

Clearwater Township
Planning Commission
Regular Meeting of March 7, 2016
As approved April 4, 2016

Call to Order, Pledge of Allegiance:

Chair Parzych 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: Backers, Eldridge, Fields, Parzych, Von See.

Township officials: Zoning Administrator Molby

Public: Norm Neuenschwander, Rebecca Norris, Bruce Belanger

Approval of Agenda:

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

Call for Disclosure of Conflicts of Interests:

Chair called for commissioners to disclose any real or potential conflicts of interests. All commissioners declared no conflicts.

Approval of Minutes:

MOTION by Backers, second by Von See, to accept the minutes of February 1, 2016, as presented. Motion carried.

Public Comment for Matters Not on the Agenda:

Norm Neuenschwander – Blue Lake Township has mass gathering ordinance. Anyone promoting a gathering of more than 250 people must get a permit. The fire chief and other township officials have to approve it, and there is a fee charged for security and cleanup – the same type of problems we're having. They passed it back in 2012, although they have never had to use it. Clearwater Township could benefit from such an ordinance to control the sandbar Torchfest.

Chair Parzych instructed Secretary Fields to put that ordinance on the agenda for the Planning Commission's April 4, 2016 meeting.

Comments from Commissioners for Matters Not on the Agenda:

There were none.

Ongoing Permanent Business:

Zoning Ordinance Article 12 – Fields distributed the proposed language amendment for the Temporary Signs portion of Article 12. In accordance with the SCOTUS June 18, 2015, decision in Reed vs Town of Gilbert, holding that regulation of signs based on the content of the message, is unconstitutional, the Clearwater Township Planning Commission reviewed its sign regulations for any regulatory differences based on content rather than on form or purpose. The only difference found was in the time limit for removal of temporary signs.

Research revealed that there was nothing in Michigan's Election Law (PA 116 of 1954) imposing a time limit for posting political campaign signs prior to an election. Instead, the existing state rules are MDOT rules. Indeed, the summary of Attorney General Frank Kelly's opinion 6258 of November 26, 1984, specifically states:

Political campaign signs are a form of speech protected by US Constitution, Amendment I and Michigan Constitution of 1963, Article 1, Section 5. The posting of political campaign signs on private property may not be limited by a municipality to a specified number of days preceding an election (<http://www.ag.state.mi.us/opinion/datafiles/1980s/op06258.htm>)

In light of this information, the portion of Article XII, Section 12.01.G.6, regulating election signs will state that they must comply with the MDOT rules.

MOTION by Fields, second by Backers, to hold a public hearing, on the proposed amendment to Article XII, at the Commission's next meeting, April 4, 2016. Motion carried.

Old Business:

Ordinance 20 proposed changes – Discussion among the commissioners and members of the Sandbar Task Force. The Sandbar Task Force has contacted the Sheriff's department and the Prosecuting Attorney of both Kalkaska and Antrim Counties. The Task Force reports that the Kalkaska County Sheriff will enforce a township ordinance, the Antrim County Sheriff will not, and the Prosecutors of both Counties will not. Even, so, the Task Force reports, the Kalkaska County Sheriff will enforce only certain parts of a township ordinance, and not others.

The critical issue remains the definition of the township's authority over behavior on the sandbar. No letters of inquiry have as yet been written. There have been discussions with a number of people. Chair Parzych reported that the person he spoke with at the Army Corps of Engineers, held that Torch Lake was regulated by the same laws as Lake Michigan because it is navigable and connected (through Torch River, Skegemog Lake, Elk River, and Elk Lake), to Lake Michigan, even though it is upstream of an impassable dam. The claim was made during discussion that the Great Lakes Maritime Law applies equally to Torch Lake. This claim is strongly disputed by several members of both the Planning Commission and the Sandbar Task Force.

Discussion further revealed that we must research statutory law and case law regarding the distinction between a Great Lake and a Michigan Inland Lake, and any differences that apply in their regulation. There is a difference of opinion between the Commission and the Task Force as to the wisdom of establishing the township's authority before enacting a law. Some members of the Commission doubt that the township has any authority past the shoreline of the lake. The critical issue to resolve remains the definition of enforcement authority boundaries. This matter will also be on the April agenda.

Report of Township Representative:

Township Clerk Eldridge - Reported that Resolution 1, extending the No-Wake area from 300 feet to 900 feet from the Torch River Bridge, was passed by the Township Board and sent to the DNR for final approval. This was at the request of the DNR; although the DNR is the body of authority on the placement of the No-Wake buoy, it will not implement the change unless the township also agrees. The matter of the Fire Department physicals was

temporarily resolved; no one was suspended. Parking Resolution 5, restricting parking along Crystal Beach Road and a portion of Torch Bridge Court, was passed and will go to the County Road Commissioner, who will forward it to the State Police for approval. (Kalkaska County Sheriff Whiteford also wants no parking permanently on the "S" curve of Shell-Way Drive, immediately off Crystal Beach Road.) Todd Harger resigned from the Fire Department. Resolutions 2, 3, and 4, were about raises for the elected township officials.

Report of Zoning Administrator:

Zoning Administrator Molby – distributed his report for February 2016, which report is hereby incorporated into the record by reference, and a copy of which report is attached to the permanent copy of these minutes as [Att A].

New Business

There was none.

Closing Public Comment:

There was none.

Adjournment:

MOTION by Backers, second by Von See, to adjourn. Adjournment at 8:00 p.m.

Assignments:

- Fields to add Blue Lake Township's Mass Gathering Ordinance to April agenda
- Fields to send commissioners' email addresses to Rebecca Norris and Norm Neuenschwander
- Fields to publish notice of public hearing April 4, on Article XII amendment
- Fields to add the Sandbar to the agenda again for April

Next Meeting: April 4, 2016.

Respectfully submitted,



Tina Norris Fields
Secretary

Zoning Administration Monthly Report FEBRUARY 2016 Clearwater Township

1 Land Use Permits

Garages, Sheds 8033 ELMBROOK

Residences

Residences with Attached Garage

Pole Barns

Resident Additions

Decks, Porches, etc.

Miscellaneous, Other Buildings

8 Field Checks

1 Attorney Contacts

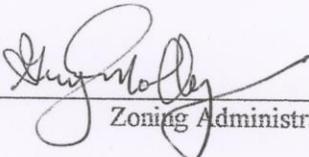
1 Planning Commission Meetings

10 Contacts with Public, Home and Land Owners *LOT SIZE, SETBACK REAR, ACCESS PUBLIC RENTALS, SHED SIZE, VEH'S IN DRIVE, POLE BARN,*

2 ZBA Meetings and/or Township Board Meetings

— Training Sessions

1 Zoning Violations



Zoning Administrator