

**WATERVLIET CHARTER TOWNSHIP
PLANNING COMMISSION
REGULAR MEETING AND PUBLIC HEARINGS
MINUTES
OCTOBER 1, 2019**

Present: Colleen Curtis, Joseph Stepich, Deanna Heminger, Kevin Schuhknecht, Scott McKee, Glen Giannetti

Also Present: Michael Abdul, Joe Arnt, Brad Burkett, John Gibson, Shirley Churchill, Dennis Churchill, Dan Hutchins, Cheryl Hutchins, Thomas Scheid, Mike White, Elaine White, Craig Christian,

Chairman Schuhknecht called the meeting to order at 2:00 p.m.

Roll Call was taken.

The minutes of the September 3, 2019 meeting were read. D. Heminger made a motion to approve the minutes as read. C. Curtis seconded and the motion carried unanimously.

At 2:05 p.m. K. Schuhknecht entertained a motion to close out of the regular meeting and enter the scheduled public hearing for the applied for special land use permit at 3801 M-140 for the location of a medical marihuana provisioning facility. J. Stepich made a motion to close out of regular session and enter into the public hearing. C. Curtis seconded and the motion carried. The public hearing was opened at 2:05 p.m.

Discussion opened with S. Churchill inquiring if the special land use permit applicant needs a license in order to operate. It was explained that even if the special land use permit is issued by the Township no operations can take place until a license is procured from the Township and that cannot be issued until a license is issued by the State of Michigan. She then asked what other locations are being applied for. It was explained that, outside of the 3801 M-140 location (Mill Creek Charlie's), one was being applied for a location in the strip mall on Arnt Boulevard and, it is anticipated, that another application should be forthcoming for a location on Red Arrow Hwy. near the industrial park and another for a location at 3626 M-140 which is immediately south of Interstate 94 on the west side of the road. S. Churchill questioned why so many provisioning facilities need to be located in such a close proximity to each other. J. Stepich stated that those are the locations the applicants wanted and that would best suit their needs. Churchill then asked if the location could be turned into a dispensary, referencing a facility that would be permitted to sell recreational marihuana. She was told that Watervliet Township, through the adoption of an ordinance, formally "opted-out" of permitting any recreational marihuana facilities within the corporate limits of the township. That, coupled with a

state mandate that prohibits the combination of medical marihuana and recreational marihuana facilities at the same location. S. Churchill then asked if all of Mill Creek Charlie's will be used for the medical marihuana facility. She was told yes. She then asked how will these facilities be policed. J. Stepich replied that they will be monitored by the police and, that by state law, law enforcement will be allowed to enter any medical marihuana facility at any time for any reason to inspect the operation. D. Heminger stated that in January of this year the Planning Commissioners inspected a provisioning facility and grow operation in the city of Bangor. She noted that during that tour it was learned that the State's mandates are extensive, such as where cameras are placed and how many are required.

S. Churchill then stated that she was opposed to a dispensary. It was reiterated that Watervliet Township had formally prohibited any recreational facilities. D. Churchill asked what the hours of operation would be. J. Stepich stated that he was not familiar with any hours of operation. S. Churchill asked what the Township was getting (from a financial standpoint) out of permitting this type of establishment. She was told that outside of the usual property taxes through assessments, the Township receives \$5,000 annually through a licensing fee. S. Churchill then asked the Commission; "Why would you be doing this for just five thousand dollars?" J. Stepich replied, to bring businesses and revenues into the community. An audience member inquired if an increased police presence would be provided stating that, in the past, several business were robbed and the perpetrators always fled into the Aspengren Subdivision where he resides. He added that police patrols in that part of town was "almost nonexistent." C. Christian told the Commission that he owns the Frosty Boy restaurant which is almost directly across the street from the proposed location. He stated that he has always seen a high police presence in the area. J. Stepich said that he was confident that, if needed, local law enforcement would be committed to increased patrols.

M. White, addressing the Commission, stated that he was not opposed to medical marihuana but was not in favor of loosing the restaurant and further voiced his opinion of how essential it was. D. Churchill inquired about the state requirements for receiving a license for such a facility. B. Burkett, who plans to open a provisioning facility in the township, told the audience that the vetting process at the state level is quite extensive which includes a thorough background check of all applicants. J. Stepich added that, on top of the state requirements, the Township has its own qualification process coupled with the requirement of procuring a special land use permit for each and every facility. With there being no further comment from the audience, J. Stepich made a motion to adjourn the public hearing and re-enter the regular meeting. K. Schuhknecht seconded and the motion carried unanimously.

The first scheduled public hearing was adjourned at 2:28 p.m.

At 2:35 K. Schuhknecht entertained a motion to, again, close out of the regular meeting and open the seconded scheduled public hearing for the request of a special land use permit for a medical marihuana provisioning facility located at 8277 Arnt Blvd. D. Heminger made a motion to close out of regular session and open the public hearing. C. Curtis seconded and the motion carried.

The second scheduled public hearing opened at 2:36 p.m.

E. White began discussion by asking if the two facilities proposed meet the distance requirements from neighboring residential properties. She was told that the facility slated for 3801 M-140 does, but the facility proposed for 8277 Arnt Blvd. does not. It was explained that the site plan submitted to the township by the developer shows a distance from the north side of the building to the south property line of the Aspengren Subdivision of only 93 feet, 3 inches; which is contrary to the established distance requirement in the Township's Medical Marihuana Facilities Ordinance of 100 feet. J. Arnt stated that if the distance is measured to the edge of a utility easement that straddles the property line between the strip mall and the subdivision, another 10 feet is added making the setback from the structure proposed to hold the facility 103 feet. J. Stepich replied that the residential property line is obviously established and stated that using the edge of an easement to establish the boundary of a required setback would be unorthodox. M. White told the Commission that, despite that fact, it would be a better location for that application than M-140. An audience member asked why the township would permit so many provisioning facilities to be able to locate so close to a residential development. J. Stepich explained that provisioning centers can, by ordinance, only locate in the Commercial zone and, when viewing the zoning map and taking into consideration the fact that within that zone they must maintain a setback of 100 feet from residential property; "There are very few locations that meet that criteria."

With no further questions or comments from the audience, C. Curtis made a motion to adjourn the public hearing. K. Schuhknecht seconded and the motion carried unanimously. The public hearing was closed at 2:51 p.m.

The Commission addressed an added item to the agenda. Zoning Administrator R. Lohr reported that another developer had submitted an application for a special land use permit for a provisioning center just minutes prior to the opening of today's Planning Commission meeting and that they wished to have their public hearing scheduled for the November regular meeting. C. Curtis made a motion to schedule a public hearing for the location of a medical marihuana provisioning center at 3626 M-140 by MJA Enterprises for Tuesday November 5, 2019 at 2:05 p.m.

Returning to deliberation of the first of the two public hearings conducted, the Commissioners agreed that the information submitted by BRT Capital for a special land use permit for the location at 3801 M-140 was complete, accurate and met all the requirements for zoning and the Township's Medical Marihuana Facilities Ordinance and, as such, C. Curtis made a motion to recommend approval of the Special Land Use Permit application for a provisioning center facility to the Watervliet Charter Township Board. S. McKee noted that the location currently possess a dwelling above the ground level structure and inquired if that dwelling could still be utilized. He was told that the Medical Marihuana Facilities Ordinance forbids any living quarters in a provisioning center so, therefore, it could not. With no further discussion, a roll call vote was taken

and the results are as follows: S. McKee, yea; C. Curtis, yea; D. Heminger, yea; G. Giannetti, yea; J. Stepich, yea; K. Schuhknecht, yea. Motion carried unanimously. The Commission then turned its attention to the application for a special land use permit for a provisioning center with a location at 8277 Arnt Blvd. It was shown on the site plan submitted by J. Arnt that the ordinance mandated distance from the closest side of the structure containing the provisioning facility to the nearest property line with residential use was 93 feet 3 inches and not at least 100 feet. D. Heminger stated that she would like the Commission to get a legal opinion from Township legal counsel. R. Lohr stated that the Township at one time in the past used the far side of a platted road end on Paw Paw Lake for room to meet a setback requirement. J. Stepich stated that he was in favor of obtaining a legal opinion, as requested, but did not think an easement would work. He stated that using the far side of a platted public road for residential use is much different than a commercial provisioning center. B. Burkett brought up what one audience member stated about it being a preferred location. Stepich retorted that it would be, if it had met setbacks. Stepich continued, speaking to Arnt and Burkett, that throughout the process of adopting the Facilities Ordinance both of them were at many of the meetings and public hearings and noted that they offered no opinion or resistance to the prospect of a 100 foot separation rule and, at the time, they were planning to build a new structure on Arnt Blvd between the hotel and Burger King, summing; "What happened to that?" B. Burkett simply replied; "There was an oversight on our part." With the Commission agreeing to postpone further discussion on the matter pending a legal opinion and with no further business to come before them, J. Stepich made a motion to adjourn. C. Curtis seconded and the motion carried.

The meeting was adjourned at 3:20 p.m.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Robert Lohr", with a long horizontal line extending to the right.

Robert Lohr
Zoning Administrator