

# Minutes of Helena Township Planning Commission

January 04, 2024

Meeting called to order by Robinson at 5.03 P.M.

Opened with Pledge of Allegiance.

**Roll Call:**

Present:	Sue Moglovkin	Joe Bassil
	Gary Lockwood	Gordy Schafer
	Bonnie Robbins	Jim Gurr
	Mike Robinson	
Township officials present:	Bob Logee, Butch Peoples	
Absent:	None	

Motion to have Jim Gurr chair tonight’s meeting. Motion by Robbins, 2nd by Lockwood to appoint Gurr as chair for this public hearing. Motion carried (7,0)

**Approval of Agenda:** Motion by Lockwood, 2<sup>nd</sup> by Moglovkin as presented. Motion carried (7,0)

**Statement of Conflict of Interest:** None

**Approval of Minutes:** December 7, 2023 . As presented. Motion by Moglovkin, 2<sup>nd</sup> by Schafer

**Public Comment:** In attendance: 11 in meeting room, 26 thru Zoom link  
Gurr clarified this is for topics other than the public hearing on the master plan. The public will be given another opportunity to speak at the end of the meeting.  
Lockwood asked if the hand-written letter and other letters received earlier on short-term rentals would be included in this meeting as public comment. Robbins pointed out they had been included in record for the previous meetings when they were received. Suggestion they also be added to this record. Robbins will add the emails and letters about short-term rentals to this meeting record.

Discussion of a letter from resident concerning short-term rental next door to them in R1. Attendee identified herself as co-author of the letter. Schafer asked if they had contacted the owner or if they knew who the owner is. Resident said they have talked with someone who said they were the property manager and they have the owners’ names but they have not had a response, and issues haven’t been addressed. Rentals are shorter than the required 7 days. The renters park boat trailers in the middle of the alley. Robbins stated it is not up to the residents to enforce township code. Discussion among commissioners about letters and emails received and if they were on the same property. Robbins clarified there is more than one rental with complaints being made to the township.

Gurr read an email from Richard Rolfe asking for a link to the survey results discussed in recent meetings and where he can find master plan updates that reflect the survey findings or ordinances that have been updated to reflect the changes in the master plan. Gurr stated he thought this was in reference to previous plans and ordinances. Robbins will locate the electronic records and place them in the archives on the website and contact my Rolfe with a link to those records.

Paul Sak (Zoom) thanked the township for making the meeting accessible to those who were not able to attend in person. He asked what additional updates were being discussed as handouts and requested they be put on the website so they would be available for all to review. Robbins stated the material was suggested changes from legal counsel that had not been presented to the commission for discussion and placing them on the website would be inappropriate prior to the commission having a chance to discuss them at a meeting, They will be read as the commissioners review the document and the public will be able to comment on them before the final document will be adopted as the updated Master Plan. The goal will be to make any adjustments to this final draft tonight so it can be sent to the county for review. The public will be

able to comment as the meeting progresses to that point.

Peggy Dolane (Zoom) also thanked the township for making the meeting accessible. She saw a question asked in the chat about how we determine if a conflict of interest exists. Will the commission separate the master plan down by sections and declare any conflict of interest on those pieces if a member is a land owner who could profit from the section being discussed. Her second question was he also asked when the comment on the master plan would take place. Gurr explained we were currently in our regular meeting and after this public comment period was done we would close the meeting for the public hearing on the master plan review. She offered an example of sitting on the commission and owning property with RV use in R1. Gurr explained RV use in R1 pertained to the landowner being able to keep their personal RV on their property and was misinterpreted as allowing RV parks in R1. Dolane apologized for using that example but asked how the commission determines if a member has a conflict of interest. Gurr said he could give the simple definition of what constitutes a conflict of interest: If member stands to benefit from immediate financial gain for the member themselves or for their family it is a conflict of interest. The question is asked at every meeting and there has seldom been an incident of a member having a conflict of interest. We are all members of the township and in the long run someone could perceive a member had a conflict of interest. He assured the public there is no conflict of interest in the matters being discussed tonight.

Laura Wilcox (present) asked what ordinances Robbins was referring to on the short-term rental concerns. Robbins said there is a noise ordinance but it is very hard to enforce, we have the 7-day minimum language in the current zoning ordinance. The home next door to her is rented for weekends only after Labor Day which is in violation so there is abuse of the ordinance.

**Communications:** No additional communications.

**Meeting closed for Public Hearing on the five-year revisions on the master plan. 5:27 P.M.**

Chris Bzdok, Township legal counsel from Troposphere Legal in Traverse City, offered an overview of comments and suggestions the public had not seen. His suggestions were based on three things Robbins asked him to review that may need addressed in the zoning ordinance in the future. The public and commission are aware the master plan is the foundation for opening up the discussion of ordinance language or revision. One was on short-term rental which has already been discussed. One was agritourism and one was on mobile home parks. The question on mobile home parks was simply making sure the master plan and zoning ordinance are in compliance with any legal developments since the last review of the master plan and zoning ordinance. The question on the short-term rental was that while this has traditionally been a neighbor to neighbor enterprise for a long time obviously the market and conditions have changed so the question for the planning commission is whether there is a need to look into further regulation on this. Nothing he commented on in the master plan is to suggest what the outcome of that decision should be but simply to say if we are going to look into that is there a basis of health, safety, and welfare in the zoning to do that. On the agritourism/agribusiness the question is if that is something we want to promote and to what extent. If so what would we want it to be and what regulation would we want to look at. He added one other suggestion that he will get to in a second.

On agritourism/agribusiness for the public who have not had access to this information prior to the meeting on page 10 he suggested we add a bullet under the Farm Land section that reads:

*IV. To maintain both the economic value of agricultural land and the rural and residential character of agricultural areas, the Township should consider allowing by special use permit certain specified agribusiness and agritourism uses with appropriate regulations and conditions to limit their impact on the surrounding uses, rural character, the environment, and local roads and other infrastructure.*

Again, not telling the commission what the outcome should be but just give this suggestion to add to the master plan so it can be looked at moving forward. As an editorial comment he suggested we keep an eye on what is happening in Peninsula Township. That is the bleeding edge on the knife on some of those issue right now. It is an enormous controversy and there's a ton of resources being spent on those issues by both sides involved.

Under the mobile home parks section it is more of a compliance concern. There are state, federal, and local regulations and the question was are we in compliance. He didn't see anything in the zoning ordinance that indicates you are not but he suggests we continue to consider that if we want to make changes to this language. The language he suggested is on page 11 and reads:

*The Township should review its zoning regulations and update as needed to ensure compliance with state and federal laws governing manufactured housing and mobile home parks. This statement of objectives is not intended to promote the establishment of new recreational vehicle parks.*

There is reference to siting standards and parcel size. The laws states you can require a special use permit for a mobile home park but you cannot require a special use permit for a mobile home. This law applies to a park that would have multiple units.

Under short-term rental on page 11 he suggested adding the following to the third sentence: (suggestions in italic)  
While historically short-term rentals have occurred in Helena Township on a neighbor friendly basis, given the increase in commercial nature, scale and frequency of short-term rentals, *including but not limited to the historically-unknown but now widespread internet marketing of and transactions in such rentals*, regulation may become necessary to retain the single-family residential character of neighborhoods *and to prevent nuisance impacts*.

Schafer asked if he means less than seven days. Bzdok said that's an issue the planning commission can define in the ordinance. The conventional definition is less than 30 days. Less than 30 days you are into short-term rentals. That's a decision you can make and recommend to the board if you choose to address short-term rentals.

The last item he added was recommendation to change Alternative Energy Systems to Renewable Energy since that's how the current state statute defines it. Schafer commented that the state has taken the regulation over. Bzdok explained that that is the message that has been put out but local units can still regulate those facilities as long as the regulation is compatible with the states standards. For example, on setbacks, you can regulate less setback but you cannot require a larger setback. If you want to regulate these uses there is a method for doing that or you can decide you don't want to regulate them and leave it to the state. If we want to regulate that he would be happy to help write that language. Gurr stated we can write it but there is a deadline. We have wind energy language that can be adapted for solar. Schafer stated it was a priority and counsel could write the language. Gurr said we could suggest that to the board. Robinson commented on an interview with the Governor and her statements that the new law was giving the power of land use back to the farmers and municipalities would not be able to regulate them out of that use and the law would go into effect sometime in February. Schafer said there were townships that were trying to regulate them out. The township he grew up it has them and they are noisy and blinking lights all night and people don't like it. Bzdok said there has been a lot of noise out there surrounding this issue and while he couldn't comment directly on what was said in the interview Public Act 233-2023 regulates utility scale wind, utility scale solar, and utility scale battery storage. The deadline is only important if there has been an interest in bringing those facilities into the township. Gurr stated area farmers have been approached so we should probably work on any language soon.

Schafer suggested we have Bzdok write the language. Gurr stated we can make that recommendation to the board for their approval.

Gurr and Lockwood thanked Bzdok for doing this work. Gurr stated he had not seen any major changes to the master plan that had not been discussed previously and is comfortable moving forward with the process of adoption.

#### Public Comment on Master Plan:

Paul Sak, 6461 Crystal Springs Road, President of the Friends of Clam Lake, asked commission to request additional comment from legal counsel on funneling and enforcement of the ordinance. Without enforcement the zoning ordinance is not effective. He didn't expect comment tonight but urged the commission to ask counsel to weigh in on these concerns.

Bzdok clarified with Robinson on whether he had answered his question on the renewable energy section. Robinson stated he just wanted to make sure we would not place the township in court and any ordinance would be compatible with the new standards.

Carol Fricke 9566 Fowler Lane, (Zoom) asked legal counsel about his statement on the renewable energy deadline. A lot of different dates are discussed so when is the deadline. Bzdok clarified that the law was passed in January and takes effect February 1 st. The deadline for municipalities is to have language in place before an application is presented. Fricke stated there was too much going on that the public hadn't had time to review. She didn't feel the person with the short-term rental concern was dealt with fairly. There's a lot of ambiguity here and what is the big rush? Robbins asked what has been left out that the public hasn't had for review. The document has been on the web for over a month, a hard copy has been available in the library and township office. What legal counsel presented is not so outrageous that we can't discuss it tonight and make a decision. The review was due in 2021 and is long overdue. No code is being written tonight and the master plan has been discussed by the commission for several months. If a final draft is completed tonight it still has to be reviewed by the county planning commission and will come back to this commission for future discussion before it is submitted to the board for final approval. That will be another two months so the public will still have time to comment before it is adopted. The planning commission needs to move ahead on zoning language review.

Peggy Dolane, Seattle and Lone Tree Point Lane in Helena Township, asked for a summary of what changes are being made to the master plan. She likes what is written about septic systems but are there other significant changes. Gurr stated there have been no significant changes made to the plan and he does not anticipate any major changes being presented to the board. The master plan has been revised many times and the only significant change in this revision is in the agricultural district and what commercial uses may be considered. Some survey respondents are in favor of extended commercial use and others are not. The commission will seek advise from counsel on that and his comments on the legal fight in Peninsula Township is something we strive to avoid and do not want to write any ordinance that could become a costly legal battle for the taxpayers.

Discussion of placing any old master plan files on the website archives so the public can review them and see what updates have been made.

Paul Sak The public has been more involved in the meetings since the proposed changes to the greenbelt and RVs language brought it to their attention. He stressed the plural of the RV statement. He believes words do matter and a major concern is the difference between saying something should be regulated and saying something should be prohibited. Saying it should be regulated means it can be allowed. He strongly believes funneling should be prohibited to protect the impact on the lakes. Short-term rental should be regulated in R1 and commercial short-term rental should be prohibited in R1. He agrees very little has been changed and we can move ahead knowing the work has just begun.

Laura Wilcox, 7197 Crystal Springs Road, stated she has attended several meetings and thanked the commission for their work. She has reviewed what legal counsel presented tonight and feels it is in line with the master plan. It is important to get the renewable energy language in place. She suggest the commission move forward and have legal counsel write the language for that ordinance.

Ken Masck, 8658 S East Torch Lake Drive, (present) said he felt the commission and township had done a good job on the master plan. He had two questions. First, when the commission begins work on the zoning ordinance how do we decide which item to work on first? Secondly, what is the procedure when an ordinance is considered outdated, how is it removed? Example: There used to be an ordinance restricting the number of docks on a 100' lot. That was removed and now we have developments that are funneling use with multiple docks and shore stations.. The expansion at Cedar Shores is one example and the lot next to where he lives has seven shore stations on that one lot. The public should be notified when ordinances like this are dropped. Gurr explained that removing an ordinance goes through the same public hearing process. Robbins stated the ordinance about the docks was removed when Guy Molby was the zoning administrator so it has been out of the ordinance for a long time. The reasoning was that it referred to the number of boats or watercraft and it became difficult to regulate what was considered watercraft. Discussion to research a definition and discuss whether to add language back to the ordinance. Robbins said we need to find a way to enforce the ordinances because it

doesn't do any good to write ordinance if we can't enforce it.

Peggy Dolane, the preamble talks about all the things we love about Antrim County. She knows the shoreline and fishing has changed because of the rental boat business on the lake. There is impact from all of our uses and we should have a larger conversation with some of the many organizations that work to preserve the water quality and minimize the impact on the lake. Thank you and the township for making the zoom available and commented the resource used is doing an excellent job. Gurr mentioned we are on the reading list for the organization you mentioned and often have presentations from them.

Stephanie Lick, 10571 Smalley Street (present) commented about being asked why doesn't she contact the property owner. She said her or her husband would be over there several times a week or writing letters. Schafer discussed he understands the owner is an absentee owner who doesn't take care of his properties; He has had discussions with owners before and found it effective to handle the problem without the township being involved. Lick asked if that is her responsibility. Continued discussion between Schafer and Lick on contacting the owner. Gurr stated the commission should not engage in back and forth between public making public comment.

Paul Sak, a couple quick questions. One by Laura Wilcox on having legal counsel write renewable energy language. The other on his question on having legal counsel review funneling and enforcement. How will those questions be handled or has the commission already decided what they will do? Gurr explained that the commission would discuss that after the public comment period was closed. No final decisions have been made at this point.

Public comment on master plan review closed at 6:28 PM.

Robbins suggest the commission go through the suggestions offered by Bzdok and make a decision on whether or not they would be incorporated into the master plan. They will be handled individually.

Beginning with changes suggested for Page 4 of the draft. Alternative Energy will be changed to read as follows:

#### RENEWABLE ENERGY SYSTEMS

The Helena Township Master Plan recognizes the need to accommodate renewable energy systems, including commercial solar and wind systems, while protecting the public health, safety and welfare of the community.

Motion to adopt by Lockwood, supported by Moglovkin. No further discussion. Motion passed (7,0)

Page 7 under Future Zoning will read as follows:

#### Future Zoning

Consider creating Village Zoning Districts with location-appropriate combinations of some of the following uses allowed in a number of separate zones so that specific land use objectives can be achieved thru the rezoning process.

- I. mixed uses with Special Use Permit review approval procedures.
- II. commercial retail center
- III. office and tower-volume pedestrian traffic uses.
- IV. residential with auxiliary apartments.
- V. allow home occupations
- VI. shoreline residential standards
- VII. residential rental
- VIII. waterfront district

Motion to adopt by Lockwood, supported by Moglovkin. No further discussion. Motion passed (7,0)

Page 10 under Farmland—

The word Agriculture in Bullet I and Bullet II will be changed to Agricultural.

Bullet IV will be added and read as follows:

IV, To maintain both the economic value of agricultural land and the rural and residential character of agricultural areas., the Township should consider allowing by special use permit

certain specified agribusiness and agritourism uses with appropriate regulations and conditions to limit their impact on surrounding uses, rural character, the environment, and local roads and other infrastructure.

Motion to adopt by Lockwood, supported by Moglovkin. No further discussion. Motion passed (7,0)

Page 11 – Under Mobile Homes in Residential Districts

Bullet B will read as follows:

Mobile home park developments have special characteristics which require full consideration of their location, including their site layout and design, their demand upon community services and the relationship to, and effect upon, surrounding uses of land. The township should review its zoning regulations and update as needed to ensure compliance with state and federal laws governing manufactured housing and mobile home parks. This statement of objectives is not intended to promote the establishment of new recreational vehicle parks.

Under Location and Siting Standards:

Change Bullet III to read as follows:

III. Appropriate screening and buffering from adjacent uses.

Motion to adopt by Lockwood, supported by Moglovkin. No further discussion. Motion passed (7,0)

Add Bullet IV to read as follows:

IV. Minimum overall parcel size to accomplish all of the objectives set forth in this Master Plan and in updated zoning regulations.

Motion to adopt by Lockwood, supported by Moglovkin. No further discussion. Motion passed (7,0)

Add Bullet VII to last section on standards. It will read as follows:

VII. Appropriate special use permit standards and conditions specific to these land uses.

Motion to adopt by Lockwood, supported by Schafer.

Further discussion:

Schafer asked for clarification on whether the language was to make new mobile home parks. Robbins explained the language has always been there but she asked to have it reviewed because she wasn't sure it had been looked at with the 2010 review, which was the last legal review on the zoning ordinance. Several changes were made to the ordinance due to court rulings and she asked that the master plan language be reviewed for compliance.

Motion passed (7,0)

Under Short-term Rental in R-1 Zone

Change sentence three. Paragraph will read as follows:

The intent of the R-1 zone is to provide an area for single-family homes and a quiet residential neighborhood setting. Seasonal rental of homes can change the single-family residential character of a neighborhood. While historically short-term rentals have occurred in Helena Township on a neighbor friendly basis, given the increase in the commercial nature, scale and frequency of short-term rentals, including but not limited to the historically-unknown but now widespread internet marketing of and transactions in such rentals, regulation may become necessary to retain the single-family residential character of neighborhoods and to prevent nuisance impacts.

Motion to adopt by Lockwood, supported by Moglovkin.

Further discussion:

Robbins asked about the question concerning the term may as opposed to is in the short-term rental language. Public input that they have a rental and have had no problems. Schafer talked to businesses and they don't want regulations as they make money from the short-term rentals. He asked Bob Logee, zoning administrator, how many complaints he had last year. Logee responded none. Schafer stated it is not a widespread problem. Some people perceive a problem but it is not a problem. He will call the owner being discussed personally. No changes were made to the wording in the suggested language.

Wilcox expressed her concern about the commission just passing over the need for short-term rental regulation and the problems discussed at several meetings. Members of the public offered more comment. Gurr clarified the commission had decided to leave the word as may and it gives

the commission the sufficient opportunity to address this in the zoning ordinance.

Motion passed (7,0)

Robbins asked legal counsel if the language on page 3 addressing funneling and key-holing is sufficient to give the commission to address that issue in the ordinance. Discussion of the additional dwellings and how do we prevent them from funneling from back lots. Bzdok said yes. Gurr asked Paul Sak if that answered his question. Discussion that it will be addressed and we have sufficient language in the master plan to be able to write that language.

Discussion on the process from this point. Robbins said it will go to the county for review and then come back to us for any final review before we make the resolution to send it to the board for approval.

Motion by Moglovkin to send the master plan to the county for review. Supported by Schafer. Motion carried (7 ,0)

Public Hearing closed at 6:52 PM

**New Business:**           **Zoning Administrator Report – LU (Land Use Permit) FC (Field Check)**  
  **AC (Attorney Contact) PC (Public Contact) ZV (Zoning Violation)**  
December 2023:            LU 1, FC 0, AC 0, PC 3, ZV 0

**Old Business:**           Robbins discussed there are some things Logee has brought to the our attention so she will review the list and update it.

**Public Comment:**       Comment asking if we could create a Facebook page. Discussion that Facebook creates a venue for people to make statements that are false and not be held accountable, notices were posted, it has been on the website. Public is free to share with their contacts to help get the word out. Zoom comment that there needs to be a better way to get the word out.

**Adjourn:** 6:57 PM Motion: Lockwood, 2<sup>nd</sup> Schafer. Carried  
Respectfully Submitted,  
Bonnie Robbins  
Helena Township Planning Commission Recording Secretary