

Colfax Township

Ordinance No. 03-09-2011

Joint Planning Commission Ordinance Colfax Township, Weldon Township and The Village of Thompsonville

AN ORDINANCE TO APPROVE AN AGREEMENT ESTABLISHING THE COLFAX TOWNSHIP, WELDON TOWNSHIP AND THE VILLAGE OF THOMPSONVILLE JOINT PLANNING COMMISSION CONSISTING OF COLFAX TOWNSHIP, WELDON TOWNSHIP AND THE VILLAGE OF THOMPSONVILLE; TO SET FORTH THE TERMS OF SAID AGREEMENT; TO TRANSFER ALL THE POWERS AND DUTIES OF A PLANNING COMMISSION UNDER THE MICHIGAN PLANNING ACT, 2008 PA 33 (MCL125.3801 ET SEQ.) TO THE COMMUNITY JOINT PLANNING COMMISSION; TO TRANSFER ALL OF THE POWERS AND DUTIES OF A ZONING BOARD OR A ZONING COMMISSION UNDER THE MICHIGAN ZONING ENABLING ACT, 2006 PA 110 (MCL 125.3101 ET SEQ.) TO THE COMMUNITY JOINT PLANNING COMMISSION; TO DESCRIBE THE JURISDICTIONAL AREA OF THE COMMUNITY JOINT PLANNING COMMISSION; AND TO COMPLY WITH THE PROVISIONS OF 2003 PA 226 (MCL125.133 ET SEQ.).

The Colfax Township Board hereby ordains:

Section 1. Approval of Agreement; Purpose

Pursuant to the authority of 2003 PA 226 [MCL 125.133] Colfax Township hereby approves an agreement with Weldon Township and the Village of Thompsonville to form a joint planning commission for the purpose of cooperating on joint planning and joint zoning for the participating municipalities; to act jointly in these matters so as to coordinate said activities in the respective municipalities; to avoid duplicative efforts and duplicative expenditures of funds; to plan and regulate land use in a larger geographic area; to better manage valuable public resources; to foster collaborative efforts in land use programs in order to preserve natural resources; to ensure that land uses are situated in appropriate locations and relationships; to limit inappropriate overcrowding of land and congestion of population; to facilitate adequate and efficient provision for transportation systems, sewage disposal, water, energy, education, recreation and other public service and facility requirements; and to promote public health, safety, and welfare.

The terms and conditions of the agreement between the participating municipalities are set forth in Sections 2 through 15 herein.

Section 2. Name

The joint planning commission established by this Ordinance and the Agreement it adopts shall be referred to as the Community Joint Planning Commission (hereinafter the Joint Commission).

Section 3. Jurisdiction of the Joint Commission

The jurisdictional area of the Joint Commission shall comprise all of that area within the legal boundaries of Colfax Township, Weldon Township and the Village of Thompsonville.

Section 4. Powers and Duties

- a. Planning powers and duties. Pursuant to 2003 PA 226 (MCL 125.135 (2)) all the powers and duties of a planning commission under the Michigan Planning Enabling Act, 2008 PA 33 (MCL 125.380 et seq.) (MPEA) are hereby transferred to the Joint Commission, and the Joint Commission shall have the sole power and duty under the Michigan Planning Enabling Act (MPEA) to develop a joint master plan with respect to the jurisdictional area of the Joint Commission. In exercising this power and duty the Joint Commission shall follow the procedures of a township that on September 1, 2008 had a planning commission created under former 1931 PA 285. Further, any joint master plan developed and adopted by the Joint Commission shall be subject to review and approval by the legislative bodies of the participating municipalities.
- b. Zoning powers and duties. Pursuant to 2003 PA 226 (MCL 125.135(2)) all the powers and duties of a zoning commission or a planning commission under the Michigan Zoning Enabling Act 2006 PA 110 (MCL125.3101 et seq.) (MZEA) are hereby transferred to the Joint Commission, and the Joint Commission shall have the sole power and duty under the MZEA to develop a joint zoning ordinance with respect to the jurisdictional area of the Joint Commission. In exercising this power and duty the Joint Commission shall follow the procedures of the MZEA which are applicable to a township.
- c. Capital Improvement Review (Public Project Review). The Joint Commission shall be responsible for the review and approval function of public projects as provided in sections 61 and 62 of the Michigan Planning Enabling Act [MCL 125.3861; 125.3862].

- d. Capital Improvements Program. The Joint Commission shall be responsible for the preparation of a capital improvements program for the Joint Commission's jurisdictional area as provided for in section 65 of the Michigan Planning Enabling Act (MCL 125.3865).
- e. Subdivision Review. The Joint Commission shall be responsible for the recommendation of a subdivision ordinance and approval of subdivision plats as provided for in section 71 of the Michigan Planning Enabling Act (MCL 125.3871).
- f. Zoning board of appeals. The joint zoning ordinance adopted pursuant to this agreement shall provide for a zoning board of appeals from each participating municipality.
- g. Administration. This agreement provides for a joint planning department with staff consisting of an individual(s) who performs the duties of a planning director, planner, zoning administrator and enforcement officer. These positions may be full time or part time and may be combined together as one job or separate jobs, as deemed necessary from time to time by the Joint Commission and within budgetary appropriations and other funds available to it for such purposes.
 - 1) The Joint Commission shall hire a planning director who shall be under the supervision and control of the Joint Commission or its designee.
 - 2) Only the Joint Commission may hire or fire the planning director and staff.

- 3) The management of other staff, if any, including any with planning, zoning administrator and enforcement officer duties shall be supervised by the planning director.

Section 5. Composition of the Joint Commission

- a. Composition. The Joint Commission shall be comprised of nine (9) members and three (3) alternates as provided in this ordinance. Three (3) members and one (1) alternate are appointed by each participating municipality.
- b. Alternates. An alternate member may be called to serve as a member of the Joint Commission in the absence of a regular member if the regular member will be unable to attend one or more meetings. An alternate member may also be called to serve as a member for the purpose of reaching a decision on a case in which the member has abstained for reasons of conflict of interest, will be absent or the regular seat is vacant. An alternate member serving on the Joint Commission has the same voting rights as a regular member.
- c. Continuation of service. Regular and alternate members shall continue to serve until their replacement is appointed and assumes the duties of his or her position on the Joint Commission. When a regular or an alternate member serves on a case involving a site plan approval, special land use permit request or planned unit development which is not a specific property, such member shall continue to serve in said case until final decision is made, even if said member's term has expired.

Section 6. Terms and Qualifications of Office

- a. Residency. All members of the Joint Commission shall reside within the jurisdictional area of the Joint Commission as defined in this ordinance. If a member changes his or her residence to another location within the jurisdictional area of the Joint Commission municipality but outside of the municipality from which that member was appointed, that member may complete the appointed term but would not be eligible for reappointment from his or her original jurisdiction.
- b. Terms. The initial members of the Joint Commission appointed by each participating municipality shall be appointed for staggered terms with one third of the members appointed to a three (3) year term, one third of the members appointed to a two (2) year term and one third of the members appointed to a one (1) year term. After the initial terms, all appointed members shall serve terms of three (3) years ending on March 31 of the applicable year.
- c. Existing Planning Commission Members. Each of the members originally appointed to the Joint Commission by a participating municipality shall be members of the municipality's existing planning commission if one exists and such member is willing to accept appointment to the Joint Commission.
- d. Interests Represented. The membership shall be representative of the important segments of the community, such as the economic, governmental, educational and social development of the jurisdiction of the Joint Commission, in accordance with the major interests as they may exist in the jurisdiction of the Joint Commission, as follows:

- 1) Agriculture

- 2) Natural resources
- 3) Recreation
- 4) Education
- 5) Public health
- 6) Government
- 7) Transportation
- 8) Industry
- 9) Commerce
- 10) Other

The membership shall also be representative of the entire geography of the jurisdiction of the Joint Commission to the extent practicable, and as a secondary consideration to the representation of the major interests.

Section 7. Removal from Office; Vacancies

- a. Removal. The Joint Commission may request the removal of one of its members by submitting a written request to the appointing municipality. A member may also be removed upon the initiative of the appointing municipality. Only the legislative body of the municipality which appointed the member may remove such member.

A member of the Joint Commission may be removed for cause from office by the appointing municipality following written charges and a public hearing. Cause shall include but not be limited to performance, conduct or behavior that adversely affects the orderly

or efficient operation of the Joint Commission. Examples of performance, conduct or behaviors that constitute cause for purposes of this provision include:

- 1) Conduct constituting a material breach of this agreement;
- 2) Violation of established bylaws, rules, regulations or policies, whether written or oral, including conduct violating provisions regarding conflicts of interest;
- 3) Two (2) consecutive unexcused absences from Joint Commission meetings;
- 4) Conviction of any felony or misdemeanors involving a violation of his or her oath of office or code of conduct;
- 5) Removal of residency from the Joint Commission jurisdictional area; and/or
- 6) Any other situation which constitutes misfeasance, malfeasance or nonfeasance in office, as provided by law.

b. Vacancies. The office of a member becomes vacant when the member dies, resigns, is convicted of any felony or of a misdemeanor involving a violation of his or her office, or code of conduct, is removed by the appointing municipality for cause or ceases to be a resident of the jurisdictional area of the Joint Commission. If a vacancy occurs, the vacancy shall be filled for the balance of the unexpired term by an appointment made by the legislative body representing the jurisdiction of the vacancy.

Section 8. Organization and Procedures

- a. Officers. At its first meeting of each calendar year, the Joint Commission shall elect a chairperson, vice chairperson and secretary from its members and fill other offices, as it considers advisable. Alternate members are not eligible to serve as officers. The term of each officer shall be one (1) year, with opportunity for reelection as specified in the Joint Commission's bylaws.
- b. Bylaws. The Joint Commission shall adopt bylaws for the transaction of its business and shall keep a public record of its resolutions, transactions, findings and determinations.
- c. Committees. The planning commission may appoint committees of its own membership or whose members may not necessarily be members of the Joint Commission.
- d. Annual Report. No later than the first day of [month] of each year, the Joint Commission shall submit an annual written report concerning its operations and the status of planning and zoning activities to the legislative body of each of the participating municipalities. Said report shall also include a report of activities for the current year, a work program and a budget request for the coming year. The report may also make recommendations to the legislative body of any or all participating municipalities.
- e. Meetings. The Joint Commission shall hold not less than four (4) regular meetings each year. The time and place of the meetings shall be established by resolution. Unless the bylaws provide otherwise, a special meeting of the Joint Commission may be called by the chairperson or by two other members, upon written request to the secretary. Unless the bylaws provide otherwise, the

secretary shall send written notice of a special meeting to Joint Commission members not less than 48 hours before the meeting.

- f. Open Meetings Act. The business that the Joint Commission may perform shall be conducted at public meetings held in compliance with the Open Meetings Act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of a regular or special meeting shall be given in the manner required by that act.
- g. Freedom of Information Act. A document prepared, owned, used, in the possession of or retained by the Joint Commission and any staff members in the performance of an official function shall be made available to the public in compliance with the Freedom of Information Act, 1976 PA442, and MCL 15.231 to 15.246.

Section 9. Operating Budget

The Joint Commission shall be funded by the participating municipalities on an annual basis. The accounting for the funds, assets, and serving the role of the employer of record for staff of the Joint Commission shall be performed and maintained by Weldon Township, but said funds shall be jointly held by all of the participating municipalities in proportion to their required contributions. Payment for goods, services and per diem member fees drawn from said account shall be approved by the Joint Commission. The Joint Commission shall establish an annual budget which requires the approval of all of the participating municipalities. Each municipality shall transfer its share of the funds necessary for the operating budget to the fiduciary municipality no later than the first day of the fiscal year of the Joint Commission.

Each year, funding for the annual budget shall be proportionally divided among the participating municipalities as follows:

- A. First year: each municipality shall provide \$3,000. If additional funding is required, each municipality shall provide one-third of the additional cost.
- B. Second year: Colfax Township 23%, Weldon Township 71%, Village of Thompsonville 6% based on each municipality's SEV and parcel count April 1, 2011.
- C. Review every five (5) years or sooner if deemed necessary.

Section 10. Procedure for Joining the Joint Commission

A city, village or township may file a written request with the legislative body of each participating municipality seeking permission to become a participating municipality in the Joint Commission. Such written request shall include a certified copy of a resolution adopted by the requesting municipality's legislative body supporting such request. A copy of such request shall be submitted to the Joint Commission for review and recommendation to the legislative bodies of each participating municipality.

After receiving the Joint Commission's recommendation, each participating municipality shall vote to accept or reject the petition to join. If all participating municipalities vote to accept the petition to join, then the Joint Commission will develop and present recommendations concerning any revisions of this agreement to the participating municipalities. Upon the revision of this agreement by a duly enacted ordinance adopted by each participating municipality and the requesting

municipality, the requesting municipality shall become a participating municipality.

The requesting municipality shall bear the entire cost of revising the agreement and ordinance and the cost of updating a joint master plan and a joint zoning ordinance, if one should exist. If any participating municipality votes to reject the petition to join, then the petition shall be rejected and no further action will be taken.

Section 11. Procedure for Withdrawing from the Joint Commission

A participating municipality shall have the right to withdraw from the Joint Commission only upon completion of the following conditions:

- 1) The withdrawing municipality shall have paid its proportional share of any and all obligations of the Joint Commission, including the balance of any contractual fees, service contracts, legal and other costs for that fiscal year.
- 2) The legislative body of the withdrawing municipality shall have held a public hearing on its intent to withdraw from the Joint Commission. Notice of such public hearing shall be published in a newspaper of general circulation in the local unit of government not less than 15 days before the date of the hearing.
- 3) Following such public hearing, the legislative body of the withdrawing municipality shall have adopted a finding of fact, recitation of reasons and its decision to withdraw from the Joint Commission.
- 4) Following such public hearing, the legislative body of the withdrawing municipality may enact an ordinance by which to withdraw from the Joint Commission.

5) The reasonable cost of any joint master plan amendments, joint ordinance amendments, joint commission ordinance and agreement remaining in effect for the other participating municipalities and other withdrawal cost shall be borne by the withdrawing municipality. If there are only two (2) participating municipalities at the time of withdrawal from the Joint Commission, the reasonable cost of replacing any joint master plan, joint ordinance and other withdrawal cost shall be borne by the withdrawing municipality for the remaining municipality unless another cost sharing formula is mutually agreed upon.

The withdrawal shall take effect when the above requirements have been satisfied. When there are only two (2) participating municipalities in the Joint Commission, upon the withdrawal of either participating municipality, and after division of the assets and liabilities of the Joint Commission between the two municipalities in accordance with their proportional shares, this agreement and this ordinance shall become null and void and the Joint Commission shall cease to function and shall have no further legal authority.

Section 12. Statutory powers

Except as may be provided in this ordinance, the Joint Commission shall have all the powers and duties provided for such joint planning commissions in the Joint Municipal Planning Act, 2003 PA 226 (MCL 125.131 et seq.).

Section 13. Transition provision

- a. Until such time as a joint zoning ordinance is adopted, an existing zoning commission or planning commission of a participating

municipality shall continue to exercise their powers and duties under the Michigan Zoning Enabling Act with respect to the Joint Commission's area of jurisdiction.

- b. Until such time as a joint master plan is adopted, an existing master plan of a participating municipality shall continue to be the master plan under the Michigan Planning Enabling Act with respect to the Joint Commission's area of jurisdiction.

Section 14. Amendments

This agreement and ordinance may only be changed by an amendment to this ordinance duly adopted by the legislative body of each participating municipality.

Section 15. Effective date

This ordinance and the agreement incorporated herein shall be effective on the later of the following:

- 1) The eighth day following the last date of publication by a participating municipality if no notice of intent to file a petition for a referendum is filed as provided for in MCL 125.139; or
- 2) The 31st day following the filing of a notice of intent to file a petition for a referendum if no petition for a referendum is filed within 30 days after the filing of the notice; or
- 3) The day following the day upon which a determination is made by the clerk of each municipality in which a petition for referendum is filed that the petition calling for the referendum is inadequate; or
- 4) The day the ordinance is approved by the electors in each municipality in which a referendum is held.

At a regular meeting of the Colfax Township Board held on (date), adoption of the foregoing ordinance was moved by (insert name) and supported by (insert name).

Voting for: _____

Voting against: _____

The supervisor declared the ordinance adopted.

Supervisor _____

Clerk _____

Certification

The foregoing is a true copy of Ordinance No. ____ which was enacted by the Colfax Township Board at a regular meeting held on (insert date).

Clerk _____

