

Clearwater Township
Planning Commission
Regular Meeting of September 10, 2007
Minutes as approved October 1, 2007

Call to Order, Pledge of Allegiance:

Chair Johnson called the meeting to order at 7:03 p.m.

Roll Call of Members and Recognition of Visitors:

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

Commissioners absent: none

Township officials: ZA Molby

Public: Carol Reeder, Adam Parzych, Lucy Gerlach, Cliff Thompson

Approval of Minutes:

MOTION by Risk, second by Sington to accept the minutes of the meeting of August 13, 2007 as presented. Motion carried.

Approval of Agenda:

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

Open Discussion for Issues Not on the Agenda:

Lucy Gerlach – when you consider your R-1 zoning, it may not be restrictive enough. On Shell-Way between two nice houses, someone bought the empty lot between them and put up a huge brown metal pole barn. It is ugly and will have a negative impact on the value of the two neighboring houses. Questions why we would permit just a big ugly storage building – doesn't there have to be a residence on a property? She suggested that if the R-1 zone would permit a storage building without a residence, that perhaps greater setbacks could be required as a way of preventing the such a building from interfering with the harmonious appearance of the surrounding neighborhood.

Molby advised that in Helena township one cannot erect a pole barn in R-1 or R-2 zones before building a residence, and that a pole barn is constructed it has to blend in with the neighborhood.

Gerlach – continued that our zoning does not restrict such behavior, and she asked the commission to consider this issue as it considers what changes should be made to the existing Zoning Ordinance. Commissioner Veen agreed emphatically with her, saying he wouldn't want that building next door to him. He supported the view that we should consider that issue as we review the Ordinance.

Old Business:

Commissioner Risk brought information regarding the rules on open burning of solid waste. The referenced rules are R 336.1310 – Air Quality and Open Burning Rule, and R 299.4128 – Solid Waste Open Burning Rule. These are rules promulgated by the Michigan Department of Environmental Quality (DEQ), under

the authority of Act 451 of 1994 as amended, the Natural Resources and Environmental Protection Act, being MCL chapter 324. The specific section that mandates the DEQ to promulgate rules to implement the act, is MCL 324.5512 Rules, which is incorporated into these minutes by reference and appended to these minutes as Ref-01.. DEQ rules R 336.1310 and R 299.4128 are incorporated into these minutes by reference and appended to these minutes as Ref-02 and Ref-03 respectively.

Chair Johnson noted that we can enact local ordinances controlling such things as open burning. Secretary Fields noted that by earlier consensus the commission had agreed that when we enacted ordinance requirements according to existing state-mandated laws and rules, we would cite them specifically in our ordinance language.

There was discussion regarding the concerns about noxious odors and the possible expansion of the Patterson farm operation along Rapid City Road. Adam Parzych commented that the farm has been operating as a farm for a very long time and was doing so long before zoning was introduced in the township, and that it was unlikely we could stop the farmer from farming. The commissioners unanimously declared that nobody was interested in stopping the farmer from farming. The interest is solely to encourage the farm to become and remain a good neighbor to the rest of the community, by complying with the Generally Accepted Agricultural Management Practices as prescribed by the Michigan Department of Agriculture, and by controlling noxious odors that emanate from the farm.

We concluded that we needed to know whether the Patterson farm is or is not complying with the MDA GAAMPs. Secretary Fields read off the titles of the seven MDA GAAMP documents for: (a) Care of Farm Animals, (b) Cranberry Production, (c) Irrigation Water Use, (d) Manure Management and Utilization, (e) Nutrient Utilization, (f) Pesticide Utilization and Pest Control, and (g) Site Selection and Odor Control for New and Expanding Livestock Production Facilities,

Chair Johnson requested Secretary Fields to draft letter requesting information from the MDA regarding the compliance of the Patterson farm. Clearly, if the farm is in compliance with the MDA GAAMPs, we have nothing more to say. If the farm is not in compliance, we have the right to try to bring it into compliance.

There was discussion regarding concerns about overly high grass within the residential districts of the township. Kalkaska has a lawn-mowing ordinance that limits grass height to 8", and requires that the plant not be allowed to go to seed. There was a good deal of discussion about the pros and cons of attempting to legislate good lawn maintenance, whether the issue is one of nuisance, and how far the township should go in enforcement efforts.

Carol Reeder inquired whether we could consider incorporating some rules about junk cars in yards when we review our zoning ordinance. Chair Johnson commented that the township does have the authority to enforce some control on nuisance and eyesores.

Report of Planning Commission Chair:

Chair Johnson asked whether the commission would want to meet twice a month in order to get the Zoning Ordinance revised. He also pointed out that documents we are generating now refer to Zoning Ordinance requirements that are not yet in place. This is a good reason for us to get the Zoning Ordinance updated as quickly as possible, so that everything is in agreement.

Chair Johnson reported that he has received a letter from Kankaska County Clerk Patricia Rodgers regarding an initiative launched by County Planning Commissioner Stuart McKinnon seeking support from the several townships in Kankaska County for public input to counter any proposed bottling plant’s intended large water withdrawal from the county’s aquifers. Accompanying the letter from Clerk Rodgers was an attorney opinion that water withdrawals are under state control. For new projects, public input is required, even though the ultimate decision will be mad by the state. The law does prohibit local units of government from enacting any ordinance that regulates a large quantity withdrawal. We did discuss how proactive we should be as citizens with regard to such potential future water withdrawal projects.

Johnson asked ZA Molby what action there is on the Charlie Cummins problem. A letter was sent giving him thirty days to move on it. Next Thursday (September 20, 2007) is the date of recognition. Molby will know more about it next Thursday.

We discussed the fact that there are outstanding amendments to be incorporated into the Zoning Ordinance. Secretary Fields stated that the incorporation of those outstanding amendments is underway.

Report of Township Representative:

Commissioner Veen declared that the copies of minutes of the township board meeting, that were made a part of the commissioners’ packets constitutes his report. Molby asked to also be included.

Report of ZBA Representative:

No ZBA meeting in the last month – next meeting is October 8, 2007.

Report of Zoning Administrator:

Molby distributed August report, which is hereby incorporated by reference. Sington asks for an opinion from Molby next month on whether the businesses who place their wares for sale close to the road constitute signage? Is the stuff on the road right-of-way? Will the county want to intervene? Molby said he talked with Wright’s office manager and asked stuff to be moved 10 feet back, which didn’t happen. He states that the township is in violation with its sign for Heritage Park at only three feet back from the right-of-way rather than the required ten feet.

Thompson indicated it would be appropriate to check out what the old sign setback was at the time Wright went into business – he would be grandfathered in at the old setback.

New Business

Veen – stated he’s been working on the sign ordinance. He found fault with the structure of the proposed Article 12. He objected to the new definition being

offered. He objected to the index to the proposed Article included in the cover memo. He also stated that the document claimed to have been approved by the Township Board. Secretary Fields offered explanations to his objections and pointed out that it nowhere states that the Township Board had approved it. It said only that the proposed Article 12 is presented as accepted by the Township Zoning Board on September 18, 2006. Veen accepted the correction to his statement. He also objected to the length of the proposed Article 12.

Lucy Gerlach – brought up the issue of obtaining an accurate zoning map. We recounted the issues we have encountered in trying to get maps. We have not yet had approval from the Township Board to purchase appropriate new maps. Our request is over two years old.

Molby stated that someone is working with Helena township to do exactly that. We'll put it on the agenda for next month.

Adjournment:

MOTION by Risk, second by Veen, to adjourn. Adjournment at 8:26 p.m..

Assignments:

- Fields to draft letter to MDA regarding compliance with GAAMPs by the farm.

Next Meeting: October 1, 2007

Respectfully submitted,



Tina Norris Fields
Secretary

Appended References:

Ref-01:

**Michigan's Natural Resources and Environmental Protection Act
Act 451 of 1994
Chapter 324 of MCL
324.5512 Rules.**

Sec. 5512. (1) The department shall promulgate rules for purposes of doing all of the following:

- (a) Controlling or prohibiting air pollution.
- (b) Complying with the clean air act.
- (c) Controlling any mode of transportation that is capable of causing or contributing to air pollution.
- (d) Reviewing proposed locations of stationary emission sources.
- (e) Reviewing modifications of existing emission sources.

(f) Prohibiting locations or modifications of emission sources that impair the state's ability to meet federal ambient air standards.

(g) Establishing suitable emission standards consistent with ambient air quality standards established by the federal government and factors including, but not limited to, conditions of the terrain, wind velocities and directions, land usage of the region, and the anticipated characteristics and quantities of potential air pollution sources. This part does not prohibit the department from denying or revoking a permit to operate a source, process, or process equipment that would adversely affect human health or other conditions important to the life of the community.

(h) Implementing sections 5505 and 5506.

(2) Unless otherwise provided in this part, each rule, permit, or administrative order promulgated or issued under this part prior to November 13, 1993 shall remain in effect according to its terms unless the rule or order is inconsistent with this part or is revised, amended, or repealed.

History: 1994, Act 451, Eff. Mar. 30, 1995.

Popular name: Act 451

Popular name: NREPA

Administrative rules: R 336.1101 et seq.; R 336.1122; and R 336.1201 et seq. of the Michigan Administrative Code

Ref-02

R 336.1310 Open burning.

Rule 310. (1) A person shall not cause or permit open burning of refuse, garbage, or any other waste materials, except for the burning of any of the following:

(a) Waste disposal material from and at 1- or 2-family dwellings if the burning does not violate any other department rules.

(b) Structures and other materials used exclusively for fire prevention training.

(c) Trees, logs, brush, and stumps in accordance with applicable state and local regulations if the burning is not conducted within a priority I area as listed in table 33, a priority II area as listed in table 34, nor closer than 1400 feet to an incorporated city or village limit and if the burning does not violate any other department rules.

(d) Beekeeping equipment and products, including frames, hive bodies, hive covers, combs, wax, and honey, if burned for bee disease control.

(e) Logs, brush, charcoal, and similar materials that are used in preparing food or for recreation.

(2) The exceptions specified in subrule (1) of this rule do not authorize open burning if prohibited by local law or regulation.

History: 1979 ACS 1, Eff. Jan. 19, 1980; 1999 MR 1, Eff. Feb. 4, 1999.

Ref-03

R 299.4128 Open dumping and open burning prohibited.

Rule 128. (1) A person shall not dispose of solid waste in an open dump, except as provided in the act.

(2) Solid waste from an individual's own household or from the planting of privately owned farmland shall be considered a hazard to health and shall not be disposed of in an open dump upon the individual's own land, as provided in section 11512 of the act, if it is any of the following:

- (a) Asbestos waste.
 - (b) A hazardous commercial chemical product.
 - (c) A used battery.
 - (d) A pesticide container.
 - (e) Waste from the demolition of the residence, except for components that are listed as inert material in R 299.4114.
- (3) Open burning of solid waste is prohibited, except as provided in subrules (4), (5), and (6) of this rule.
- (4) If not prohibited by local ordinance, an individual is not prohibited by the act and these rules from burning solid waste from the individual's own household upon the individual's own land if both of the following conditions are met:
- (a) The burning does not create a nuisance and is otherwise in compliance with part 55 of the act and the administrative rules promulgated under part 55 of the act.
 - (b) The burning is conducted in an approved container constructed of metal or masonry that has a metal covering device that does not have openings larger than $\frac{3}{4}$ inch.
- (5) A person may burn waste for energy recovery in a facility other than an incinerator under R 299.4110.
- (6) A person may burn trees, logs, brush, and stumps under R 299.4110.
- (7) The open burning of grass clippings or leaves, or both, is prohibited in any municipality that has a population of 7,500 or more persons under section 11522 of the act, unless specifically authorized by local ordinance. A municipality shall report an open burning ordinance to the department within 30 days of the enactment of the ordinance.

History: 1993 MR 9, Eff. Oct. 8, 1993; 1999 MR 3, Eff. Apr. 12, 1999.