

**Clearwater Township**  
Planning Commission  
Regular Meeting of April 4, 2016  
As approved May 2, 2016

**Call to Order, Pledge of Allegiance:**

Chair Parzych called the meeting to order at 7:07 pm, and opened with the Pledge of Allegiance.

**Roll Call of Members and Recognition of Visitors:**

Commissioners present: Backers, Fields, Parzych, Von See.

Commissioner absent excused: Eldridge.

Township official: Zoning Administrator Molby

Public: Carol Backers, Giannine Casassa, Rebecca Norris

**Approval of Agenda:**

**MOTION** by Von See, second by Backers, to accept the agenda as presented. Motion carried.

**Call for Disclosure of Conflicts of Interests:**

Chair calls for commissioners to disclose any real or potential conflicts of interests. There were none.

**Approval of Minutes:**

**MOTION** by Backers, second by Von See, to accept the minutes of March 7, 2016 as presented. Motion carried.

**Public Comment for Matters Not on the Agenda:**

There was none.

**Commissioner Comment for Matters Not on the Agenda:**

There was none.

**Scheduled Public Hearing on amendment to Article XII – Signs**

Chair Parzych requested the rationale for the amendment be read into the record:

*Rationale for the amendment:* The June 18, 2015 decision of the Supreme Court of the United States, in the case of Reed vs Town of Gilbert, holds that regulation of signs based on content of the message is unconstitutional. The February 1, 2016 Planning Commission review of the language in Article XII (Signs) of Ordinance 22 the Zoning Ordinance, noted that the only regulatory differences attributable to content of message, rather than form or purpose, were the time limits imposed for removal of the signs. This amendment is to standardize the township time-limit rules for all temporary signs.

The full language of the proposed amendment to Article XII, is hereby incorporated into the record by reference, and a copy of it is attached to the permanent copy of these minutes as [Att A].

There was no further clarification requested by the public in attendance. After discussion by the commissioners, the following motion was made:

**MOTION** by Backers, second by Von See, to recommend to the township board, approval of the proposed amendment to Article XII, in order to standardize the time-limit rules for all temporary signs. Motion carried unanimously.

**Ongoing Permanent Business:**

The ordinance and its amendments are posted separately on the website. As a matter of record, the members of the planning commission concur that the enacted amendments need to be incorporated into the ordinance and that new copies of the ordinance need to be generated.

**Old Business:**

The commission members have received a great deal of information dealing with issues connected to the difficulties on the sandbar. Chair Parzych stated that he and the rest of the commissioners would take time to review the information provided, and the topic would appear again on the May agenda.

Rebecca Norris read her letter, on the question of township authority, to the planning commission. In her letter, she referenced the Hess vs Bloomfield Township case, and the Supreme Court of Michigan decision of May 22, 1992. The full text of the letter is hereby incorporated into the record by reference, and a copy of it is attached to the permanent copy of these minutes as [Att B].

The question of township immunity was also visited in the March 10, 2016 letter from Attorney Karen Ferguson to the Clearwater Township Board and to the Planning Commission Chair (on page two under Roman Numeral III): “The township has governmental immunity from tort liability when it is engaged in the exercise or discharge of a governmental function MCL 691.1407.”

**MOTION** by Backers, second by Fields, to include the letters from concerned citizens as attachments to the permanent minutes. Motion carried.

The five letters received from concerned citizens are attached to the permanent copy of these minutes as [Att C].

**Report of Township Board Representative:**

No report, due to the absence of Clerk Eldridge.

**Report of Zoning Administrator:**

Zoning Administrator Molby distributed his report for March, which report is hereby incorporated into the record by reference, and a copy of which is attached to the permanent copy of these minutes as [Att D].

**New Business**

Chair Parzych announced a free training meeting on signs, scheduled for Friday, April 22, 2016, from 10-noon, at the Michigan Works Conference Room on Garfield Avenue, in Traverse City. He and Zoning Administrator Molby are registered to attend.

**Closing Public Comment:**

Commissioner Backers announced that the Republican State Convention to elect national delegates is this weekend, and that he is running.

**Adjournment:**

**MOTION** by Backers, second by Von See, to adjourn. Adjournment at 7:54 p.m..

**Assignments:**

- Put sandbar on the agenda again for May
- Send memo to the township board recommending approval of the amendment to Article XII.

**Next Meeting:** May 2, 2016

Respectfully submitted,



Tina Norris Fields  
Secretary

**CLEARWATER TOWNSHIP  
PROPOSED AMENDMENT  
to Ordinance No. 22, the Zoning Ordinance**

**An Amendment to Article XII - Signs**

Rationale for the amendment: The June 18, 2015 decision of the Supreme Court of the United States, in the case of Reed vs Town of Gilbert, holds that regulation of signs based on content of the message is unconstitutional. The February 1, 2016 Planning Commission review of the language in Article XII (Signs) of Ordinance 22 the Zoning Ordinance, noted that the only regulatory differences attributable to content of message, rather than form or purpose, were the time limits imposed for removal of the signs. This amendment is to standardize the township time-limit rules for all temporary signs.

**The Township of Clearwater ordains: Article XII (Signs) of Ordinance 22 the Zoning Ordinance shall be amended as follows:**

Section 12.01.G shall read:

G. Temporary signs that are no longer active, must be removed within fifteen days following completion of the purpose for which they were placed.

1. Yard sale, garage sale, estate sale, and auction signs.
  - a. Not to exceed four (4) square feet and shall not be attached to any utility pole.
  - b. Sign to contain the address and date of sale and shall not be displayed more than forty-eight (48) hours prior to sale.
2. Construction Signs
  - a. Total surface display area not to exceed eight (8) square feet.
  - b. Overall sign height not to exceed eight (8) feet above average grade of frontage and shall be placed wholly within the property boundaries to which sign pertains.
  - c. Sign shall not be erected prior to issuance of a building permit for construction and shall be removed upon issuance of occupancy certificate.
3. State and/or federally funded construction project sign requirements shall supersede any township requirements.
4. Temporary directional signs, placed by private citizens for such things as (including but not limited to) sales, graduation open-houses, family reunions, and other special events. Such signs are not to exceed four (4) square feet.
5. "For Sale" sign attached to vehicles shall not exceed four (4) square feet.
6. Election signs along the roadway shall comply with these MDOT rules:
  - a. Political candidates are responsible for obtaining approval from the adjacent property owner to place the signs.
  - b. Signs must be removed within 10 days following an election.
  - c. Signs must be more than 30 feet from the edge of the roadway (white line) for highways that do not have barrier-type curbs. For highways with barrier curbs, the signs must be more than three feet from the back of the curb.

- d. Signs are not permitted within areas used for clear vision at intersections or commercial driveways, so they will not interfere with the sight distance of a driver. No signs may be placed within the limited access rights-of-way.
  - e. Any illegally placed signs will be removed. Signs removed by MDOT crews will be kept for seven days at a local MDOT office or maintenance garage, then discarded.
7. Real Estate Signs.
- a. Those signs advertising the sale, lease, rental of property, premises, or parts thereof.
  - b. Total area not to exceed four (4) square feet for property, whether residential, commercial, or vacant land.
  - c. On-premise signs shall not exceed one per parcel. Those properties that have frontage on more than one public right-of-way (corner lot), or have water frontage, shall be allowed to display one additional sign.
  - d. One on-premises and two off-premises open house signs allowed and shall be removed at the end of the day for said open house.

Rebecca M. Norris, M.D.  
6022 Aarwood Rd NW  
Rapid City MI 49676

April 3, 2016  
Clearwater Township Planning Commission  
P.O. Box 1  
Rapid City MI 49676

Dear Commission Members:

At the March 2016 meeting of the Clearwater Township Planning Commission the question was raised as to the authority of a township to regulate activities in the waters abutting riparian property. I offered to look into Michigan case law and provide what information I came up with to the CWT PC. That is the purpose of this letter.

A particularly relevant case is *Hess v West Bloomfield Township*, 439 Mich. 550 (Mich. 1992), decided by the supreme court of Michigan on May 22, 1992. At issue was the question whether a township has legal authority granted by the Township Rural Zoning Act (MCL 125.271 *et seq.*; MSA 5.2963(1) *et seq.*) to regulate docking of boats. While the issue at the bench was limited to the particular question of boat dockage, the rationale expressed by the Supreme Court justices for their determination extends more generally to other uses and provides reason to anticipate that other uses consistent with their rationale would be upheld if challenged.

The entire text of the *Hess v West Bloomfield Township* case has, I believe, been provided to you by the CWT PC secretary. I would be happy to provide a copy for anyone who needs and didn't get one for some reason – just provide me with your email or snail mail address. What follows is my personal selection of language from the Court's record that I believe to be the most relevant to the CWT PC in considering the Township's authority to enact ordinances designed to establish rules of conduct for activities that take place in public and private locations that include the sandbar at the south end of Torch Lake.

- “A statutory definition for the term "land" is included within MCL 8.3i; MSA 2.212(9), which provides: The words "land," "lands," "real estate" and "real property" mean lands, tenements and real estate, *and all rights thereto and interests therein*. [Emphasis added.] Accordingly, the statutory definition of land within this provision includes all rights and interests which are associated or attached to any piece of real property.”
- “Therefore, we conclude that the term "land," as used within the TRZA, includes those rights or interests that attach to the ownership of land, which extends to riparian rights.”
- MCL 125.273; MSA 5.2963(3): “This provision was broadly written to permit townships to regulate activities to promote the general welfare of the public and to protect the character and natural resources of a township community. In order to accomplish this goal, the Legislature must have been aware of the importance of riparian rights with regard to the overall use of land. In a state such as Michigan, with its abundant bodies of water, there would be no way to ensure

that land uses are compatible with surrounding properties unless water activities are evaluated. Similarly, the conservation of natural resources, which clearly includes water, cannot be undertaken if there is no means for regulating riparian rights. Finally, the stated purpose of the TRZA is to allow townships to balance the most advantageous uses of the lands, resources, and properties within their boundaries and to create zoning districts and ordinances in accordance with such evaluations. Such a balance could not be achieved unless water activities are evaluated. Similarly, the conservation of natural resources, which clearly includes water, cannot be undertaken if there is no means for regulating riparian rights.”

- “An indication of the legislative concern for the environment is apparent from the clause that was added to MCL 125.271; MSA 5.2963(1) in 1978, providing that townships shall have the authority to enact zoning ordinances to "promote public health, safety, and welfare." This indicates that a much broader grant of authority was intended by the Legislature when it amended the TRZA in 1978. Additionally, the constitution states that conservation and protection of natural resources shall constitute a paramount concern in the interest of the health, safety, and general welfare of the people of the State of Michigan.”
- “In order for townships to properly protect the bodies of water from destruction or impairment, pursuant to their zoning power within the TRZA, there must be an ability to regulate the exercise of riparian rights. To prohibit townships from exercising such regulatory zoning authority over riparian rights would permit the destruction or impairment of the natural resources associated with such bodies of water.”

Additional relevant case law may well exist. If I come across any, I will be happy to share it with the CWT leadership.

Rebecca M. Norris, M.D.

Sue Severns  
9280 Torch Bridge Ct  
Rapid City MI 49676  
March 23,2016

To Adam Parzych, Tom Backers, Tina Norris Fields, Len Von See, Kathy Eldridge, Pat Gray, Dwight Seaman, Larry Neiderstadt, Barbara Crambell, Grace Beland

I am writing to you as a concerned citizen of Clearwater Township. I live in a small cottage that has been in the family since the 1950's and have seen many changes to our community.

My concern is for beautiful Torch Lake and Torch River as well as the roads and properties that are being increasingly abused every year by the party on the sand bar over the July 4th week. The vulgar atmosphere of the party and the disrespect for the lake and our Township is truly appalling. It restricts the ability of Clearwater Township residents and tourists to use and enjoy the area. I have personally had friends and relatives who refuse to come here because of it. I am torn between leaving home for that week because of the obscene environment created by the party and staying to protect my property from unruly trespassers.

We have a diverse group of dedicated citizens and officials who have volunteered many hours of research and discussion to find ways to legally alleviate problems. The Sandbar Task Force has put forth several proposals to protect the health, safety, and welfare of all of us. I am concerned that there has been a lack of action by the Planning Commission and the Township Trustees.

Clearwater Township residents should not have to absorb the expenses resulting from the party which is promoted by downstate entities for profit. Therefore, I support a Mass Gathering Ordinance which will put the burden for police and fire protection, medical services, health and sanitation facilities, clean up and waste disposal, food and water provisions, parking, noise control as well as insurance and bonding arrangements on the sponsors of the event.

The Township's responsibility is to the residents, not thousands of party-goers. That includes providing resources to increase security for property owners. We need to focus on creating a family friendly, safe sandbar and surrounding area.

Respectfully,  
Sue Severns



Dear Clearwater Township Officials,

I am writing in support of the adoption of a Mass Gathering Ordinance in our township. The intent of this ordinance is to preserve the beautiful natural resources in our township, protect the residents of the township as well as visitors and attempt to control an event in our area that has gotten out of hand.

I am terribly disturbed by the lack of action by township governance with regard to the activities surrounding and including the Fourth of July. The whole thing is out of control. I have no problem with folks enjoying the day in the water but droves of people are coming, trashing the landscape and water, blasting the area with noise, over drinking, and behaving inappropriately.

My family can no longer go out onto the water to enjoy the day(s). It is "bumper to bumper" down the river to enter the lake; Crystal Beach Road is congested with cars parked on both sides of the road and pedestrians walking out onto the water; the entire area is littered with trash and other disgusting throw aways. (I personally fill a full 13 gallon trash bag with this refuse as I walk daily during this time of year. The things I find are absolutely foul.)

The street I live on is filled with parked cars. Despite police activity to control this, cars are parked in such a manner as to make it difficult to navigate the roadway. Again, the trash these folks leave behind is plentiful and disgusting. I have even witnessed illegal activity when someone tried to break into cars while intoxicated and ultimately drove away - while intoxicated. Fortunately, a police officer was nearby to stop his progress.

It is time for us to take back our sandbar. Why should the people who live here, pay taxes here, vote here feel the need to leave here during some of the most beautiful times in the year. (I also believe that property values may be compromised as no one wants to live along the waterfront and witness this activity. I know of families that have moved because of the this.) We are not calling for a banishment of visitors but we are calling for control of the crowds, support from promoters in efforts to maintain order and clean up after the event, and most of all, support from our elected officials in this matter.

I do not expect this ordinance to instantly correct the situation. But it will put in place the structure for this correction to evolve into place.

Sincerely,

Mary Beth Kazanski  
9501 Shellway Dr.  
Rapid City

March 16, 2016

To: Clearwater Township Board Members  
Larry Niederstadt - Supervisor  
Kathy Eldridge - Clerk  
Barbara Crambell - Treasurer  
Grace Beland - Trustee  
Dwight Seaman - Trustee  
Adam Parzych - Planning Commission Chairman

RE: Mass Gathering Ordinance Via e-mail at [clerk@clearwatertwp.com](mailto:clerk@clearwatertwp.com)

Dear Clearwater Township Board Members and Planning Commission Chair:

We are writing to strongly ask you to take under consideration at your upcoming board and planning commission meetings the request by the Sand Bar Task Force and the Torch Lake Protection Associations request to enact a Township Mass Gathering Ordinance. As residents in Clearwater Township we strongly support this enactment.

The Fourth of July gathering on the sand bar is clearly out of control. As a resident I have not been to the sand bar for more than six years. As a tax payer I find this very disconcerting. We cannot even use our boat that is located off of Torch River Rd for the days prior to and following July 4<sup>th</sup>. Why? Because it's impossible to drive down Aarwood Rd, Crystal Beach Rd, or Torch River Rd due to the number of vehicles, buses, walkers, boats in the roadway, etc. It is unsafe for all, both residents and those that are being bussed from areas far from our quite locale.

As a taxpayer we are tired of footing the bill for trash clean up, police, and most importantly the inability to use the area that I live in and pay taxes for. Why should local people, who cannot even use the area during this time, foot the bill for downstate companies that deliberately promote, and benefit, from this statewide party?

We have an expectation that the Township will take this request seriously and do what is right for the people that elected them to office. The Sand Bar Task Force has worked diligently and thoughtfully for more than six months. To dismiss this request and subsequent passage would be nothing short of a travesty.

Sincerely,

Terrance and Jean Anne Hulteen

6274 Harper Rd, NW

Rapid City, MI 49676

March 16, 2016

To: Clearwater Township Board Members  
Larry Niederstadt - Supervisor  
Kathy Eldridge - Clerk  
Barbara Crambell - Treasurer  
Grace Beland - Trustee  
Dwight Seaman - Trustee  
Adam Parzych - Planning Commission Chairman

RE: Mass Gathering Ordinance Via e-mail at [clerk@clearwatertwp.com](mailto:clerk@clearwatertwp.com)

Dear Clearwater Township Board Members and Planning Commission Chair:

We are writing to strongly ask you to take under consideration at your upcoming board and planning commission meetings the request by the Sand Bar Task Force and the Torch Lake Protection Associations request to enact a Township Mass Gathering Ordinance. As residents in Clearwater Township we strongly support this enactment.

The Fourth of July gathering on the sand bar is clearly out of control. As a resident I have not been to the sand bar for more than six years. As a tax payer I find this very disconcerting. It is impossible to drive down Aarwood Rd or Crystal Beach Rd due to the number of vehicles, buses, walkers, boats in the roadway, etc. It is unsafe for all, both residents and those that are being bussed from areas far from our quite locale.

As a taxpayer we are tired of footing the bill for trash clean up, police, and most importantly the inability to use the area that I live in and pay taxes for. Why should local people, who cannot even use the area during this time, foot the bill for downstate companies that deliberately promote, and benefit, from this statewide party?

We have an expectation that the Township will take this request seriously and do what is right for the people that elected them to office. The Sand Bar Task Force has worked diligently and thoughtfully for more than six months. To dismiss this request and subsequent passage would be nothing short of a travesty.

Sincerely,

Bruce and Marlene Hulteen

6256 Harper Rd, NW

Rapid City, MI 49676

March 25, 2016

As a property owner and taxpayer of Clearwater Township (9490 Torch Bridge Court), we are privileged to live in a beautiful area of Michigan, near the incomparable Torch Lake. We are also distressed by the lack of help and support to protect that beautiful resource over the Fourth of July. The statewide party promoted by downstate companies wreaks havoc on our lives – from parking, to indecency, to under-age drunkenness, to general disregard for others. Although law enforcement tries to deal with all these violations they are woefully undermanned. In addition to more resources provided by the Township, the counties and maybe even the state, the downstate companies should be required to obtain permits for their party, pay enough to help pay for security and have limits on how long they can even be out on the Sandbar. Other suggestions from the Sandbar Task Force must be considered as well. They have worked long and hard with interested groups throughout the area to garner the best, and plausible, solutions to these problems. The Township has the right, by law, to regulate these activities, as the Blue Lake and Suttons Bay ordinances illustrate.

We urge the Township to move quickly on not only discussing, but moving forward to help alleviate this problem.

Thank you,

Kenneth and Marjory Philp

Zoning Administration Monthly Report MARCH 2016 Clearwater Township

3 Land Use Permits

Garages, Sheds

Residences

Residences with Attached Garage

/ Pole Barns 8465 DUNDAS Rd.

/ Resident Additions 9511 SHELLWAY DR.

/ Decks, Porches, etc. 7957 WAHBASEE LN.

Miscellaneous, Other Buildings

9 Field Checks

2 Attorney Contacts

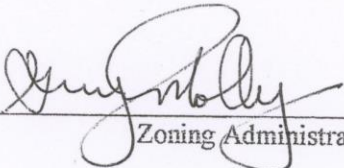
1 Planning Commission Meetings

14 Contacts with Public, Home and Land Owners ACCESS SITES, SUBPACUS, PERMITS, SHEDS, FENCES

2 ZBA Meetings and/or Township Board Meetings

2 Training Sessions

1 Zoning Violations

  
Zoning Administrator