

GENOA CHARTER TOWNSHIP BOARD
Special Meeting
July 6, 2021
6:30 p.m.

AGENDA

Call to Order:

Pledge of Allegiance:

Call to the Public (Public comment will be limited to two minutes per person)*:

Regular Agenda:

1. Request for approval of a resolution establishing a moratorium on issuance of certain permits and/or approvals as they relate to modifications to structures in any zoning district in order to cultivate marijuana as a patient caregiver. (Roll Call Vote)

Correspondence
Member Discussion
Adjournment

<p>*Citizen's Comments- In addition to providing the public with an opportunity to address the Township Board at the beginning of the meeting, opportunity to comment on individual agenda items may be offered by the Chairman as they are presented.</p>
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**GENOA CHARTER TOWNSHIP
LIVINGSTON COUNTY, MICHIGAN**

RESOLUTION NO. 210706A

At a special meeting of the Board of Trustees of Genoa Charter Township, Livingston County, Michigan, (the "Township") held at 6:30pm at the Township Hall on Tuesday, July 6, 2021 there were:

PRESENT:

ABSENT:

The following preamble and resolution were offered by _____ and seconded by _____:

**RESOLUTION ESTABLISHING A MORATORIUM ON ISSUANCE OF CERTAIN
PERMITS AND/OR APPROVALS AS THEY RELATE TO MODIFICATIONS TO
STRUCTURES IN ANY ZONING DISTRICT IN ORDER TO CULTIVATE
MARIJUANA AS A PATIENT CAREGIVER**

WHEREAS, on November 4, 2008, the Michigan voters passed the MICHIGAN MEDICAL MARIJUANA ACT (MMMA), Initiated Law 1 of 2008, to allow under State of Michigan law, the medical use of marijuana; to provide protections for the medical use of marijuana; to provide for a system of registry identification cards for qualifying patients and primary caregivers;

WHEREAS, on December 4, 2008, Michigan's Medical Marijuana Act (MMMA), MCL 333.26421, et seq. (the "Act"), took effect allowing both patients and/or their caregivers to cultivate medical marijuana within an enclosed, locked facility in order for those individuals to be entitled to the MMMA protections. As such, these enclosed locked facilities have been located on various locations, been constructed of varying materials using various public resources including sewers, electrical and water resources within various zoning districts;

WHEREAS, since the passage of the Act, caregiver cultivation of marijuana has resulted in problems including but not limited to insufficient or improper electrical supplies, dangerous structures, inadequate ventilation leading to mold, offensive odors, noise, use of materials and toxins that may enter drains, sewers or groundwater and other health hazards and/or other hazards which are associated with the cultivation of marijuana in various zoning districts and settings classifications;

WHEREAS, the Township has been made aware through general reporting that these facilities tax the electrical systems and transformers which have caused fires related to growing and marijuana use, and use of propane to make concentrates implicating the health, safety, and

welfare of the residents related to the design, erection, repair, removal, demolition, or use and occupancy of buildings, structures, or premises. This health and safety concern is in relation to structural strength, adequate egress facilities, sanitary equipment, light and ventilation, and fire safety and protecting the environment including wells, drains and sewer systems;

WHEREAS the Supreme Court of Michigan, in *DERUITER v. TOWNSHIP OF BYRON*, 505 Mich. 130 (2020) found that a township's zoning ordinance that geographically restricted such caregiver marijuana cultivation to a particular zoning district did not directly conflict with the Act and that a township has the authority under the MZEA to require zoning permits and permit fees for the use of buildings and structures within its jurisdiction;

WHEREAS the Michigan Supreme Court of Michigan, *CHARTER TOWNSHIP OF YPSILANTI v. PONTIUS*, 948 NW2d 552. (SC: 158816) (2020) in lieu of granting leave to appeal, vacated a judgment of the Court of Appeals; and on remand the Court of Appeals on December 29, 2020 affirmed municipalities authority to enact zoning and regulatory ordinances related to locational restrictions for caregivers under the MMMA cultivation of land uses;

WHEREAS it is a fundamental local unit of government's responsibility to provide by zoning for the regulation of land use under the Michigan Zoning Enabling Act, 110 of 2006, which allows the regulation of land and structures through compatibility of adjacent land use to ensure appropriate locations and relationships, to limit nuisances in order to promote public health, safety, and welfare of the township residents;

WHEREAS, Genoa Charter Township is amending its zoning ordinance for caregiver's cultivation activities, which will require additional time in terms of amending the Township Zoning Ordinances and a public hearing, pertaining to land uses and permits, zoning classifications and/or other requirements, and the Township is considering allowing patient caregiver cultivation as a home occupation or placement in other zones to address the health and safety issues under its authority of the MZEA;

WHEREAS, the Township Board has concluded that during the pendency of its consideration of possible amendments to the Township Zoning Ordinance, it would be counterproductive if zoning permits and/or other approvals or applications for patient caregiver cultivation were allowed or permitted to move forward in any zoning districts and, therefore, the Township Board has concluded that during the course of review and consideration of the possible Zoning Ordinance amendments there should be a deferral of review of all applications for land use and zoning permits, approvals, or certificates related to patient caregiver medical marijuana cultivation within any zoning district; and

WHEREAS, an amendment to the Zoning Ordinance, pertaining to land use as it relates to the locations allowed for the patient caregiver to cultivate medical marijuana will require proceedings before the Township Planning Commission, the County Planning Commission and the Township Board of Trustees under the process provided for in the Michigan Zoning Enabling Act, which include, but are not limited to, a public hearing before the Planning Commission and deliberations by the Township Board which may take approximately One Hundred Twenty (120) days;

NOW, THEREFORE, be it resolved that Genoa Charter Township hereby adopts, effective immediately, a Moratorium on a temporary basis, upon the issuance of any and all permits, approvals, and/ or certificates as they relate to any modifications to structures or units in any zoning district in order to cultivate marijuana as a patient caregiver; and

BE IT FURTHER RESOLVED that this moratorium shall remain in effect for a period of six (6) months following the date of this Resolution or until a Zoning Ordinance amendment containing regulations for caregiver cultivation of medical marijuana activities has been adopted and becomes effective in Genoa Charter Township, whichever comes first, also before this expiration period, the Genoa Charter Township Board may adopt a new resolution to extend the moratorium as necessary.

NOW, THEREFORE, upon motion by _____, supported by _____,

Any and all resolutions in conflict herewith are repealed only to the extent necessary to give full force and effect to the foregoing provisions.

A vote on the foregoing resolution was taken and was as follows:

YES: _____

NO: _____

ABSENT: _____

CERTIFICATION OF CLERK

The undersigned, being duly qualified and acting Clerk of the Township, hereby certifies that (1) the foregoing is a true and complete copy of a resolution duly adopted by the Township Board at the July 6, 2021 meeting of the Township Board, at which meeting a quorum was present and remained throughout; (2) the original thereof is on file in the records of my office; (3) the meeting was conducted, and public notice thereof was given, pursuant to and in full compliance with the Open Meetings Act (Act No. 267, Public Acts of Michigan, 1976, as amended); and (4) minutes of such meeting were kept and will be or have been made available as required thereby.

Paulette A. Skolarus, Genoa Charter Township Clerk