

**CHARTER TOWNSHIP OF FENTON PLANNING COMMISSION  
MINUTES FOR REGULAR MEETING OF JANUARY 12, 2010**

**TOWNSHIP CIVIC COMMUNITY CENTER  
12060 MANTAWAUKA DRIVE, FENTON, MICHIGAN**

Chairman Tucker called meeting to order at 7:05 p.m.  
Present: Carlson, Franz, Lorraine, McGuirk, Richard, Spees, Tucker  
Recording Secretary: McDonald  
Absent: None

**APPROVAL OF AGENDA:**

Chairman Tucker explained SUP09-003, J.O. Group LLC for 2111 Thompson the former AMSEA Building has withdrawn and removed from the agenda and a communication regarding Argentine Township & Linden Community Schools has been added.

Motion to approve the agenda as amended

Motion by: Tucker  
Seconded by: Carlson  
Ayes: Carlson, Franz, Lorraine, McGuirk, Richard, Spees, Tucker  
Nays: None  
Absent: None

Motion carried

**PUBLIC HEARINGS**

06-27-100-020

3482 Silver Lake Rd.

Tee Bone'z Tavern on the Water

Show cause hearing to review & consider alleged violations of the special use permit issued for outdoor seating and entertainment

Chairman Tucker explained this matter was postponed at the October 13, 2009 meeting. He gave a brief background of the hearing and outlined the meeting procedures. He asked if all Commissioners had received a copy of the memo from Cooper & Riesterer, PLC, attorneys at law dated 12-28-09 that outlined the proposals from Tee Bone'z to address the noise and sound concerns that have been raised in connection with their operation under the special use permit for outdoor seating and entertainment. All Commissions indicated they have a copy of the memo. Don Kroeyr, Tee Bone'z, sworn in, he explained that Tee Bone'z is offering several solutions intended to resolve the issues of noise and quit times for band so they can continue to have live music vital to their business. He stated the music will cease at 10:45 to make sure there will be no noise after 11:00 p.m. He said the staff will be instructed to strictly enforce this time limit. As for the volume, he stated they are going to purchase and install their own public address system with speakers strategically placed on the deck with the volume control set and locked and only accessible to Tee Bone'z managers. He added no percussion instruments will be allowed to be hooked up to the amplifiers. He stated they intend to buy and/or rent a decibel meter with the goal of setting the PA system at a volume which will not exceed unreasonable decibel levels. Tucker asked what type of equipment they intend to purchase. Kroeyr said they are intending to purchase a BOSE system. He said the system will distribute the sound better and will be set up to direct the sound to the deck, the level of sound will be locked in place and only accessible to the restaurant managers. He noted the outdoor entertainment is crucial for the business and these measures will ensure control over the sound level that concerns the Township and the neighbors. Chairman Tucker called for audience comments. Rochelle Molyneaux asked that the memo from Cooper & Riesterer be read. Tucker read the memo. The following people spoke Kelly Flynn, 3394 Ponemah, Norman Falconer 3394 Ponemah, Rochelle Molyneaux 3384 Ponemah, Gary Carlson 14041 Sqaw Lake Dr. and Dan McGuire, Hartland Developers 33031 Woodward Ave Ste. 100 Royal

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Oak. Their concerns were as follows: the inability to sell a model home constructed on the adjacent property because the music is so loud that it rattles windows in the model home, allowing Tee Bone'z to self regulate the noise level, the fact that the owners knew there was a problem and did nothing about it until they risked losing the permit with the options they have proposed being available all along causing uncertainty about their ability to self regulate, too many speakers being proposed and the distance at which the sound can be heard. Falkner asked that if the permit is to continue additional conditions be placed on it ensure that the sound level is controlled. He stated he respected the efforts the bar is making but expressed doubt in the ability of the proprietors to control the sound. Tucker added that he had a call from a Ponemah Dr. resident that also expressed concerns that the music was extremely loud and was played beyond the 11:00 p.m. deadline. Tucker noted that a wall had been partially constructed between Tee Bone'z and the adjacent development and asked if the wall will be finished. McGuire explained the wall was designed and built to deaden sound at 65 decibels but because the bar continually exceeded that level, by far, the wall did nothing to protect their property and construction has ceased. McGuire added that he did not feel it was their responsibility to regulate the noise produced by the neighbors operation. Kroeyer pointed out the developer of the adjacent property knew the bar was located next door and knew there was live outdoor music prior to purchasing the property for development. He went on to explain that the PA system would be designed and installed with small speakers that project the sound and distribute it to the deck area only. He added that some sound will carry but he indicated he is confident that it will be maintained at a reasonable level. Tucker stated that it is the responsibility of the Commission, based on testimony of the show cause hearing, to make a determination as to rather there is a violation of the special use permit and the conditions placed on it specifically the time limit because the level of sound had not been addressed when granting the special use permit in 2005. Spees indicated there is no doubt that the music has been played after the 11:00 p.m. deadline. Other Commissions agreed with Spees.

Motion that the findings have revealed the proprietor(s) have violated the condition of special use permit SUP05-002 for outdoor seating and entertainment based on the fact they have allowed music to play beyond 11:00 p.m.

- Motion by: Carlson
- Seconded by: Spees
- Ayes: Carlson, Franz, Lorraine, McGuirk, Richard, Spees, Tucker
- Nays: None
- Absent: None

Chairman Tucker noted that now that it has been established that there has been violations of the special use permit, the Commission must decide what action to take. He indicated that it is his recommendation that the current special use permit be revoked and a new permit be established with conditions that will ensure the use is designed as to the location, intensity and hours of operation to eliminate any nuisance emanating which may be noxious to the occupants of any other nearby permitted uses, which in this case are residences, by reason of noise. Tucker noted that he appreciated the proposals the proprietor(s) are offering and indicated his desire to work with the owners and the neighbors to come up with a viable solution to the problems that brought this matter to the table. All of the other Commissioners agreed.

Motion to revoke SUP05-002 based on the finding that the proprietor(s) violated the condition of the permit that all music cease at 11:00 p.m.

- Motion by: McGuirk

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Seconded by: Spees  
Ayes: Carlson, Franz, Lorraine, McGuirk, Richard, Spees, Tucker  
Nays: None  
Absent: None

Spees stated concerns about how the noise level will be determined and enforcement. Franz indicated the owners will have to submit a new application for a special use permit including specifics on how they plan to ensure they meet any conditions placed on the operation to protect the neighboring residents. Tucker suggested the Commission move forward in an effort to issue a new permit without a new application based on all of the testimony of this and the previous meeting and not cause further delay or require the owners submit and pay for a new application. The Commission agreed. Tucker did make note that a new permit will need to be properly noticed and a public hearing held in the future but indicated his desire to suggest conditions and allow the owners time to research and prepare evidence that will show how the conditions will be met. He began by addressing the days of operation asking the owners on what days to they plan to have outdoor entertainment. Kroeyer said they usually have the live music on Tuesdays, Thursdays and Saturdays, however they do host special events on some of the summer holidays. The Commission stated a desire to allow flexibility in their scheduling. They discussed allowing live music 3 or 4 days per week. Tucker then addressed the time. He said 11:00 p.m. is the firm quitting time and indicated a condition that the music cease at 10:45 p.m. as offered by the owners would help to make sure the bands are finished by 11:00 p.m. The next condition discussed and agreed upon was the public address system. The result being a condition that the owners purchase and install a PA system with the volume set, locked and controlled by themselves and/or their management staff. Another condition will be that the speakers are directed inward and away from any of the property lines. Tucker suggested a condition that a decibel meter and calibrator be purchased by the owners to set the level at 65 decibels at the property line and establish it to be used by whomever the Township designates. He noted that a condition should be placed on the permit that the owners will comply with section 5 of the Amplified Sound Ordinance which states that the operation of any amplified sound device in such a manner or with such volume as to unreasonably upset or disturb the quiet, repose or comfort of other persons. He stated the permit will indicate a condition that the back side of the bandstand be finished and require an annual review in July. Franz stated concerns about the owners purchasing the decibel meter and doing their own monitoring. Tucker said the desire is that the device be purchased by the owner and used to set the volume level then returned to the Township so that it can be randomly monitored by the Township. Lorraine stated concerns about over regulation and a set 65 decibels, he indicated that level may not allow them to have a reasonable level of sound to accomplish their entertainment goals. Carlson said she did not want to over regulate but she agreed with Tucker about establishing a measurable standard. Spees stated a condition that no percussion instrument be amplified be considered. The Commission agreed. Lorraine suggested, rather than using a set decibel level, having a sound engineer install and set up the system. The engineer would then submit the standard to the Township sealed and signed indicating a reasonable sound level setting. Tucker stated he wanted to have a set, objective decibel level however he would entertain a recommendation from the sound engineer as to what the level should be. McGuire said that if the Township Ordinances set a standard of 65 decibels and that standard should apply.

Postponed until the April 13, 2010 meeting.

**NEW BUSINESS**

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**ONGOING BUSINESS**

Review regulations medical marijuana -

**COMMUNICATIONS**

Argentine Township & Linden Community Schools notice of Draft 2010 Five Year Parks & Recreation Plan

**PUBLIC COMMENT & COMMUNICATION CONCERNING ITEMS NOT ON THE AGENDA:**

5 Minute Limit – There were no addition public comments

**APPROVAL OF MINUTES** November 10, 2009 stand approved as submitted

**ADJOURN:** 9:14 p.m.

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John Tucker, Chairman  
Minutes Posted 01/15/10

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Sandra Carlson, Secretary