

SAUGATUCK TOWNSHIP PLANNING COMMISSION

July 25, 2011

The Saugatuck Township Planning Commission met on July 25, 2011, at the township hall on Blue Star Highway, Saugatuck, Michigan 49453.

Present: Conklin, Edris, Hanson, Harrison, Milauckas, Rausch and Rowe

Absent: None

Also present: Attorney Bultje, Planner Sisson, members of the general public and members of the media.

Chair Edris called the meeting to order at 7:00 P.M. Additions to the agenda were a discussion of the use of electronic devices by commissioners during meetings and of the Open Meetings Act.

Edris called for election of officers. Rowe nominated Edris as Chair, and Rausch seconded. The motion carried. Rausch nominated Rowe as Vice Chair, and Hanson seconded. The motion carried. Harrison nominated Rausch Secretary, and Conklin seconded. The motion carried. There being no further nominations in each case, the newly elected officers are: Chair, Edris; Vice Chair, Rowe; and Secretary, Rausch.

Minutes of the June 27 meeting were approved as presented (Rowe/Conklin).

There being no general public comment, Edris opened the public hearing on the Zoning Boundaries Amendment adding Sec. 40-107 and amending Sec. 40-106. Secretary Rausch read the notice published in the newspaper for both this hearing and for the Medical Marijuana Amendment hearing to follow. Commissioners were reminded of the changes made at the last meeting to the new Sec. 40-107 and of the addition of R-3B and R-4 to the list of zoned districts in Sec. 40-106.

Hanson made a motion to open the public comment period, supported by Rausch. The motion carried. Hanson responded to the only question about this amendment by explaining that the list of zoned districts was made complete by this amendment to the Zoning Ordinance. There being no further comment, Rowe made a motion to close the public portion of the hearing, supported by Hanson. The motion carried.

Conklin made a motion, supported by Rowe, to recommend the Township Board adopt the amendment to Sec. 40-106 and the addition of Sec. 40-107 to the Zoning Ordinance, as represented in the 7-21-11-1 draft. Motion carried unanimously. Since it is no longer necessary to send these amendments to the County, it can go directly to the Township Board.

Edris explained that the Planning Commission is dealing with the medical marijuana issue as a land use, not as a need for testing or its efficacy as a treatment, and he asked

the audience to restrict their comments accordingly. Rausch made a motion to open the public portion of the hearing, supported by Rowe. The motion carried.

Linda Kinnaman, 259 North St., expressed the feeling that selling marijuana out of homes made it seem illegal, underground, that it would be more professional to offer it in a clinic or dispensary.

Mark Passerin, Ann Arbor, co-founder of a dispensary, said there are thousands of out-patients in Ann Arbor, and the city council has created zoning and licensing for dispensaries. He asked the P. C. not to send patients back into the “black market.” He said his mother would have trouble finding the perfect care-giver who offers the specific type of marijuana for her ailments.

Kevin Spitler, Mattawan, said Muskegon has enacted a home-based marijuana ordinance and it’s not working, people are “up in arms” because it isn’t safe, and there’s no way to monitor it. He thought it should be available in safe, commercial areas.

Stacey Aldrich, 3437 64th St., said she thought it would be better to be able to buy a small quantity at a dispensary, rather than have a large amount in one’s house.

John Tragowsky, a summer resident of Saugatuck and a patient, indicated the State Law rendered the care-giver immunity to prosecution, and he suggested waiting until the courts make decisions on the Statute before enacting an Ordinance. He said there was no safety issue with the dispensaries now operating in the Township.

Timothy Emmerson, attorney for Tammy Jacobi, owner of Good Intentions Paving Company dispensary, asked how a patient is to find a care-giver in a home-occupation scenario. He suggested leaving the moratorium in place until the courts take action.

Tammy Jacobi, 515 Water St., Saugatuck, owner of Good Intentions Paving Co., said she did not want to dispense marijuana from her condo where her son is. She said care-givers grow the marijuana and bring it to the dispensary.

Ralph Houston, Holland, said he thought marijuana should be given as a doctor’s prescription, sold through pharmacies. There would be better quality control. He urged the P. C. to wait since there are so many questions about the Statute.

Kathi Mirto, 6817 126th Ave., Fennville, said she did not want to grow it in her home.

Ingrid Gloner, 6340 Old Allegan Rd., who has a home occupation, suggested the P. C. consider the future inspection schedule of such an operation. She said it should be out in the open.

Ken Beyer, 142nd Ave., Michigan Testing Authority, brought up the dangers of growing marijuana within the home, as opposed to in an out-building.

Teena Martin, Mattawan, said there were clearly a lot of people telling the P. C. what they wanted and asked why are you considering this?

There being no further public comment, Rausch made a motion to close the public portion of the hearing. Rowe seconded and the motion carried.

Edris explained that the P. C. asked Atty Bultje to provide an ordinance which would offer the least legal risk. Bultje said a three-month moratorium was put in place by the Township Board to give the P. C. time to study the issue and create an ordinance. He added sales of marijuana are illegal in the township. Even though the State Law might allow marijuana sales, those who participate in this are liable to federal prosecution. The Michigan Attorney General issued an opinion stating that the Act does not permit the collective growing or sharing of marijuana plants or cooperative marijuana farms; each patient's plants must be grown and maintained in a separate enclosed, locked facility that is only accessible to the registered patient or care-giver. He suggested that the court will probably rule that dispensaries are not covered by the law. He commented further that the Statute describes a close confidential relationship between the patient and the care-giver, not a money-making activity, and he stated that several municipalities have passed an ordinance like this one. Bultje explained the reason the Township is considering this ordinance is to comply with the State Law and the Attorney General's opinion. Sisson added that the township has a role to determine where this activity may occur, land-use-wise.

Tragowsky asked how the ordinance would deal with "visiting patients from other jurisdictions" which is mentioned in the Statute, and Bultje replied that "we are not going to get into reciprocal relations." When it was pointed out that public comment was closed, Milauckas said he thought the P. C. should accept further comment inspired by the commission's discussion or the attorney's statements.

Rowe asked Bultje when there might be a decision by the court, and Bultje replied "sooner rather than later." Rowe wondered if the moratorium could be extended, some communities having moratoriums for a year, and Bultje said it should be reasonable. Edris asked Bultje if he knew about Muskegon's problem with the issue, and Bultje replied that Muskegon Township was in litigation trying to shut down dispensaries and the City of Muskegon was allowing medical marijuana in industrial facilities, according to what he had read. Milauckas asked about home occupation inspection in the case of medical marijuana. Would it be difficult to enter the home to monitor it? Bultje said the township official could not just walk into any home without reasonable cause. Harrison brought up the issue of the grower producing too much marijuana for the number of patients, and Bultje said it could not be provided to dispensaries or shared, according to the Statute. Rowe asked how the home occupation would work if the patient had no access to the home, and Bultje said the sales do not have to take place in the home. Sisson said the grower could deliver to his five patients.

Sisson brought up the issue of growing medical marijuana in an out-building, saying the SAU application and hearing usually necessary for home occupations in out-buildings or

garages, etc. would jeopardize the confidentiality required by the Statute, and security would be an issue without specific standards relating to lighting, etc. Bultje said he thought the SAU option should not be allowed for medical marijuana home occupations.

Sisson and Bultje reported they each have dealt with several jurisdictions which are considering or have passed medical marijuana ordinances, and most of them have gone the home occupation route. Rowe read the ordinance for Heath Township, which simply states the ordinance shall be in compliance with the Michigan Medical Marijuana Act, and smoke houses, dispensaries, etc. are not allowed.

Edris asked Sisson and Bultje to come back with alternative language to the proposed amendment being considered that will allow the attached garage or out-building use without the SAU requirement.

Spitler will send the article concerning the problems in Muskegon to the Township office.

Stuart White, Hamilton, asked if the township was worried about being sued over this issue, and was told YES.

Rowe made a motion, supported by Rausch, to table the medical marijuana issue to the next regular meeting. Motion carried.

After a brief recess, the meeting reconvened at 9:15, and Edris distributed a copy of the Code of Ethics. Rowe asked if it would be appropriate for Commissioners to use computers during a meeting and was told it would be okay for bringing up information or minutes, etc., but not for discussing issues at hand with other individual Commissioners at the expense of general oral discussion or to poll others on issues. Otherwise it might be counter to the Open Meetings Act. The use of paper copies can be cut down by sending out necessary information by internet. Also phone calls prior to meetings should not be used to poll answers to questions to achieve a majority on issues so the "skids are greased," as Bultje said.

Meeting adjourned at 9:45 P.M. The next regular meeting is August 22 at 7:00 P.M.

Betty A. White, Recording Secretary

Sandra Rausch, Secretary

MOTIONS

1. Motion by Rowe/Rausch to nominate Edris as Chair.
2. Motion by Rausch/Hanson to nominate Rowe as Vice Chair.
3. Motion by Harrison/Conklin to nominate Rausch as Secretary.
4. Motion by Rowe/Conklin to approve minutes of June 27.
5. Motion by Hanson/Rausch to open public hearing on Zoning Boundaries Amendment.
6. Motion by Rowe/Hanson to close public portion of hearing on zoning boundaries.
7. Motion by Conklin/Rowe to recommend to Township Board adoption of Zoning Boundaries Amendment.
8. Motion by Rausch/Rowe to open public hearing on Medical Marijuana Ordinance.
9. Motion by Rausch/Rowe to close public portion of hearing on Medical Marijuana Ordinance.
10. Motion by Rowe/Rausch to table Medical Marijuana Ordinance to next meeting.