of Engineers that the TWP had delineated a wellhead protection area, was in the process of approving a wellhead protection ordinance, and that the N. Shore property fell within the delineated protected wellhead area. Helmrich said that he doubted that information was included in the first letter to the Army Corps of Engineers, but he would take that comment into consideration when thinking about whether that would be important information to include in the present letter.

Israels asked Wells if she had any updates. Wells said the next PC meeting would be Jan. 25th, but there were no applicants for that meeting presently. Wells was looking forward to the creation of the master plan sub-committees. Wells has notes related to housing that could start to be put into ordinance form. Wells anticipates helping the subcommittee assigned to housing issues in a more intensive way than the other committees. Israels asked Wells how she envisioned the make-up of the sub-committees. Wells said that she deferred to Israels on making that judgment, but that she imagined the sub-committees to be non-quorum, working groups. Wells noted that as the sub-committees review the zoning ordinance they should consider what our community is doing on a day-to-day basis, what are land uses right now, and weigh those against some of the provisions that presently exist. Wells reminded commissioners that it is difficult to predict the future and to consider merits to zoning ordinance provisions. DeFranco asked Wells whether it should be part of the directive of the sub-committees that they reach out to the Cities of Douglas and Saugatuck to inform them of the sub-committees' creation. Wells requested that the first thing sub-committees do is draft a mission statement and identify core goals with a time frame, and that this information can be shared with planning staff in the other two communities. Wells stated that planning commissioners also have the ability to reach out to the cities of Douglas and Saugatuck at any point.

Israels noted that according to the Rules of Procedures, the PC is required to hold elections of officers at its January meeting. Israels asked if the election of officers occurred at the previous January meeting. Rowe said that election of officers was held in June. Israels stated that the election of officers in January would have to be amended in the PC Rules of Procedure, moving the election of officers to June. Israels also noted that a few commissioners had requested a larger zoning map that is easier to read, and asked Wells if that was possible. Wells said that she could print a copy that was 11" x 17" in color. Wells noted the ability to zoom into maps online or use the Allegan County Parcel Viewer. Wells explained that when the current TWP zoning



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map was reprinted, it included district R4, which no longer exists; when the zoning map is updated to include the proposed wellhead protection overlay district, the R4 district will be removed. Wells stated that when the maps are updated it would be possible for the county to plot a larger map at a cost of \$25 a piece.

Israels asked Wells if the PC was required to provide to the Board an annual report. Wells could not remember what the PC had done the previous year. Wells explained that in the other community she works with, the annual report is a table showing the requests received by the PC broken down into broad categories such as site review, special land use, etc. Wells said that she would add creating the report to her agenda.

DeFranco mentioned that the Tri-community Recycling Committee had a PSA featured in the TWP Winter newsletter. Helmrich encouraged commissioners to get residents to subscribe to the TWP quarterly newsletter.

10) Adjourn

A **Motion** was made to adjourn the meeting at 9:33 pm by Rowe. Seconded by Welk. Motion passed by unanimous roll call vote. Next P.C. meeting: Monday, January 25, 2021 at 7:00 p.m.



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Motions:

1. A **Motion** was made by Rowe to conduct the meeting via video conference, ratify the procedures for public participation and meeting conduct as described in the Notice of Public Meeting. Seconded by Ihle. The Motion passed by unanimous roll call vote.
2. A **Motion** was made by Rowe to approve the agenda as amended. Seconded by Helmrich. The Motion passed by unanimous roll call vote.
3. A **Motion** was made by Rowe to approve the minutes of 10/26/20 as amended. Seconded by Shipley. The Motion passed by unanimous roll call vote.
4. A **Motion** was made by Ihle to approve the meeting schedule, with the PC meeting the 4th Monday of every month at 7pm in 2021, except in May, when the meeting will be held on the 3rd Monday, and December, when the meeting will be held on the 2nd Monday of the month. Seconded by Shipley. The Motion passed by unanimous roll call vote.
5. A **Motion** was made by Rowe to direct staff to review subsection D.4 and to offer the Planning Commission a recommendation for revised language. Seconded by Shipley. The Motion passed by unanimous roll call vote.
6. A **Motion** was made to adjourn the meeting at 9:33 pm by Rowe. Seconded by Welk. Motion passed by unanimous roll call vote. Next P.C. meeting: Monday, January 25, 2021 at 7:00 p.m.

Respectfully,

D. DeFranco, P.C. Sec.