



**SAUGATUCK
TOWNSHIP**
WWW.SAUGATUCKTOWNSHIP.ORG

3461 BLUE STAR HIGHWAY
P.O. BOX 100
SAUGATUCK, MI 49453

PHONE (269) 857-7721
FAX (269) 857-4542

Planning Commission Minutes 10/26/20

The Saugatuck Township Planning Commission met October 26, 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.

2) Roll Call

Present: D. Ihle, B. Rowe, R. Israels, J. Helmrich, E. Welk, D. DeFranco, D. Shipley
Also present: L. Wells, Planning and Zoning Administrator

3) Approval of Agenda

Wells added to the agenda under item “D” of New Business an update on Enforcement Items.

Helmrich added to the agenda under item “E” of New Business a discussion of an “as-built” plan condition.

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, and to approve the agenda with the requested additions. Seconded by Welk. The Motion passed by unanimous roll call vote.

4) Approval of PC Minutes: September 28, 2020

No Corrections

A **Motion** was made by Rowe to approve the minutes of 09/28/20 as amended. Seconded by Ihle. The Motion passed by unanimous roll call vote.

5) Public Comment:

- 1) Roy McIlwaine: McIlwaine hoped the Planning Commission would consider revoking Van Horn’s SAU given the current violations to the SAU’s conditions. Noted that the measurement of the pond was a major issue. McIlwaine asked whether the Van Horn project should proceed in the same way a residential construction project proceeds with confirmation that the construction conforms to Township requirements. Noted that there are many people who believe the pond was much larger than the approved 4.9 acres. McIlwaine believed that it was the responsibility of the ZA, PC, and Board to confirm the size of the pond just as construction conditions would be confirmed for a residential construction project. Reiterated that confirmation of the pond size was a critical issue and that he looked forward to a good discussion by the PC on this topic.



SAUGATUCK TOWNSHIP

WWW.SAUGATUCKTOWNSHIP.ORG

3461 BLUE STAR HIGHWAY
P.O. BOX 100
SAUGATUCK, MI 49453

PHONE (269) 857-7721
FAX (269) 857-4542

- 2) Scott Wierenga: Wanted to echo McIlwaine's comments on the Van Horn project. Wierenga explained how both he and McIlwaine have completed rough estimates of the size of the Van Horn pond and believed the pond to be larger than 4.9 acres in size. Noted that the Township has relied on measurements provided by EGLE whom has measured the site using mapping software and concluded that the pond is no larger than 4.9 acres. Wierenga has also measured the site using mapping software and calculated a different measurement than EGLE. Wierenga stated it would not take much time for a Township representative to measure the pond with a laser or wheel system. Wierenga believed that confirming the pond specs would enable the Township to move on from the issue of the pond size and/or address any possible violations of the Van Horn SAU.

6) New Business

A. Special Approval Use parcel number 20-003-049-01 located at 6523 135th for retail sales of automobiles within the C-1 District in a portion of the warehouse building at Commercial Drive and 135th.

Zoning Administrator Wells reviewed application submitted by applicant with respect to whether the applicant met the standards for Special Approval Use to utilize 3600 sq. ft. of a proposed warehouse building on Commercial Drive for indoor sales of vehicles. Wells clarified that some SAUs have specific standards in addition to the general standards. The proposed use for the property in question has no specific standards, and thus only the general standards for a SAU were reviewed.

Wells reviewed the seven conditions for approval of SAU in the Township Planner review of the SAU application request on file. In addition to the seven conditions for SAU approval, Wells recommended adding the following eighth condition; "For any use before permit is issued the applicant must receive a license from the state." The state issued license would require there to be an office and restroom on premise. Originally, the applicant stated there would be no utilities connected to the buildings in question. Given the state requirement for a restroom on site, the need for utility connection must be reconciled and a plan provided to the PC; no plan has yet been provided to the PC by the applicant.

Scott Bosgraaf: Applicant was not present, but represented by Scott Bosgraaf. Bosgraaf explained that the applicant was following things in appropriate order; first seeking an SAU from the Township, pursuing a dealer's license from the State, and then offering modifications to the building that would come under plan review. Bosgraaf thanked Wells for an excellent review of the SAU application.

Chairperson Israels opened the public hearing.



SAUGATUCK TOWNSHIP

WWW.SAUGATUCKTOWNSHIP.ORG

3461 BLUE STAR HIGHWAY
P.O. BOX 100
SAUGATUCK, MI 49453

PHONE (269) 857-7721
FAX (269) 857-4542

No Public Comment.

Public Hearing Closed

Shipley questioned whether the approval of the SAU application necessitated that the building in question be connected to water and sewer utilities, and whether utility connection for all the proposed buildings be required. Bosgraaf stated that water and sewer connection would be required if the SAU application were approved. Bosgraaf explained that the need for utility connection to all four buildings depended upon the proposed uses of those buildings and the proposed uses have yet to be determined. Bosgraaf noted that the water access runs in front of the buildings, and so water could be connected to any of the buildings if required by the use. Shipley asked if the site involved a multi-phase water and sewer project. Bosgraaf stated, “technically yes,” but explained that if one building required utility connection, the water and sewer system would be designed with a capacity to service all four of the buildings. Actual connection to the proposed water and sewer system would be as needed. Shipley asked if Bosgraaf’s above responses meant that he had already designed a water and sewer plan. Bosgraaf identified a planned drainage field on the site plan submitted as part of the SAU application and stated that the drainage field was sufficient capacity for the building in question. Bosgraaf added that without knowing the future uses of the other buildings and whether they would require utility connection, it was difficult to design a sewage plan for all four buildings. Shipley asked how many phases were included in the project. Bosgraaf explained that there could be one or two more phases, but presently there are no prospects for future use of the property.

Helmrich asked whether there was any time frame on the construction plans for the building intended to house the business in question. Bosgraaf stated that construction had begun, and that the plan was to work on erecting all four of the proposed buildings in a continuous construction project. Estimated that all four of the buildings would be fully enclosed within three to four months, however finishes to the interior of the building to house the proposed business would not be completed until the Spring. Helmrich asked if the applicant had a background in the proposed business. Bosgraaf confirmed that the applicant has a license to sell vehicles in Illinois and has an extensive collection of classic cars. Helmrich asked if Bosgraaf had any idea how many vehicles the proposed space could accommodate. Bosgraaf said that his impression was the applicant intended to house between 10 and 20 vehicles at any given time and hoped to open the business prior to Summer 2021.

Israels asked whether the applicant intended to acquire a Class B dealer license. Bosgraaf assumed that that would be the case considering that a Class A license is required for selling new cars whereas a B license was for selling used cars, which was the intent of the applicant. Israels cited that a Class B dealer license required a minimum of 1300 sq. ft. to store 10 vehicles. Israels asked if there were any regulations concerning the number of cars that could be stored



SAUGATUCK TOWNSHIP

WWW.SAUGATUCKTOWNSHIP.ORG

3461 BLUE STAR HIGHWAY
P.O. BOX 100
SAUGATUCK, MI 49453

PHONE (269) 857-7721
FAX (269) 857-4542

inside. Bosgraaf confirmed that it was possible to conduct a completely indoor operation with a Class B license. Israels inquired as to whether the applicant's intention was to eventually expand the business to outdoor sales. Bosgraaf stated that outdoor display or storage was prohibited in the condominium contract. Israels reiterated that the state required the business have working utilities and a working restroom with additional requirements regarding size of restroom. Israels noted a working telephone was also required, and asked whether a cellphone would satisfy this requirement. Israels also noted that it was required that the business hours of operation be over 30 hours per week. Bosgraaf confirmed that the applicant was aware of this requirement and willing to satisfy it. Israels asked if the applicant had contracted with any business for mechanical services given that the applicant was required to contract with a business within a 10-mile radius for mechanical services. Bosgraaf noted that there a few facilities within 10 miles that could service the applicant's proposed business. Israels suggested adding the language, "any state and federal requirements be met," to condition 5 to ensure that the approval of the SAU was contingent upon the applicant adding a restroom to the site plan. Israels also suggested seeking Fire Department approval or consultation as a condition of approval of the SAU.

Helmrich asked whether the intention of the applicant was to rent long-term or to purchase the property. Bosgraaf believed that the applicant intended to purchase the property before the business opens.

A **Motion** was made by Welk to approve application from Ron Levine, Investment Classics LLC for a Special Approval Use to allow auto sales in the C-1 District in a pre-approved enclosed building at Commercial Road with the understanding that the Planning Commission incorporates the 7 recommendations in the memo from the Township Planner to the Planning Commission dated October 20, 2020, that the language "any state and federal requirements be met," be added to condition 5 of the recommendations, and that, "For any use before permit is issued the applicant must receive a license from the state," be added as an 8th condition. Seconded by Helmrich. The Motion passed by unanimous roll call vote.

B. 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.

Zoning Administrator Wells reviewed Groundwater Protection Ordinance memo dated 10/20/20. Explained that the Township Board desired to create a wellhead protection ordinance in recognition of the importance of our water quality and natural resources. Township believed they have an obligation to ensure the protection of groundwater quality and be mindful of certain land uses that could compromise water quality in areas where new wells could be located. Wells



SAUGATUCK TOWNSHIP

WWW.SAUGATUCKTOWNSHIP.ORG

3461 BLUE STAR HIGHWAY
P.O. BOX 100
SAUGATUCK, MI 49453

PHONE (269) 857-7721
FAX (269) 857-4542

noted that the Township would be joining the City of the Village of Douglas and the City of Saugatuck in creating and potentially adopting a groundwater ordinance. Wells pointed out that the Township's proposed ordinance would be within the zoning ordinance, whereas the other two municipalities' ordinances are stand-alone, general law ordinances. Having the proposed ordinance be within Township zoning ordinance enables the Township to grandfather existing uses; even though the Township might prohibit future uses in the potential overlay area for groundwater protection reasons, if uses are existing as of the date of adoption they would be grandfathered. The proposed ordinance would regulate groundwater protection in two overlay areas in the Township that can be seen on the map included in the Zoning Administrator's 10/20/20 memo on file. The areas were created in consultation with a groundwater protection sub-committee that consisted of members from the Township, the cities of Douglas and Saugatuck, and an environmental groundwater engineer. Wells offered an update to the language of the groundwater protection ordinance recommended by the Township attorney to clarify any vagueness and ensure that the language identifying all prohibited land uses matched the language found in current Township zoning ordinance. Modification under D.1 to read "operation of a junk yard or salvage yard." Under item 4, Wells clarified that the intent of this provision was not to prohibit earth-work related to permitted uses or special land uses such as earth work for dwellings or anything that has been approved. The intent was to prohibit earth-work, excavations, and/or mining of sand, gravel, bedrock or any other type of earth if a permit is required under parts 301, 631, 632 or 637 of the Michigan Natural Resources Protection Act. The ordinance has definitions and included a pollution incidence prevention plan for uses within the overlay. Wells stated that the ordinance also has higher level of site plan review requirements for the certain uses that require it.

Chairperson Israels opened the public hearing.

1. Carl Gabrielse: Had no objections to the reasons Administrator Wells offered for the groundwater protection ordinance, but Gabrielse wanted to highlight the concerns had by the owners of the N. Shore property with the proposed ordinance. Gabrielse noted that the ordinance was premised on the conclusion that what happens at the surface, such as digging a pond, would have an impact on groundwater quality. Gabrielse stated that a municipal restriction on private property must be rationally related to the harm that the municipality is attempting to protect against and, thus, cannot pursue a blanket restriction unless it were tied to a harm. Having seen the hydrological report completed on the N. Shore property, Gabrielse believed that it would be difficult to justify as broad of a restriction on ground activities on the basis that it would protect groundwater quality. Noted that N. Shore owners were in the process of giving the Township 5.5 acres of land for well fields. Upon testing the proposed site, the water to be accessed was determined to be approximately 200-300 ft. below the surface and below a 37 ft. clay layer. Gabrielse stated that a blanket ordinance that prevented certain surface activities would not be tailored to protect the harm that the Township is looking to protect. Gabrielse and



SAUGATUCK TOWNSHIP

WWW.SAUGATUCKTOWNSHIP.ORG

3461 BLUE STAR HIGHWAY
P.O. BOX 100
SAUGATUCK, MI 49453

PHONE (269) 857-7721
FAX (269) 857-4542

the N. Shore owners acknowledged that the contamination of groundwater is a legitimate harm, but the ordinance in question is not narrowly tailored to that end. Gabrielse reiterated that N. Shore is posed to give 5.5 acres of land to the Township for use as a municipal well, a gift that is contingent upon permitting certain activities, one of those activities being the staging and storing of soils excavated from the property on-site for the next 3-4 years. Gabrielse claimed that implicit in the above-mentioned agreement is that N. Shore will be able to excavate on its property, which is one of the bases on which N. Shore agreed to gift 5.5 acres to the Township. Gabrielse stated that if the Township were to adopt the groundwater protection ordinance, it would undermine N. Shore's ability to excavate in accordance with the ordinance as it existed when the agreement between the Township and N. Shore was made, and that would be a breach of the spirit and intent of the above-mentioned agreement. The issue in question is something that Gabrielse would be discussing with the owners of N. Shore to determine their obligation to uphold their present agreement with the Township. Gabrielse acknowledged Wells' mention of certain uses being grandfathered, and stated that N. Shore does have certain permits in place. Gabrielse also stated that N. Shore is getting permits from other parties and if receipt of these permits required N. Shore to modify present excavation plans from what is presently permitted with the Township, then there is a risk that the proposed ordinance would prevent N. Shore from proceeding with the alternative excavation plan. That would be something N. Shore would oppose. Gabrielse appreciated modifications to the groundwater protection ordinance made by the Township attorney, but believed that in general the ordinance goes too far in that it prohibits activities that are not directly tied to protecting groundwater. Gabrielse claimed that the proposed ordinance takes decisions that are properly under EGLE and brings them under the purview of the Township, and that is not an activity the Township is equipped to handle. Gabrielse's position was that the ordinance ought not be passed, and if it or a version of it were to be passed that restricted activities be more clearly defined and narrowed so that it would be defensible.

2. Scott Bosgraaf: Had a few concerns with the proposed groundwater protection ordinance. Bosgraaf spoke with Township Manager Graham about why no one had received advanced notice of the proposed overlay district, and Bosgraaf said that Graham told him that because there were 11 contiguous properties affected that no notice was required. Bosgraaf expressed concern that no one was aware of the proposed ordinance given the amount of land it would cover. Bosgraaf stated that the property owners he spoke with were concerned about the language in the proposed ordinance. Given the 37 ft. clay layer, Bosgraaf thought that prohibited land uses would be limited to deep water waste wells where waste is charged into the bedrock. Bosgraaf expressed disbelief that any of the prohibited uses cited in the proposed ordinance would have any effect on groundwater quality. Bosgraaf drew attention to the language at D.4 of the proposed Groundwater Protection Overlay District on file, and claimed that as it is presently



SAUGATUCK TOWNSHIP

WWW.SAUGATUCKTOWNSHIP.ORG

3461 BLUE STAR HIGHWAY
P.O. BOX 100
SAUGATUCK, MI 49453

PHONE (269) 857-7721
FAX (269) 857-4542

written it could be construed as prohibiting a great deal of surface activities including residential construction of a dwelling, road, marina, and/or pond, activities that N. Shore intended to pursue on their property. Bosgraaf stated that the language in the original draft of the proposed ordinance goes too far. Bosgraaf referenced the updated version of the ordinance that includes language that specified that activities are prohibited if a permit is required under parts 301, 631, 632 or 637 of the Michigan Natural Resources Protection Act. N. Shore has a 301 permit. Bosgraaf reiterated his concern that no one knows that the Township is pursuing a groundwater protection ordinance and that the language is “terrible” for any property owner who would want to construct any structure or paved road on their property. Bosgraaf was not satisfied with the new language proposed at D.4 in the above-mentioned ordinance on file, and he surmised that neighboring property owners would also not be satisfied with the language. Bosgraaf believed there could be a lot more study before the ordinance is considered.

Public Hearing Closed

Helmrich called attention to the fact that the present agenda item has been on the Township Board agenda several times in the last year. Helmrich noted that the Township is the last of the three communities to thoroughly study and consider the issue of groundwater protection; both the City of the Village of Douglas and the City of Saugatuck have adopted a groundwater protection ordinance. Helmrich recognized that the situations and geographical realities of the two cities are very different from the Township given that the Township has vastly more land, some of which is undeveloped and would be affected by the proposed ordinance. Helmrich emphasized that the discussion of a groundwater protection ordinance is not something new relative to the present meeting. As the Board representative to the Planning Commission, Helmrich explained that the Board chose to move slowly on the proposed ordinance and he believed that the Board’s handling of the ordinance has been prudent. Helmrich commended the Township Manager and Zoning Administrator for their work in getting the Board and Planning Commission to this point.

Ihle referred to item D.4 in the proposed ordinance and questioned whether the present language could be read as including any kind of excavation. If that were the case, the proposed ordinance would indeed be a very limiting condition with respect to possible land uses. Ihle asked Wells if the language as written prohibited any land use that required excavation. Wells stated that prohibiting all excavation was not the intent of D.4 and that the ambiguous language at D.4 was the reason the Township attorney clarified the language for the present meeting. Wells emphasized that the intent was not to limit home building or site work for permitted uses. Wells noted that the Township should strive to ensure that the language in the proposed ordinance most closely reflect the present intention of the Board, and Wells would be willing to pursue further clarifications.



SAUGATUCK TOWNSHIP

WWW.SAUGATUCKTOWNSHIP.ORG

3461 BLUE STAR HIGHWAY
P.O. BOX 100
SAUGATUCK, MI 49453

PHONE (269) 857-7721
FAX (269) 857-4542

Shipleigh inquired into which parties determined the areas that fall within the proposed overlay district. Wells explained that analysis for the proposed overlay district was conducted by an environmental groundwater engineer hired to work with the tri-communities. The overlay maps were prepared based on the analysis of the engineer. Shipleigh asked whether it was the duty of the Township to protect groundwater quality and whether this duty was the intent behind the proposed ordinance. Wells confirmed that to be the case.

DeFranco stated that the proposed ordinance was relevant to present concerns of residents in the Township, citing that residents in the areas neighboring the sand mine site at Old Allegan Rd and 133rd Ave in the Township were concerned with pollutants contaminating ground water from possible exposure of the aquifer and/or contaminated clay brought from off-site to line the sand pit in preparation for a pond. DeFranco noted that it is sometimes difficult to understand how activities at the surface affect the quality of groundwater, but groundwater quality can be compromised by removing layers of soil that naturally filter pollutants from water or from bringing in contaminated soil from offsite with the potential of those contaminants reaching the aquifer. DeFranco referenced the Van Horn project and the need to consider whether that pond will be clay-lined and whether the Township would be testing any off-site soils used in that project. DeFranco expressed support for the groundwater protection ordinance, and suggested adding to section E of the proposed ordinance a requirement that any significant amount of off-site soil brought onto a property be tested for contaminants.

Israels acknowledged Bosgraaf. Bosgraaf mentioned D.7 of the proposed ordinance, a condition that prohibits the digging of new wells for irrigation. Bosgraaf surmised that this condition would be in violation of the Michigan Right to Farm Act. Bosgraaf stated that a hydrological report for the N. Shore property showed a 37 ft. clay layer at approximately 150 ft. in depth that would protect ground water quality. Wells displayed hydrological report referenced by Bosgraaf. Bosgraaf questioned whether the prohibited land uses in the proposed ordinance would be a risk to the aquifer. Bosgraaf reiterated that the only risk he could foresee would be if a party installed a deep-water injection trash well. Bosgraaf acknowledged that the hydrology is different by the ravines, because it is not the same aquifer. Bosgraaf emphasized that all his property would fall within the proposed overlay district. DeFranco asked whether any of the land in the proposed overlay district is zoned Agricultural. Wells confirmed that some of the land is zoned Agricultural and that there may be some agricultural uses in practice in some of the land zoned Industrial that fall within the overlay district.

Wells reminded everyone that this is a public hearing and that any zoning changes are a recommendation to the Township Board. The Planning Commission could make a motion to recommend, to direct staff to do further work that is found to be necessary, etc. Israels asked if there would be any benefit to postponing a decision in order to have the Township attorney present. Israels also thought it would be wise to give the PC more time to review the proposed ordinance. Israels asked if we could postpone a decision to the next meeting. Wells confirmed



SAUGATUCK TOWNSHIP

WWW.SAUGATUCKTOWNSHIP.ORG

3461 BLUE STAR HIGHWAY
P.O. BOX 100
SAUGATUCK, MI 49453

PHONE (269) 857-7721
FAX (269) 857-4542

that the PC could postpone a decision. Wells also suggested having the environmental groundwater engineer present for the discussion. Rowe expressed interest in having both the Township attorney and the environmental engineer present in future discussions.

A **Motion** was made by Rowe to table a decision on 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 until both the Township attorney and environmental engineer could be present for the discussion. Seconded by Welk. **Approved by roll call vote: DeFranco, no. Helmrich, yes. Ihle, yes. Rowe, yes. Shipley, no. Welk, yes. Israels, yes.**

C. Discussion. Trails, Jon Vanderbeek

Vanderbeek described his project, the Tri-Community Trail Master Plan, and discussed how the PC could help in preserving corridors of forest that would connect non-continuous conservation areas. Vanderbeek had developed relationships with various parcel owners and many agreed to allow Vanderbeek to make trail cuts through their property. Vanderbeek explained that this was a low-cost way of adding park space to the community without establishing traditional parks with their associated tax costs. Vanderbeek stated that he was focused on simple footpaths that cut through private property with the purpose of connecting non-continuous existing parks and/or conserved land. Vanderbeek mentioned the N. Shore property and his desire to establish a trail cut through N. Shore to create another access point to the State Park. Vanderbeek remarked that this would be a very important trail not only because it would offer access to 1,000 acres of conserved land, but the trail itself dates back to the Native Americans. Helmrich noted that an access easement to the State Park was included in the proposal by N. Shore approved by the PC. Vanderbeek shared maps of his proposed trail cuts; these maps can be found on the Facebook page, "Trail Master Plan of Saugatuck and Douglas." Vanderbeek highlighted Ch. 8 of the Tri-Community Master Plan and its call for the creation of more trails and increased land conservation efforts. Vanderbeek explained that his Trail Master Plan was in alignment with the existing Master Plan adopted by all three municipalities. Vanderbeek recommended that the PC be vigilant of strategic opportunities to acquire land easements from property developers to make the proposed trails a reality. Vanderbeek highlighted a 170 acre parcel in the Township owned by the City of Saugatuck. Vanderbeek opined that it could be difficult to preserve the entire parcel, but suggested the PC seek strategic land easements with the City of Saugatuck to create trails. Vanderbeek explained that he has built connections with the West Michigan Land Conservancy and the Outdoor Discovery Center (ODC). The ODC has been hired by the state of Michigan to develop the Lower Kalamazoo Greenway Plan, a plan which was formally supported by the Township. Vanderbeek impressed upon the PC the importance of considering possible easement acquisitions that could contribute to a larger trail network and offered his continuous support in facilitating these easements.



SAUGATUCK TOWNSHIP

WWW.SAUGATUCKTOWNSHIP.ORG

3461 BLUE STAR HIGHWAY
P.O. BOX 100
SAUGATUCK, MI 49453

PHONE (269) 857-7721
FAX (269) 857-4542

Helmrich commended Vanderbeek for his efforts. Helmrich noted the old Saugatuck Airport property and its potential to become a valuable addition to a trail network. Helmrich encouraged engagement with the City of Saugatuck on this issue. Helmrich hoped that when the PC discussed the Master Plan that it would revisit Vanderbeek's efforts on the Trail Master Plan. Vanderbeek noted the efforts of the Park Township Planning Commission in creating a Tree Preservation Committee to protect trees, and suggested the Township review these efforts. Ihle mentioned the PC's intention of creating a "Mobility" sub-committee in the review of the Master Plan, and emphasized the importance of this committee revisiting Vanderbeek's Master Trail Plan.

D. Discussion. Enforcement Items

Wells updated the PC on several enforcement items. The Township received several letters of concern regarding the Van Horn project, all of which are on file and have been made available to Planning Commissioners. The Township Manager sent a letter to Mr. Van Horn about possible violations, an enforcement letter from EGLE was sent to Mr. Van Horn, and Mr. Van Horn's attorney sent a letter to the Township Attorney explaining that Mr. Van Horn will cease removing sand from his property but is able to continue moving sand onsite. Wells explained to the PC that there were specific limits of operation pertaining to mining activities, but these limits would not apply if Van Horn engaged in residential construction projects. Wells noted that the Township has been responding to other enforcement issues in the Township including short-term rentals, capacity issues, noise violations, litter, etc. Wells emphasized that enforcement is top of mind and that all complaints received by the Township are followed up with in a timely manner.

Israels mentioned that the Township had received significant correspondence regarding the Van Horn project, all of which is public record and can be requested at the Township Hall. This included the enforcement letter sent by EGLE, which gave Van Horn a deadline of Nov. 5th for compliance. Wells read out loud part of the enforcement letter from EGLE. Ihle asked whether the sand excavated from residential construction is considered different from the sand excavated from the pond construction, and, if so, would Van Horn be able to remove sand from residential construction. Wells preferred not to engage in a legal interpretation of the relevant laws. Wells clarified that EGLE has two divisions, one concerning mining, the other involved with water resources. Wells explained that the Township did contact the water resource division of EGLE following the previous PC meeting and was told that EGLE had conducted an aerial analysis of the pond and concluded the pond to be less than 5 acres in size. EGLE informed Mr. Van Horn that if he were to modify any of the existing edges of the pond that such activity would trigger the need to apply for a Part 301 permit. Ihle asked whether Van Horn had approval to excavate a second pond approximately 2.8 acres in size. Wells stated that the additional pond is not part of the current plan and that the resolution approved by the Township rescinded any permits issued in the Fall of 2018. Helmrich acknowledged the significant interest by residents in confirming the size of the pond. Shipley agreed with Helmrich of the need to confirm the size of the pond.



SAUGATUCK TOWNSHIP

WWW.SAUGATUCKTOWNSHIP.ORG

3461 BLUE STAR HIGHWAY
P.O. BOX 100
SAUGATUCK, MI 49453

PHONE (269) 857-7721
FAX (269) 857-4542

Helmrich asked Wells whether it would be possible for the Township to complete an on the ground measurement of the pond. Wells stated that she would need to consult Township legal counsel. Helmrich asked whether measuring the pond would be an action requiring a vote or was it a matter of requesting staff to investigate. Wells was unsure if the PC was authorized to spend general funds. Israels stated that when the PC made their decision regarding the Van Horn project they did so with all the available information at that time and with legal representation present. Israels asked if it was wise to set a precedent where the PC continually questioned EGLE. Helmrich stated that EGLE was not infallible, and that there ought to be follow up by the Township to determine the size of the pond. Helmrich noted that the degree and quality of enforcement in the last year far surpassed anything seen in the previous 10 years and that he would like to thank staff for that impressive improvement. Wells noted that it was critical that the PC create ordinances able to be enforced.

E. Discussion: “As-Built” Condition

Ihle explained that if the PC approved an excavation project there should be a mechanism in place to confirm that what was approved was, in fact, built, and that this mechanism could be a tool that staff use to respond to resident concerns. The Van Horn SAU does include a condition requiring an “as-built” drawing upon completion of the project, but, Ihle noted, completion of the project may be another 5 or 6 years away. Ihle suggested that perhaps the approval process should include a requirement that “as-built” drawings be submitted for review every time earth is moved, placing the onus of drafting these drawings on the developer. Ihle explained that this could be extended to other uses such as tree preservation; a condition of approval could require that a property owner has a third party certify that trees intended to be preserved were in fact preserved. Ihle recognized that this does create additional work for staff, and that this should be kept in mind when considering “as-built” conditions. Helmrich thanked Ihle, and explained that the point of the discussion was simply to raise the issue and have all commissioners aware of it. Helmrich believed pursuing this issue supported the integrity of Township staff, PC, and the Board. Helmrich explained that now that it is on the table, commissioners can consider the issue more carefully and look to see if other townships have instituted an “as-built” condition. Ihle asked if Wells could procure more information on how other communities handle “as-built” conditions. Israels supported this effort and noted that it enabled the PC to be proactive in their approach and not reactive. Israels asked where the PC goes from here. Helmrich confirmed that the PC is asking staff for more information on this issue at a future meeting. Wells noted that this issue will be added to the list of priorities, but explained that it would be part of a larger conversation that would involve consultation with the Township Building Department.

7) Old Business

A. Master Plan Review, Discuss and Create Sub Committees for Master Plan Study Topics



SAUGATUCK TOWNSHIP

WWW.SAUGATUCKTOWNSHIP.ORG

3461 BLUE STAR HIGHWAY
P.O. BOX 100
SAUGATUCK, MI 49453

PHONE (269) 857-7721
FAX (269) 857-4542

Israels explained that she was preparing a grid presenting the self-declared interests of each commissioner with respect to topics in the Master Plan. Israels requested the PC move discussion of the Master Plan subcommittees to the December PC meeting. Helmrich asked if the intention with the grid was to identify the actual Master Plan subcommittees. Israels explained that the grid would address where PC commissioners chose to be with respect to possible subcommittees, although the actual subcommittees have not been determined. Helmrich noted that the Board secured the date of Saturday December 5th to hold the second annual Board's Strategic Planning and Goals workshop which is a public meeting. Helmrich stated he would share details of the location and time of the event with PC commissioners.

8) Public Comments

1) **Scott Wierenga:** Addressed the discussion on the proposed groundwater protection ordinance. Wierenga was left with the impression that PC commissioners believed that if the ordinance were to be approved as is that it would prohibit property owners in the critical dune area from constructing dwellings. Wierenga clarified that EGLE does permit property owners to engage in projects that remove up to 2,222 cubic yards of sand, which is sufficient for constructing a dwelling foundation. Given EGLE's guidelines, Wierenga concluded that the groundwater protection ordinance would not prohibit residential construction in the critical dune area. Wierenga was confident that the Township attorney would reach the same conclusion, but wanted to make this point for the sake of the public.

2) **Roy McIlwaine:** Thought the PC had done a great job of talking about some of the issues concerning the Van Horn project. However, McIlwaine believed the PC was missing one piece of logic, that the original Van Horn SAU was for a 4.9 acre pond, EGLE conducted a survey that could be inaccurate, and the Township has an obligation to conduct a survey to confirm the actual size of the pond. McIlwaine was unsure if the Township should pay for the survey or if that should be an obligation of Van Horn. McIlwaine noted that he was aware that such a condition was not in place, but mentioned that such a condition was not in any building ordinance either. McIlwaine asserted that if a home was built too close to the road the Township would intervene and compel the property owner to bring the building site up to code. McIlwaine was upset that the PC may have lost sight of getting an accurate measurement of the Van Horn pond.

Public Hearing Closed



SAUGATUCK TOWNSHIP

WWW.SAUGATUCKTOWNSHIP.ORG

3461 BLUE STAR HIGHWAY
P.O. BOX 100
SAUGATUCK, MI 49453

PHONE (269) 857-7721
FAX (269) 857-4542

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

- The Township Board met on Wednesday, October 14, in person, at the Township Hall. The Governor's emergency declaration allowing on-line voting and meeting had been suspended.
- Jon Vanderbeek presented on his progress pursuing trail easements associated with a Trails Master Plan. A video recording of his presentation can be viewed on YouTube. Also, Dan Callam (Outdoor Discovery Center) updated the Township Board on the status of the Lower Kalamazoo River Greenway Plan. As a reminder, the Township Board endorsed this plan via resolution in February 2020.
- Treasurer Helmrich updated the Township Board on changes to the investment strategy, which included reactivating a liquid Michigan CLASS pool account with \$1 million from the general checking account.
- The Township Board appointed Lori Babinski to the Interurban Transit Authority Board for a term of four (4) years (October 1, 2020 – September 30, 2024).
- A public hearing was held to obtain public input from residents and community stakeholders related to the Township's ambulance special assessment district. Following the public hearing, the Township Board adopted a resolution to confirm the ambulance special assessment roll and levying assessment for 2020.
- The Board authorized the Township Manager to sign and execute the proposed Buoy Management Services Agreement. Staff will follow up with the identified volunteers and schedule the no wake buoys to be removed from the Kalamazoo River for the season.
- The Township Board voted to direct staff to prepare a resolution to consider in November to formally eliminate the constable position for all future elections, unless changed later by the Township Board per state law.
- The Township Board voted to direct staff to work with legal counsel to prepare ballot language, as related to the anticipated proposal to renew the expiring cemetery millage in 2021, to be considered in January.
- The Township Board identified two potential dates (12/5 & 12/12) for the annual goal- setting/strategic planning workshop.



SAUGATUCK TOWNSHIP

WWW.SAUGATUCKTOWNSHIP.ORG

3461 BLUE STAR HIGHWAY
P.O. BOX 100
SAUGATUCK, MI 49453

PHONE (269) 857-7721
FAX (269) 857-4542

- Next meeting is Wed., November 11th, 2020 at 6:00pm (probably via Zoom).

10) Adjourn

PC agreed to cancel the Nov. 23rd meeting and instead to meet at the next scheduled meeting on December 14, 2020. Wells stated that she would ask the Township attorney and environmental engineer who consulted on the proposed overlay district to attend the next PC meeting on December 14, 2020. Wells explained that Master Plan Subcommittees would stay on as Old Business.

A **motion** was made to adjourn the meeting at 9:27 pm by Rowe. Seconded by Ihle. Motion passed by unanimous roll call vote. Next P.C. meeting: Monday, December 14, 2020 at 7:00 p.m.



SAUGATUCK TOWNSHIP

WWW.SAUGATUCKTOWNSHIP.ORG

3461 BLUE STAR HIGHWAY
P.O. BOX 100
SAUGATUCK, MI 49453

PHONE (269) 857-7721
FAX (269) 857-4542

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, and to approve the agenda with the requested additions. Seconded by Welk. The Motion passed by unanimous roll call vote.
2. A **Motion** was made by Rowe to approve the minutes of 09/28/20 as amended. Seconded by Ihle. The Motion passed by unanimous roll call vote.
3. A **Motion** was made by Welk to approve application from Ron Levine, Investment Classics LLC for a Special Approval Use to allow auto sales in the C-1 District in a pre-approved enclosed building at Commercial Road with the understanding that the Planning Commission incorporates the 7 recommendations in the memo from the Township Planner to the Planning Commission dated October 20, 2020, that the language “any state and federal requirements be met,” be added to condition 5 of the recommendations, and that, “For any use before permit is issued the applicant must receive a license from the state,” be added as an 8th condition. Seconded by Helmrich. The Motion passed by unanimous roll call vote.
4. A **Motion** was made by Rowe to table a decision on 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 until both the Township attorney and environmental engineer could be present for the discussion. Seconded by Welk. **Approved by roll call vote: DeFranco, no. Helmrich, yes. Ihle, yes. Rowe, yes. Shipley, no. Welk, yes. Israels, yes.**
5. A **motion** was made to adjourn the meeting at 9:27 pm by Rowe. Seconded by Ihle. Motion passed by unanimous roll call vote. Next P.C. meeting: Monday, December 14, 2020 at 7:00 p.m.

Respectfully,

D. DeFranco, P.C. Sec.