

RAY TOWNSHIP BOARD OF TRUSTEES
MEETING MINUTES
TUESDAY, AUGUST 17, 2021 AT 7:00 P.M.
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Location: Ray Township Hall
64255 Wolcott, Ray, MI 48096

Present: Joe Jarzyna, Supervisor
Lori Lascoe, Clerk
Betsy Bart, Treasurer
Betty Grader, Trustee
Doug Stier, Trustee

Absent: None

Also Present: Bob Seibert, Township Attorney
16 residents were in attendance.

1. CALL TO ORDER, PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES & ROLL CALL.
Supervisor Jarzyna called the meeting to order at 7:00 p.m. The Pledge of Allegiance was recited. Clerk Lascoe called roll; Jarzyna, Lascoe, Bart, Grader and Stier were present.
2. APPROVAL OF AGENDA
Clerk Lascoe added item 5, August 12, 2021 special meeting minutes to agenda and 8h, Senior report.
MOTION by Bart supported by Grader to approve the agenda as amended.
MOTION carried.
3. CORRESPONDENCES: None
4. PUBLIC COMMENTS: - For Agenda Items
Supervisor Jarzyna asked if anyone would like to speak regarding the agenda items to come to the podium.

Mark Philips, 24601 31 Mile Road, stated he strongly opposes the proposed amendment it is an unreasonable restriction on a lawful activity.

James Zensen, 22641 29 Mile Road, stated he strongly opposes the proposed amendment it is an unreasonable restriction on a lawful activity.

Victor Zagorski, 67545 Hartway stated he strongly opposes the proposed amendment it is an unreasonable restriction on a lawful activity.

Sylvia Medley, 66500 Wolcott states she strongly opposes the proposed amendment it is an unreasonable restriction on a lawful activity.
5. APPROVAL OF MINUTES – July 20,2021 & August 12, 2021
MOTION by Grader supported by Bart to approve the minutes from July 20, 2021 and August 12, 2021 as submitted.
MOTION carried.
6. APPROVAL OF BILLS LIST
Treasurer Bart added the annual insurance bill to the bills list through August 11, 2021 with the grand total at \$154,091.57.

MOTION by Stier supported by Lascoe to approve the bills list through August 11, 2021 totaling \$154,091.57.
MOTION carried.

7. OFFICER'S REPORTS

- a. Supervisor Jarzyna reported he spoke with the library about the lease agreement and will be setting up a meeting between the Library Board and the Township Board probably in September.
- b. Clerk Lascoe thanked the election inspectors for working on the special primary election on August 3, 2021. She stated the voter turnout was 19.6% on election day. She stated 628 absentee ballots were issued and 437 were returned by election day.

Lascoe reported the Planning Commission had a meeting on August 10, 2021 for a special land use where the applicant would like to have outside storage on property zoned R-1. She explained the applicant changed the site plan and all of the departments were not able to review the plan. Further stated the item was tabled to October 12, 2021.

Lascoe stated the Planning Commission adopted the Five Year Master Plan Review Resolution at the regular meeting on August 10, 2021

- c. Treasurer Bart stated the summer taxes are due by September 14, 2021. The Treasurer's office will have extended hours on September 14, 2021 from 8:30 a.m. to 5:00 p.m.
- d. Trustees Grader had nothing to report.

Stier thanked Clerk Lascoe for being in attendance on her birthday. The board wished Clerk Lascoe a Happy Birthday.

MOTION by Grader supported by Stier to receive and file the Officers Reports.

MOTION carried.

8. DEPARTMENT REQUEST/REPORTS

- a. Assessing Report- no report provided.
- b. Budget Report
- c. Building Department
- d. Fire Department Report
- e. Library Report- no report provided.
- f. SMART/Richmond Lenox EMS Report
- g. Senior Report

Jarzyna reviewed the monthly reports and stated they are available if anyone would like a copy.

MOTION by Lascoe supported by Bart to receive and file the July 2021 Department Reports.

MOTION carried.

9. UNFINISHED BUSINESS

- a. Recreation events

Supervisor Jarzyna stated the recreation committee is looking forward to planning the Trunk or Treat. He stated the committee would like to set the start time for Trunk or Treat a little earlier at 6:00 p.m. He stated a date has not been set yet, but it is usually the Saturday before Halloween.

Lascoe stated October 23, 2021 is the Saturday before Halloween.

MOTION by Lascoe supported by Bart for the Recreation Committee to plan the fall event.

MOTION carried.

Grader stated she would like all the events listed in the Senior Newsletter to be included in the Township Fall Newsletter.

Jarzyna stated the handout can be picked up when residents are paying their taxes.

Lascoe stated some of the senior events have restrictions on the number of participants due to Covid.

Grader commented the events with restricted numbers would require registration. Further stated she would like as many senior events as possible be included in the Township Newsletter.

10. NEW BUSINESS

a. Planning Commission recommendation to Adopt Amendment to the Zoning Ordinance No.36; Section 211 – Medical Marijuana Caregivers.

Supervisor Jarzyna stated a special meeting was held and the Township has heard from various residents many not in favor of the amendment. He stated there are residents who have stated they are in favor of the amendment.

Stier asked Bob Seibert, Township Attorney what the neighboring communities are doing?

Bob Seibert, Township Attorney stated Shelby and Washington Township has moved caregivers into the industrial district and Chesterfield Township has the amendment to move caretakers into industrial in front of the Planning Commission at this time.

Stier asked what is the penalty that the residents who spoke of under public comments.

Mr. Seibert stated there is not a penalty. He advised the Township has the right to designate where caregiver operations can be located and it is not unreasonable.

Mr. Seibert stated until April of 2020 the Michigan Court of Appeals upheld the decision of the lower court in the case of DeRuiter -v- Township of Byron, stating a municipality could not regulate land use pertaining to caregivers. In late April 2020 the Michigan Supreme Court ruled that a municipality does have the inherent authority to regulate land use. In December of 2020 the Michigan Court of Appeals decided in three other cases specific to caregivers in residential and industrial, that municipalities can regulate the location. The Michigan Court of Appeals decisions totally upholds what you are doing. He stated the decision is up to the board.

Jarzyna asked when the amendment would take effect?

Mr. Siebert explained the notice of amendment would have to be published within fifteen days and would take effect seven days after the publication.

Jarzyna stated a concern is some of the caregivers have a significant investment, but none of them have come in to go through the process of becoming compliant.

Mr. Seibert stated the board could publish and revise the effective date or the medical marijuana caregivers amendment the notice of amendment must be published within fifteen days of being adopted.

Grader asked if the marijuana crop is harvested like regular crops in the fall.

Jarzyna stated in October.

Mr. Seibert stated as a practical matter and giving them an opportunity, the fifteen days plus the seven days takes you to mid-September, no enforcement action you could take by mid-October, the courts don't move that fast.

Grader stated it would give them time to harvest the crop.

Mr. Seibert stated even if a citation is issued the court would not hear it before Thanksgiving or Christmas. He explained if the resident becomes compliant with the ordinance than the ticket would be dismissed.

MOTION by Grader supported by Stier to accept the Planning Commissions recommendation to Adopt the Amendment to Ray Township Zoning Ordinance 36, Section 211 – Medical Marijuana Caregivers.

**RAY TOWNSHIP
MACOMB COUNTY, MICHIGAN**

ORDINANCE NO. 36

AMENDMENT OF THE RAY TOWNSHIP ZONING ORDINANCE

TITLE

AN ORDINANCE amending the Ray Township Zoning Ordinance, being Ordinance No. 36, as amended, to provide that medical marijuana caregivers may operate in the I-1 Industrial Zoning District, establish regulations for such operations and repeal any and all Ordinances and/or Resolutions in conflict therewith.

**THE TOWNSHIP BOARD OF THE TOWNSHIP OF RAY,
MACOMB COUNTY, MICHIGAN, ORDAINS:**

SECTION 1 - AMENDMENTS

Subsection 1.1. Section 3001 (Definitions) shall have the following definitions added thereto:

MMMA. The Michigan Medical Marijuana Act, MCL 333.26421 et seq., as amended.

Registered primary care giver. A person meeting the definition of caregiver under the MMMA and who has been issued and possesses a registry identification card and possesses the documentation that constitutes a valid registry under the MMMA.

Marijuana. Marijuana means that term as defined in Section 7106 of the Public Health Code, 1978 PA 368, MCL 333.7106.

Medical use. The acquisition, possession, cultivation, manufacture, extraction, use, internal possession, delivery, transfer, transportation of marijuana, marijuana infused products or paraphernalia relating to the administration of marijuana to treat or alleviate a registered qualifying patient's debilitating medical condition, or symptoms associated with the debilitating medical condition, as further defined under the MMMA.

Registered qualifying patient. A person who has been diagnosed by a physician as having a debilitating medical condition and who has been issued and possesses a registry identification card which is valid under the MMMA, as amended.

Enclosed locked facility. A closet, room or other comparable stationary and fully enclosed area equipped with secure locks or other functioning security devices that permit access only by a registered primary care giver, or registered qualifying patient.

Transfer. To convey, sell, give, deliver or allow the possession by another person or entity.

Subsection 1.2. Section 211 (Medical Marijuana Uses), Paragraph A (Intent) shall have the following added thereto:

6. This Section is intended to protect and preserve the public health, safety and welfare of the community, the quality of life and the stability of property values including but not limited to the value of residential, commercial, and industrial districts.

7. This Section is intended to prohibit a caregiver's cultivation of marijuana in residential and commercial districts in order to protect and preserve peace, order, property and safety of persons as a result of issues associated with the growth of marijuana in residential and commercial districts including problems with insufficient or improper electrical supply, problems with ventilation leading to mold, offensive odors, or other health hazards and other hazards which are associated with the cultivation of marijuana in residential and commercial settings and which is otherwise often difficult to detect and regulate.

Subsection 1.3. Section 211 (Medical Marijuana Uses), Paragraph C (Registered Primary Caregiver) shall be repealed and the following substituted therefor:

C. Registered Primary Caregiver Operations. Any registered primary caregiver may acquire, possess, cultivate, manufacture, transfer, or transport medical marijuana compliant with the MMMA. Cultivation of medical Marijuana by a registered primary care giver as defined under the MMMA, is prohibited in any zoning district, except the I-1 Industrial District; and further subject to the following:

1. A registered primary caregiver may only grow, cultivate, manufacture, process, and store marijuana on a parcel in the I-1 Industrial District and in an enclosed locked facility.

The registered primary caregiver is responsible for utilizing an enclosed locked facility upon the industrial zoned parcel, compliant with the MMMA for cultivating, growing, manufacturing, processing, and storing marijuana for medical use only. The enclosed locked facility utilized by the primary registered caregiver, shall provide separation by fully enclosed walls or fences, for plants that are grown on behalf of each registered qualifying patient, on whose behalf the registered primary caregiver is furnishing marijuana for medical use, so it is accessible only to the primary caregiver and registered patient. The processing and storing of medical marijuana is permitted only by registered primary caregivers and their registered qualifying patients. The registered primary caregiver may grow up to a maximum of 72 plants, but no more than 12 plants for each individual registered qualifying patient as set forth in the MMMA.

2. The registered primary caregiver is responsible for providing the security necessary to assure that the growing marijuana and usable product are accessible only by the primary registered caregiver and/or registered qualifying patients who are registered to the registered primary caregiver through the state registration system. The security must fully comply with the provisions of the MMMA, and Administrative Rules promulgated by the State of Michigan.
3. Each parcel upon which enclosed locked facilities with marijuana for medical use are present, must be a minimum of 500 feet from any parcel upon which any school, school facility, child care facility, place of worship, or public park is situated. Measurement of the buffer shall be from property line to property line.
4. A Certificate of Occupancy is required and must be obtained from the Township before the presence of marijuana is allowed on the parcel.
5. The consumption, transfer, or use of marijuana, in public, or a place opened to the public is prohibited.
6. No person other than the primary caregiver shall be engaged or involved in the growing, processing, dispensing, delivering or handling of medical marijuana except to the extent that the primary caregiver lawfully transfers medical marijuana to a qualifying patient to whom the primary caregiver is linked through the state registration system.

D. Certificate Required. The operations of a registered primary caregiver within the I-1 Industrial District shall only be permitted upon the issuance of a *Zoning Certificate to Cultivate Medical Marijuana*. Such certificate is required to be renewed annually and is subject to inspections by the building and fire department as well as the Macomb County Sheriff's Department for compliance with the provisions of this Ordinance and for the issuance of the certificate and its renewals.

1. A complete and accurate application shall be submitted on a form provided by the Township along with submission of the application fee. The application fee and renewal fee shall be in an amount determined by resolution of the Township Board.
2. The certificate application shall include the name and address of the applicant; the address of the property; a copy of the current state registration card issued to the primary caregiver; a full description of the nature and types of equipment which will be used in marijuana cultivation and processing; and a description of the location at which the use will take place. The Township Supervisor, Building Official and Planning Consultant shall review the application to determine compliance with this Ordinance, the MMMA and any applicable Michigan Regulatory Agency General Rules. A certificate shall be granted if the application demonstrates compliance with the Zoning Ordinance, the MMMA and Administrative Rules.
3. The use shall be maintained in compliance with the requirements of this Ordinance, the MMMA and Administrative Rules promulgated by the State of Michigan. Any departure shall be grounds to revoke the certificate and take other lawful action. If a certificate is revoked, the applicant shall not engage in the activity unless and until a new Zoning Authorization to Cultivate Medical Marijuana certificate is granted.
4. Information treated as confidential under the MMMA, including the primary caregiver registry identification card and any information about qualifying patients associated with the primary caregiver, which is received by the Township, shall be maintained separately from public information submitted in support of the application. It shall not be distributed or otherwise made available to the public and shall not be subject to disclosure under the Freedom of Information Act.

Subsection 1.4. Section 1601 (Principle Uses Permitted) shall have the following added thereto:

H. Registered Primary Caregivers.

SECTION 2. REPEAL OF CONFLICTING PROVISIONS

All resolutions, ordinances or parts thereof in conflict with the provisions of this Ordinance are to the extent of such conflict hereby repealed.

SECTION 3. SEVERABILITY

If any section, paragraph, clause or provision of this Ordinance is for any reason held to be invalid or unconstitutional, the invalidity or unconstitutionality of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

SECTION 4. PUBLICATION

A Notice of Ordinance Adoption setting forth the regulatory effect of the Ordinance Amendment or the text of the Ordinance Amendment shall be published in a newspaper of general circulation in the Township of Ray, within fifteen (15) days after its adoption.

SECTION 5. EFFECTIVE DATE

This Ordinance Amendment shall take effect seven (7) days after publication as set forth in Section 4.

**FOR THIS MOTION: Yes: Grader, Stier, Lascoe, Bart, Jarzyna
 No: None**

MOTION carried.

b. Reappointment's to Recreation Committee

Supervisor Jarzyna recommended re-appointing Susan Lain, Kathy Reidt and Sarah Parr to the Recreation Committee for two years.

MOTION by Stier supported by Lascoe to accept the Supervisors recommendation and re- appoint Susan Lain, Kathy Reidt and Sarah Parr to the Recreation Committee for two years.

MOTION carried.

c. Request to attend Michigan Municipal Treasurers Association Fall Conference.

Treasurer Bart requested to attend the fall conference of the Michigan Municipal Treasurers Association from September 19-22, 2021 in Kalamazoo, Michigan.

MOTION by Stier supported by Lascoe to approve the Treasurers Fall Conference cost of \$359.00 plus cost of lodging and mileage for Treasurer Bart to attend conference September 19, 2021 through September 22, 2021.

MOTION carried.

d. Request to attend Michigan Association of Municipal Clerks Free Education Day & Clerking 101.

Clerk Lascoe requested to attend the free education day on September 1st and Clerking 101 on September 2, 2021 in Frankenmuth, Michigan. She stated the lodging would be cheaper than paying two days of mileage.

MOTION by Stier supported by Bart to approve Clerk Lascoe to attend at Clerks Free Education Day and Clerking 101 on September 1 & 2, 2021 plus cost of lodging and mileage.

MOTION carried.

e. SEMCOG 50/50 match program for spraying of phragmites

Jarzyna explained the spraying of the phragmites for the Township will be \$5,362.84 so the portion out of pocket would be \$2,681.41 plus ten percent for CISMA. He stated the spraying will take place the week of August 30, 2021.

MOTION by Stier supported by Lascoe to allow Supervisor Jarzyna to spend \$2,950.41 for phragmite spraying.

MOTION carried.

f. Request to advertise for senior fitness instructor.

Lascoe stated she spoke with the previous instructor and she is no longer available. Further stated exercise use to be twice a week on Tuesday and Thursdays but was reduced to one day since the instructor was not available.

Grader asked how many days a week is an instructor needed.

Jarzyna stated at least one.

MOTION by Grader supported by Lascoe to advertise for senior fitness instructor.

MOTION carried.

g. Resolution of Endorsement of the Planning Commission Five Year Master Plan Review.

Lascoe stated the Planning Commission has adopted the Resolution for the Master Plan Review and at this time the Board would be supporting the Endorsement of the Planning Commission for the five year review of the Master Plan. Further explained the Township Planner recommended the Board adopt the resolution because the census has not been completed. Further stated she recently saw the Census in the newspaper.

Grader asked if this matter should be tabled?

MOTION by Grader supported by Bart to table Resolution for further conversation with the planner.

MOTION carried.

11. PUBLIC COMMENTS

Mark Philips, 24601 31 Mile Road, I just got off the phone with my partners, we are asking for peace. I would request the board grandfather in the caregiver operations already established in the Township.

Jarzyna stated, in April when the Planning Commission reviewed everyone was told all you needed was a special land use home occupation 2, everyone in this room that was at the meeting knew this. No one applied.

Mark Philips stated the board just passed the amendment to prevent them.

Seibert stated and SLU is out the window for them to file, in April they could have submitted the application.

Mark Philips stated he is only here to defend the ones who are here, where is their justice?

12. ADJOURNMENT

MOTION by Stier supported by Grader to adjourn the meeting at 7:44 p.m.

MOTION carried.

Joe Jarzyna, Supervisor

Lori R. Lascoe, MiPMC
Clerk

Date

Lisa Hall, Recording Secretary