

Minutes:
Watersmeet Township Planning Commission

Regular Meeting of March 12, 2014

Watersmeet High School Library

- 1) Meeting called to order by Chairman Roy D'Antonio at 6:30 PM.
- 2) Pledge of Allegiance was given.
- 3) **Roll Call:** Members Present: Chairman D'Antonio, Vice Chairman Dave Sherrill, Secretary John Neumann, Township Board Liaison-Rich Henriksen, Pete Peterson, Jeff Wasson, John Cestkowski, and Larry Potter were present. Jeff Zelinski was absent. Several community members were present.
- 4) **Approval of Agenda/Changes:** The Zoning Administrator, Dave Neumann, requested an addition to the agenda concerning Special Use Permits. A motion was made by Jeff Wasson to accept the agenda and addition. Second by John Cestkowski. Unanimous yes vote to approve agenda.
- 5) **Zoning Administration Report:** David Neumann reported that there was nothing new to report. There were several phone calls with questions but no applications.
- 6) **Discuss Medical Marijuana Dispensary Ordinance, Township Attorney:** Chairman D'Antonio introduced Attorney Michael Pope to the Planning Commission and a question and answer discussion was initiated. Chairman D'Antonio asked the first question and wanted Mr. Pope to state why Watersmeet Township needed a Medical Marijuana Ordinance (MMO) as questions about it have been raised. He stated that he recommended to all municipalities he represents that they have some form of ordinance to regulate that activity within their Township. It is in the best interest of the people in the Township to have some say in the uses of these facilities. It is within the Township's rights to regulate these activities and without an ordinance people would be free to do these uses without any regulation. The second question from Chairman D'Antonio was whether or not dispensaries were legal. Mr. Pope stated the answer is yes and no. He stated that within the Medical Marijuana Act itself, dispensaries are not allowed. The McQueen case was explained where the court struck down the patient-to-patient transfer of Medical Marijuana. Dave Sherrill wanted to know if we had to change the language of our ordinance where it only comes into effect once a dispensary would be allowed? Mr. Pope said no, what we are trying to do with the ordinance is define clubhouse and also define situations that would be akin to a dispensary and what would be acceptable in other States. Right now the Act does not address the issue of caregivers buying a business downtown, providing their service or opening it up as any other storefront activity. What we are trying to do is zone this activity within the Township. Chairman D'Antonio asked which other Townships have a MMO? Mr. Pope stated he

may not catch them all but he said Bessemer has one, Wakefield, Haight, and Stannard townships have an ordinance. Ironwood Township is discussing an ordinance. Secretary Neumann asked if the recent Court decisions would require changes to our ordinance? Mr. Pope stated no. He said that the Wakefield decision in February is different than what we are doing. We are not usurping State law as in that case. He also stated that conservative members of the Michigan House and Senate are looking at making significant changes to the Act. One of the proposed changes would allow municipalities to prohibit all Medical Marijuana activities. Chairman D'Antonio asked what a licensed, registered caregiver could do in their own home concerning distributing Medical Marijuana to their patients right now? Mr. Pope stated that without an ordinance there is nothing in our Zoning Ordinance that could be enforced. There was discussion about changes the PC needed answers for from the last PC meeting. Did the Feb. 6th Court case have any bearing on the 1000 ft limitation in the ordinance? Answer is no. Is the penalty portion of the ordinance legal? Answer is yes. Mr. Pope made the comment that we couldn't zone to prohibit. It was stated and discussed that under 7.16B D. iii the line will have to be removed because it creates too much of a restriction the way our Township is zoned. As a side note, Mr. Pope stated that other municipalities have created new zones to take into account Medical Marijuana distribution locations. Dave Sherrill made a motion to remove 7.16B D. iii from the Medical Marijuana Ordinance and re-number following points and then approve the ordinance, Second by Pete Peterson, Roll call vote; Rich Henriksen, Yes, Pete Peterson, Yes, Larry Potter, Yes, Jeff Wasson, Yes, John Cestkowski, Yes, John Neumann, Yes, Dave Sherrill, Yes, Roy D'Antonio, Yes. Motion Carried.

- 7) **New Business, Special Use Permits;** Zoning Administrator Dave Neumann provided information he had developed to clarify responsibilities concerning Special Use Permits. Supervisor Rogers stated that Ken Wendt had stopped by his office and asked if information concerning invasive species could be included in the Special Use Permits Application? Within the information Mr. Neumann provided, included was a suggested change in costs for Special Use Permits. There was also a yearly renewal fee that was suggested to be added. There was a discussion concerning these fees and it was decided that the sub-committee would take these recommendations and include them in their discussions. It was thought that because of the septic system requirements the PC has for a Special Use Permit the current costs might be too high. Dave Sherrill made a motion that on the Responsibilities sheet Mr. Neumann handed out, "Special Use Permit" should be added to 1. in the second line between "the" and "application" and that this information should be included on the Special Use Permit Application. Second by Rich Henriksen, All in favor. Motion carried.
- 8) **Public Comments:** Julie Mathiesen made a recommendation that more than one application fee could be considered and a matrix developed because resorts should be treated differently than a single-family dwelling. She questioned whether or not an excavator would be qualified to inspect a septic system and recommended that the individual should go to the Health Department first to see if the records are in place and

if there aren't records available then an inspection should be required. Jack Earhart stated that he thought it was a good thing to have Special Use Permits renewed annually. Craig Hesse stated that he strongly recommends using the Health Department to do inspections for Special Use Permits as he had used a septic company that said his system was fine and it turned out it wasn't. Jack also asked about a property Dan Waite bought and wondered if he was issued a Special Use Permit? Chairman D'Antonio said that a permit wasn't issued and Waite was required to bring in a completed inspection from the Health Department saying that it would support the amount of people he wanted to rent to. Jack was concerned and would like to be informed when this permit is issued so his appeal can be filed with the ZBA. It was determined that the Chairman of the PC signs the Special Use Permit for the Waite property but this application must come back to the PC for approval to determine if the conditions were met. There was a discussion concerning whether a change in the number of people using the Waite property could cause a permit to be issued. It was determined that no permit would be issued without the PC hearing the request for a Special Use Permit again. Mr. Pope recommended that the Chairman of the PC should send a letter to Mr. Waite, carbon copy the ZBA and explain that a permit has not been issued and he does not have a conditional use permit right now. Julie asked if another Public Hearing would be required for the Waite property and Mr. Pope said no. Mr. Pope was asked if there were any other comments on Special Use Permits. He stated that he and Mr. Neumann discussed the changes and he saw no legal problem with the proposed changes. Steve Roth asked if the MMO rewording restricts the property that Mr. Ward has recently purchased. There was no real consensus on the question. Mr. Ward had made the comment that the PC had told him to buy his current property after the PC denied the property he had previously intended to purchase. Chairman D'Antonio stated this was not true. Mr. Ward said he was sorry for saying this incorrectly. Mr. Ward said he just wanted to get along and that the current law allows caregivers to provide to their patients and to group. Mr. Pope said the law doesn't prohibit it.

- 9) **Adjournment:** Motion to adjourn at 7:40 PM by Rich Henriksen, 2nd by Dave Sherrill. Unanimous yes vote.

Respectfully submitted by,

John Neumann – Planning Commission Secretary

Approved 4/9/2014