

**MINUTES
PLANNING BOARD
TOWNSHIP OF CHATHAM
MARCH 19, 2018**

Mr. Jack Hurring called the Regular Meeting of the Planning Board to order at 7:31 P.M.

Adequate notice of the meetings of the Planning Board of the Township of Chatham was given as required by the Open Public Meetings Act as follows: Notice in the form of a Resolution setting forth the schedule of meetings for the year 2018, and January, 2019 was published in the *Chatham Courier* and the *Morris County Daily Record*, a copy filed with the Municipal Clerk and a copy placed on the bulletin board in the main hallway of the Municipal Building.

Roll Call

Answering present to the roll call were Mr. Hurring, Mr. Brower, Mr. Franko, Mr. Nelson, Mr. Travisano and Mr. Tarasca. Ms. Hagner, Mr. Ciccarone, Mr. Sullivan and Mr. Krawiec were absent. Mrs. Swartz arrived a few minutes late.

Also present was Board Attorney Amanda Wolfe and Township Planner Frank Banisch.

Mr. Franko made a motion to excuse the absences from this meeting. Mr. Travisano seconded the motion, which carried unanimously.

Approval of Minutes

Mr. Franko moved to approve the February 26, 2018 minutes. Mr. Nelson seconded the motion, which carried unanimously.

Master Plan Consistency Review

Ordinance 2018-07 Prohibiting Marijuana Cultivation, Production, Manufacture and Sale

Mr. Hurring said that the Planning Board has been asked to review Ordinance 2018-07 for its consistency with the Master Plan, and he asked Mr. Banisch to present his report on the matter.

Mr. Banisch said that due to potentially changing legislation, many municipalities are taking action to prohibit the cultivation, production, manufacture and sale of marijuana. The Planning Board has been asked to determine if the ordinance is or is not inconsistent with the Master Plan, and he commented on the concept of a consistency review.

Mr. Franko asked if there are any activities specifically prohibited by the Master Plan. Mr. Franko also asked how the zoning regulations will be enforced if someone is growing a single plant in their home, and if the zoning officer will be issuing violations.

Mr. Travisano said that several municipalities are trying to proactively respond to the potential legalization of marijuana.

Mr. Banisch responded to the question about specific prohibitions, and said that there are certain prohibitions on pipelines. Mr. Franko noted that pipelines are very different issue than agricultural products.

Mr. Hurring said that if marijuana is legalized by the State, having this ordinance in effect would prevent the opening of a marijuana shop in the Township. Mr. Franko said that his concerns are how cultivation and manufacture will be enforced.

Mr. Travisano asked if land use ordinances are adopted considering protection of public health, safety and welfare, and if the State legalizes marijuana as not being a violation of public health, safety and welfare, would the ordinance be deemed not inconsistent. Mr. Banisch said that there is not anything in the Master Plan that would make the proposed ordinance inconsistent therewith.

Mr. Franko asked how the prohibition on cultivation would be enforced. Mr. Banisch said that home-grown rights are debatable. Mr. Travisano said that the State legislation may allow for a certain number of plants to be grown for personal use.

Mr. Franko opined that the ordinance is a solution in search of a problem.

Mr. Hurring asked if other towns are adopting similar ordinances. Mr. Banisch said that he knows of two towns that have taken similar action, and Mr. Travisano said that he knows of at least a dozen such municipalities.

Mrs. Swartz asked if there is any provision in the potential State legislation that allows municipalities to opt out of legalization of marijuana.

Mr. Banisch said that there appears to be public opinion polls in favor of legalization of marijuana and legislative reluctance to do so. He also said that the Planning Board is tasked to render an opinion on the consistency of the ordinance with the Master Plan, and can also provide suggestions on the ordinance.

Mr. Brower compared the marijuana issue to liquor licenses in the Murray Hill section of New Providence, and he said that the Murray Hill Board of Governors prohibited liquor licenses within their section of town. He also said that he is opposed to the legalization of marijuana, and thinks that the Township should do what it can to prevent its use.

Mr. Travisano said that regarding the Board's charge to make a determination of the consistency of the ordinance with the Master Plan, he agrees with Mr. Banisch's assessment that the ordinance is not inconsistent.

Mr. Hurring asked about offering opinions regarding the ordinance. Mr. Franko suggested that the Planning Board advise the Township Committee that it is pursuing a route that will likely lead to further issues and further litigation. Mr. Banisch said that any opinions should be specific recommendations on the wording of the ordinance provisions can be forwarded to the Township Committee.

Mr. Brower made a motion to deem the ordinance not inconsistent with the Master Plan. Mr. Tarasca seconded the motion.

Roll Call: Ms. Hagner, Absent; Mr. Hurring, Nay; Mrs. Swartz, Aye; Mr. Brower, Aye; Mr. Ciccarone, Absent; Mr. Franko, Nay; Mr. Sullivan, Absent; Mr. Nelson, Aye; Mr. Travisano, Aye; Mr. Kraweic, Absent; Mr. Tarasca, Aye.

Mr. Hurring said that he voted against the motion because he would like to add advice to the Township Committee to reconsider the wording.

Mr. Tarasca noted that the zoning officer would need a reason to be in a house in order to spot a marijuana plant, and will not likely be out looking for them.

Mr. Brower noted a situation where a Borough resident was arrested for growing plants in his basement.

Mr. Travisano noted that there were no members of the public present.

Mr. Franko moved to adjourn at 8:12 PM. Mr. Nelson seconded the motion, which carried unanimously.

Gregory J. LaConte
Planning Board Recording Secretary