

Clearwater Township
Planning Commission
Regular Meeting of September 8, 2008
as approved October 6, 2008

Call to Order, Pledge of Allegiance:

Chair Johnson called the meeting to order at 7:00 p.m., and opened with the Pledge of Allegiance.

Roll Call of Members and Recognition of Visitors:

Commissioners present: Fields, Johnson, Parzych, Risk, Sington.

Commissioners absent:

Township officials: Zoning Administrator Molby

Public: Linda Bicum, Joe Leo Dion, Lucy Gerlach.

Approval of Minutes:

MOTION by Sington, second by Risk to accept the minutes of the meeting of August 4, 2008 as presented. Motion carried.

Approval of Agenda:

MOTION by Parzych, second by Risk to accept the agenda as presented. Motion carried.

Open Discussion for Issues Not on the Agenda:

Linda Bicum – asked who is allowed to enforce township ordinances. The Zoning Administrator and the Supervisor are the officials who can enforce the Zoning Ordinance. Bicum stated there was a mooring issue over the Labor Day weekend, which deteriorated into an altercation. The citizen called the Sheriff's Department and got no response or assistance. Molby stated somebody did try to reach the local deputy, leaving a message on machine at the 4500 number, probably because the deputy often sits at Molby's desk.

Joe Leo Dion – asked who grants variances and who enforces the rules? A neighbor is building or has built a deck extending to within 9 feet of the water on the bayou. The ordinance states it must be 45 feet from the water. Dion has complained to the Zoning Administrator and the Township Supervisor, but has had no satisfaction on this point, though several months have gone by. Chair Johnson indicated Dion should follow up with the Supervisor, who has the ultimate authority to enforce the Zoning Ordinance. Molby stated he has contacted these neighbors, and understands they are now following the proper procedure.

Sington stated he received a call from Supervisor Grimm asking us to consider a fence ordinance, since Clearwater Township has none. Kalkaska does have a fence ordinance stating that the nice side of the fence should be facing the neighbors.

Old Business:

Maps – Fields distributed temporary zoning maps. These maps were drawn by Fields, based on the existing tax maps in the 2005 *Tax Maps – Assessor's Property Maps* book for Clearwater Township, Kalkaska County, Michigan. Fields is working with Paul Riess at Land Information

Access Associates in Traverse City to develop the quality map we need. He has crafted the initial base map, and as the data become available to include the property lines for our township, the map will be updated. Ultimately, we will have an accurate map available in electronic form that we will be able to keep updated and that LIAA will print for us on their plotter as needed. We will mark our current maps with "sample," or "pro-forma," or "temporary" on the bottom of the maps for now.

Chair Johnson lifted up the matter of rezoning the Rapid City Road north corridor. Because our public hearing on rezoning to Commercial all the land on either side of the road from Plum Valley Road north to the County Line, resulted in a modification of the proposal to rezone to Village Commercial to the northern boundary of the Village Market property, there is some concern that the matter needs to be re-noticed and reheard. Review by the Kalkaska County Planning Commission and by Township Attorney Peter Wendling, as well as the information we obtained from the Michigan Townships Association, suggest that we have properly noticed, heard, and deliberated the matter, but that to alleviate any concerns, the Township Board may choose to exercise its authority to carry out another public hearing on the matter.

The Township Board has decided to hold another public hearing on the new recommendation, and Clerk Julie Vance requests clarification from the Planning Commission concerning the specific language defining the boundaries of the area under consideration. After discussion, Commissioner Parzych made the following motion.

MOTION by Parzych, second by Sington, to propose rezoning the Rapid City Road north corridor as follows: on the east from Plum Valley Road north to the northern boundary of the Village Market, and east to a depth of 500 feet or the rear property line, whichever is less; on the west from West Plum Valley Road north to Crystal Beach Road, and west to the western edge of the abandoned railroad right-of-way. Motion carried.

Per the new enabling acts for zoning and planning, the Planning Commission must have a set of by-laws. Discussion: a good deal of what we need to include is found in our existing Zoning Ordinance; include definition of conflict of interests and procedure for disclosure of such conflict; election of officers in December; schedule for following year meeting dates; budget consideration, and so forth. Parzych thought that the Township Board already had by-laws. Johnson will check on that. Fields will prepare a working document for the Planning Commission to consider.

Blight-Elimination Ordinance discussion: some members of the commission wanted more time to consider the issues covered by an ordinance to eliminate blight from the community. The intention of such an ordinance is to provide standards that all citizens would follow in keeping their property presentable. There are significant points where the desire of the many for a certain level of appearance may run up against the private property rights of individual citizens. The matter of junk cars, junk boats, junk recreational vehicles, for example immediately raises the question of limiting an individual's right to use his or her property as he or she sees fit. Commissioner Sington points out that the community does have an interest in keeping the residential areas attractive, especially if the community hopes to encourage new families to purchase or build homes and live here.

Zoning Administrator Molby was questioned about the procedure for enforcing the current Zoning Ordinance. He stated that he, too, has questions about that because there is nothing in the

ordinance specifying the penalties or time limits for compliance. We recognize the need for specific procedures to be put in place.

Fields reminded the Commissioners that she had updated the Zoning Ordinance to include amendments (54-59), completing the work in March of 2008, and sent the affected pages of both the Zoning Ordinance and the Amendment Register to the Clerk and Deputy Clerk for review and feedback. There has been no feedback. The Commissioners concurred that lack of negative feedback in this case might be taken as a positive response. Fields will proceed with reprinting the updated Zoning Ordinance and supply a copy to each Commissioner, as well as a full original for the Township Offices. In the discussion, it was suggested that the Zoning Ordinance should be placed on the Township's website.

The Michigan Planning Enabling Act of 2008 requires an ordinance to create the Planning Commission. Fields will begin work on a draft. To expedite the matter, special meetings of the Planning Commission may be called.

Parzych revisited the need for all commission members to have access to their mail boxes in the Township Hall. The Commission members concur that there is a need for such access, either regular business hours for the Township Offices, or keys for the Commissioners.

Report of Planning Commission Chair and Township Representative:

Chair Johnson reports that there has been a serious outbreak of break-ins, mostly affecting local businesses. There has been very little help from the Sheriff's Department. The prosecutor has declined to take any action, because he is too busy investigating murders and other things he deems more important. At the Township Board meeting, a citizen proposed that we hire a constable. The suggestion was not well received by the Township Supervisor. A great deal of concern was expressed by the Commissioners and by the people in attendance at our meeting, that our township needs adequate coverage and that we have an obligation to find a solution.

Report of ZBA Representative:

The next ZBA meeting will be in October.

Report of Zoning Administrator:

Zoning Administrator Molby distributed his report for August, which is hereby incorporated by reference into these minutes. During discussion, Parzych raised the matter of the art gallery on Rapid City Road just north of the river. Apparently, the permit request was for a bunkhouse. But, now it is being operated as a business. Molby understands it is intended to be a home occupation. Reading from the ordinance about the conditions and limitations on home occupations indicates that the art gallery is in violation. Molby will speak with the owner and show him the ordinance.

New Business

Johnson reports on a fence that was built on Torch Court; it is a privacy fence that runs right down to the water's edge. Clearwater Township has no fence ordinance, but it may be time to write one. This current situation is probably going to be resolved in court.

Johnson read the information about the MTA planning workshop on applying the new laws to township planning. The Commissioners request enrollment for all of us plus Molby to attend the session on October 22, 2008 in Grayling.

Sington reported on the new assisted living facility being built in Kalkaska, next to the new dialysis center. They have broken ground and will probably open next year in July or August. There will be 24 studio style and 10 one-bedroom apartments. It will house a maximum of 40 residents. The waiting list is being maintained by Verna McColley. Interested people should call 258-7781 to apply or to request more information.

Adjournment:

MOTION by Risk, second by Fields, to adjourn. Adjournment at 8:55 p.m..

Assignments:

- Fields to forward language to Vance for public hearing.
- Fields to draft by-laws working document.
- Johnson will investigate whether township has by-laws.
- Fields to re-issue Ordinance #9 with the incorporated amendments 54 - 59
- Fields to advise Clerk Vance to register all Planning Commission members and Zoning Administrator Molby for October 22, 2008 MTA P&Z workshop.
- Parzych is also researching existing by-laws of Township Board.

Next Meeting: October 6, 2008.

Respectfully submitted,



Tina Norris Fields
Secretary