

Colfax Township, Weldon Township and Village of Thompsonville
Community Joint Planning Commission
14731 Thompson Avenue, Thompsonville, MI 49683
Minutes – November 3, 2016 Regular Meeting

Sue Meredith declared the meeting open at 7:03 P.M. following the Pledge of Allegiance.

Present at roll call: Commissioners Shelley Greene, Irene Dunham Thayer, Sue Meredith, Don Suchocki, Chris Bobek, Debra Franke and Mike Foust; and Zoning Administrator Craig Meredith.
Absent: Pat Shaeffer, Eugene Allen and Peg Minster (all excused).

Citizen Matters

- Public comment: none.

- Advertised public hearings: none.

- Persons requesting/requested to be on agenda:

- Sue introduced Tom Nemitz, owner of property on Reynolds Road. Mr. Nemitz was seeking approval to split 2 parcels into 5; the parcels total approximately 12 acres. He reviewed steps taken prior to entering a land contract agreement to purchase the parcels in 2004. This included checking with the county on whether the property perked and the MDNR on Natural River Zoning requirements as far as splitting the parcels. He said it was determined that he could probably get six parcels out of it but felt that was a little excessive in terms of access points. One parcel was purchased outright and the other under a land contract which was paid off September 2015. At that point Mr. Nemitz hired GT Survey to see how the boundaries would work with five splits and to get legal descriptions. He said it was through that process that he learned of the minimum parcel size of 15 acres. Mr. Nemitz said he contacted Craig and Shelley to find out the process to determine whether or not it could be split as originally intended. Mr. Nemitz said he met with Colfax Township and received some forms and information but also had this meeting set up to find out if there were any options available for the splits to happen and what the process was. For the board's information the property was pointed out on the Zoning Map in Colfax's Section 10. Mr. Nemitz also spoke of the parent parcel and number of splits he believed to be available at the time of purchase.

Sue asked what he was looking for from the board -- to look at zoning and a reduction from the 15 acres in the RC-1 District? Mr. Nemitz responded yes and to essentially use the zoning that was in place at time of purchase on the premise of dividing two parcels into a total of five. Shelley addressed Mr. Nemitz who acknowledged he understood why the township could not approve the split. She said the JPC follows the Joint Zoning Ordinance as adopted by the legislative bodies and that Article 16 of the ordinance addresses the amendment process. Shelley explained the amendment process as including a public hearing, voting by all the legislative bodies and possibly a review by the county planning commission. She referred to his letter requesting JPC approval to divide the land as originally allowed and stated the JPC does not have the authority to grant such approval. Mr. Nemitz stated it would be his ultimate goal to go through the process as described.

Mr. Nemitz asked if there was a notice with the change in the zoning. Shelley said it was published as required by law; the Record Patriot is newspaper used for notices. She also said a writeup was included in the December 2014 Colfax Township newsletter sent with tax bills. He asked if it was a public hearing. Shelley said yes, it was held at the Village Community Center, and that JPC members were available weekends at Weldon's hall for the public to review the draft ordinance which was also at the library and on the townships' websites. Mr. Nemitz said he asked because he received a notice by certified mail on another property he owns that was affected by a zoning change. Shelley said that is a requirement when properties are within 300 feet of a property subject to a public hearing. Sue said the JPC worked hard to notify constituents and said Article 16 should help him. Craig mentioned the land

division process; Mr. Nemitz understood it and that any 'no' response results in denial which is why he was here. Sue thanked him for his time.

- Dick Figura attended at the JPC's request to discuss a municipal civil infractions (MCI) ordinance as it relates to the enforcement process for those who have not complied with requests to correct violations. Shelley said a particular property owner who has not complied sent a FOIA request which has been answered. At this point we do not expect any progress toward compliance. She explored steps for enforcement and learned about the MCI ordinance which is the reason for requesting his attendance and advice. Mr. Figura provided history on misdemeanor violations; it involved trials and jail time. The legislature came up with civil infractions in the 1990s. They are civil violations, not criminal, and the person does not have the right to a trial or to have an attorney appointed. Units of government go in without an attorney. The legislature also provided for creation of a municipal civil infraction violations bureau to pay fines. There are two types of tickets: citation and violation notice. A citation is served to the offender requiring them to go to court. The judge sets the fine if found responsible. When it was a criminal matter years ago, the person had to be proven guilty beyond a reasonable doubt. As a civil matter, the person has to be found responsible by a preponderance of the evidence. With a violations bureau, the ticket looks the same but is called a civil infraction violation notice and a fine is paid. If the person doesn't pay the fine, a citation can then be issued to appear in court.

Mr. Figura has found that the best way for a community to go through the process is to have an ordinance that establishes an MCI process including whether there is a bureau and the officials responsible for enforcing the ordinance. A zoning ordinance would say the zoning administrator is responsible. A general MCI ordinance would identify who is responsible. An authorized local official is anyone designated by a specific ordinance to issue violation notices/citations or anyone authorized by the township board; it can include any deputized officer of the sheriff's department. Mr. Figura said it is a complicated process and not everyone has a separate MCI ordinance that establishes the process, but it is a 'best practice' so everyone knows the rules and where to look. He feels they work pretty well.

As far as tickets, they are numbered and each is accounted for; none can be appealed except through the township board or village council. They are difficult to find. A universal type can be used which, if found, has boxes to check depending on the issue. Doubleday used to publish; Fidler may be a source. Mr. Figura said issuing a violation notice resulting in a fine paid does not always result in correction of the violation which sometimes can be a serious situation. The court can not only assess a fine but issue a court order directing the person to correct the violation within a period of time. Failure to do so can result in the person being held in contempt of court. Mr. Figura went over the ticket book Ron Hitesman was given at a civil infractions seminar. He said this process is far more effective than in past years and described two cases now in District Court. One of them involved a special assessment against the property to pay for cleanup by the township.

Sue said we are a joint planning commission; would the ordinance be developed at this level or at the entities' level? Mr. Figura felt each entity should have its own ordinance with similarities. All have the same zoning ordinance and administrator. Setting up a violations bureau would be different depending on what would be involved. He said the JPC doesn't have authority to adopt an ordinance. No unique language is required for a village ordinance versus a township. Court of competent jurisdiction as stated in the zoning ordinance is any we choose. Shelley asked if each entity needed to set up a violations bureau; Mr. Figura said yes, if they wanted one. She asked if the joint zoning ordinance needed amendment for this issue as she seemed to recall the desire by all was to have violations go direct to court if not resolved. Mr. Figura will review Section 3.10 of the ordinance to see if clarification is needed. As far as setting up the violations process with a bureau, each entity would need to enact its own ordinance, but with few violations it's probably not worth the time and better to go to court. However, a bureau could be set up and just not use it. Mr. Figura was asked who gets the fines; he said

they are split many ways. An agreement could be offered to dismiss the violation if the fine is paid to the township/village. Don pointed out that an enforcement officer could say this is your last chance before a citation is issued that will be handled in court.

Shelley asked about the need to post a FOIA policy when there is a website presence. Mr. Figura said it is required and suggested referring to the FOIA seminar handout. He noted that in many cases people are looking for information which can be handled without a FOIA request.

Agenda Additions/Corrections. Motion by Debra, Don seconded to accept the agenda with correction of the date to November 3. Ayes: all; motion carried.

Approval of Minutes. Motion by Don, Irene seconded to approve the October 6 regular meeting minutes as presented. Ayes: all; motion carried.

Unfinished Business and Reports

A. Lindy Road Special Land Use Permit. Remove from agenda; there is no record of a permit for the campground and no action to be taken by the JPC.

B. Amendments. Discuss Sign and Outdoor Commercial Recreation Facility amendments at next meeting. Need to develop language/requirements on OCF. Also need a list of amendments.

C. Mobile Home Replacement Amendment. Tabled.

D. State Requirements for Vehicles. The Secretary of State website states that insurance is required to operate vehicles on roads. Shelley emailed them, received nothing different and was directed to the website. Weldon's prior zoning ordinance included license requirements (five plus a recreational vehicle) as does their and Colfax's blight ordinances. An MTA rep told Sue this issue is being handled by township blight/nuisance ordinances. Fran Griffin asked what constitutes a junkyard; the definition was read and they are permitted only in the Industrial District. Add junkyard to future amendment discussion. Sale of vehicles is limited by the state; a license is required beyond a certain number.

E. Ordinance Administration and Enforcement. Tabled.

F. 2017-2018 Budget. Shelley said a committee is needed. Debra asked for budgeted/actual amounts for each account to respond to Council. Sue said Carrie is getting this set up on QuickBooks. Chris, Debra and Shelley will work on budget.

G. Capital Improvements Plan. Tabled.

H. Community Action Report. Tabled.

I. Zoning Administrator Report. Written and oral reports were provided. Craig is monitoring a property on Milnichol which appears to have panels of fencing on vacant property. He spoke of a green trailer on CR669; owner not home. Work is progressing on Phase II of the Inn at Crystal Mountain. Width of 20' minimum for a dwelling was discussed. Add to amendments list.

J. Village/Township Reports. Debra reported ambulance and fire runs are up for the year; fire department received new gear and training is going well; new street signs are up; nine trees need to be removed; same company will be used for Christmas decorations and is cheaper than Village doing it; Jim and Joyce MacGirr resigned from their Council positions; one bid was received for the well and accepted; AT&T talking about renegotiating contract. For Weldon, Sue said Bill Kennis presented the Benzie Bus annual report and noted a grant is available for a shelter in this area and that smaller buses are being ordered; discussed MTA training; bids on roof; report was given on ordinance reviews including civil infractions. Shelley reported Mr. Nemitz presented a land division issue; it is Colfax's turn for Christmas Eve goodie bags; Debra believed the tree lighting will be at 7:00 P.M. Saturday, December 3.

K. Budget/Compensation Authorization. Sue reported a balance of \$6,455.64. Motion by Shelley, Chris seconded to approve the comp authorization and pay bills as presented. Ayes: all; motion carried.

New Business

A. FOIA Request. Shelley circulated the JPC response to Marie Wohadlo's request to Craig Meredith which included the JPC.

B. Election of Officers. Shelley gave a reminder that officer elections are to be held the first meeting of the year. Sue asked if there was a list of expiring terms for Commissioners; Shelley has it updated and will provide a copy.

Correspondence. Covered during the meeting.

Public Comment. Craig said Luke Reynolds and wife, owners of Mountain Valley Motel, will request time on the agenda to discuss plans for a campground. He said they are removing trees and working with an engineering firm. Craig informed them of the need to meet with the JPC before progressing too far. It will probably be February.

Adjournment. Motion by Irene, Chris seconded to adjourn at 9:35 P.M.

Respectfully submitted,

Shelley Greene
Secretary

Minutes are proposed until approved at the next meeting