

Township of Lake

Huron County, Michigan
Special Meeting - May 25, 2012

This meeting of the Lake Township Board called to order at 7:30 P.M. Pledge of allegiance. Roll call. Fischer, Smith, Hartsell and McCallum present along with approximately 21 guests. Osborne absent.

The meeting was a public hearing for the purpose of taking input on zoning ordinance amendments to Chapter 12, General Provisions, specifically Sections 1202.4, Use of Mobile Homes and Recreational Equipment, and Section 1203.4 Waterfront Easements.

Section 1202.4 Use of Mobile Homes and Recreational Equipment

Smith opened the meeting to public comments regarding **Section 1202.4, Use of Mobile Homes and Recreational Equipment.**

Mary Quinn requested that the ordinance make a distinction between occupied vacant land and unoccupied vacant land, that people should have a right to let an RV park on their adjoining vacant lot, but as far as unoccupied vacant land, she is concerned that the township will end up with the same problems they had back in the 1960's when it was a free for all. She said that the previous public officials had tried to clean up the reputation of Caseville but people still have a perception that it is a rough area. She noted that in the minutes Mrs. Krohn had stated she has had her property for seven years and that if you allow someone to use their property for this much time with an RV why would they want to build and pay more taxes. She stated the board needs to look at the community as a whole, builders need jobs, plumbers, electricians. The ordinance, as amended, will detract from property values and that many cottage owners do not even use their cottage for 18 days. She stated she asked Realtor, David Kraft, about RV's being parked and used on vacant lots and he told her they would absolutely devalue property. She also stated that the Zoning Administrator is going to have to go checking on these RV's and that this will burden so many people in the community since Lake Township does not have its own police department; that we may not see it in the first or second year, but we will run into the same problems we had in the 1960's. She stated that the deed to her property does not allow for trailers so this will end up causing a civil war between neighbors because her deed or abstract will trump the Township's ordinance.

Mary asked if she could now speak on behalf of her mother, Cassie Quinn, inasmuch as she could not attend. Smith would not allow her to do so.

Karen Lanfear of Sylva Beach stated she is concerned it will become a burden for the rest of the homeowners and the small beach they have if so many more people are allowed to place tents and campers on vacant lots and it is not something that they want and the township is going backwards.

Linda Collins stated she is talking specifically about Sylva Beach Road, that she owns a house with a cottage on one street and stores her lift on the vacant lot because it is better than down on the beach. She stated she has a piece of property, doesn't have campers, but has a concern as to where she will be able to store her boat hoist.

Dave Szumlinski stated that this is only adding four days to the 14 already allowed. If the ordinance doesn't pass, people can still camp for 14 days.

Lou Colletta commented that it is four days per quarter, or 16 additional days per year.

Hal Lanfear, Sylva Beach, commented that the ordinance has been working, that it has been proactive the way it is and the township should leave well enough alone, stating that "if it ain't broke, don't fix it."

Dick McIlhargie commented that if you put June and July back to back, you could have 36 days in a row and with campers, you could have generators running day and night which are noisy and asked whether portable toilets will be allowed or if there are any restrictions on those, and what about parking. He stated that if you are building a house you have to have water and septic permits, but where does the special permit come from to camp on an unimproved lot and what requirements are there for water, sewage and electricity?

Smith stated that if someone wants to use a camper on a vacant lot, they have to have water and sewer.

Smith closed the public comments on Section 1202.4 at 7:48 P.M.

Section 1203.4 Waterfront Easements

Hartsell read the Notice of Public Hearing for **Section 1203.4, Waterfront Easements**. McCallum introduced Mark Lesinski of the USACE to the board and residents in attendance.

Mark Lesinski, USACE, stated that the Corps regulates boat hoists and that all hoists need a permit from the Corps. He stated that the Corps has been busy with shoreline issues such as beach grooming but their workload changed last year and they began going out and tagging boat hoists to get people to apply for permits. He stated they attach a violation notice and application to a boat or jet ski hoist and ask that the owner contact him if they already have a permit or fill out the application and send it in if they do not. He stated that Lake Township currently has an ordinance and it helps in their enforcement and gets people to apply for their permit. He stated there are issues with liability and with a permitted boat hoist the township has done everything it could, but someone who doesn't have a permit could be liable if they were found to be negligent should the case go to court. He stated that a permit lasts the life of the permit.

Dave Szumlinski commented that the township has no jurisdiction in the waters and why would the township want jurisdiction. Mr. Lesinski stated that the township does have jurisdiction. He stated the Corps has authority over all structures in the water and a local ordinance can also require permits.

Hartsell commented that the township attorney stated the township has no jurisdiction in the water.

Jim Simmons asked whether the Corps has a law that states how many hoists can be in front of a house or easement. Mr. Lesinski responded that up to four hoists are allowed per property. Jim Simmons asked how the township can be more restrictive. Mr. Lesinski commented that the township can be more restrictive, that the rules are set up by the USACE nationwide, but those rules do not fit in all areas so each state has its own rules and those rules tend to be more restrictive; for example the USACE could issue a permit and the state could say no permits, then a county can have more restrictive rules and a city, township or village would probably have more restrictions since the people there are making rules to fit their circumstances rather than someone who doesn't know the area. A local unit wants to have the most control, that's the whole idea behind the way the rules are set up; so the people that have the most interest in their area have a say in what is or is not allowed.

Lou Colletta commented that there is some mix up between the regulations established by the planning commission as to where boat hoists are located and the registration which is just for identification purposes. He stated that when the planning commission worked on the regulations, the township attorney, Walt Salens, reviewed the ordinance and approved it and now he is contradicting his initial opinion.

Mike Hardy, Sylva Beach, thanked the board for having the hearing. He stated that if the township attorney, Walt Salens, originally reviewed the ordinance and it was allowable and is now saying that it is not, maybe the township should seek the opinion from an expert in maritime law. He stated that one issue that led up to the 2007 ordinance was that their easement was a storage field with four to five hoists left every year, some of which never went in the water. This ordinance put up guardrails and cleaned up the beach areas. He stated his subdivision does not have a homeowner's association and they depend on the leadership of the township so all 26 households in his subdivision will have an equal share in the use of their 50 foot beach. He stated that what the township did in 2007 was excellent and allowed people to use their beaches safely and he urged the board to not repeal this and find another attorney versed in maritime law.

Paul Golsch wanted to clarify what the planning commission was doing and read an August 5, 2004 letter from Building & Zoning Director Russ Lundberg.

Clay Kelterborn commented that when he was supervisor a lot of research was done and the planning commission sought input from other shoreline communities. He stated there is now a conflict in legal advice because the planning commission did consult with Walt Salens and Salens concurred that the township is a public agency with the responsibility of protecting the public health, safety and welfare. The township zones private property, an easement is private property and yes, the township does have that authority. He stated that Mark Lesinski of the USACE says the township does have that authority. He stated there were many problems which precipitated why these ordinances came about and he remembers what it was like. He stated that the board is here to serve the community and there will always be someone who doesn't agree, but the ordinance should stay in place. He asked whether Russ Lundberg ever conferred with Mark Lesinski. Mr. Lesinski responded that Russ Lundberg never contacted him.

Mary Quinn commented that it is the same issue as RV's. She stated the township is now saying it doesn't have jurisdiction over easements, so how can the township regulate camping. She stated that everyone will agree that everyone wants to keep the beaches nice. Having officials that care is important. She stated she wants to be able to call Mr. Smith and ask him as a public official to help the people maintain what we already have. She stated no one can control the zebra mussels or the muck but we can control the boat hoists. She stated that in her subdivision they had two instances last year where the township stepped in on the residents behalf based on the existing ordinance.

Jim Simmons stated that there is a lot of concern about keeping the easements clean. He commented that Paragraphs A – F should be repealed but Paragraph G is good, it keeps the easements clean.

Melissa Hardy, Sylva Beach, is concerned with taking just a single opinion of one attorney and stated that the courts or legal system proves that one attorney's opinion may not be correct. She stated the USACE has said very clearly that the township does have jurisdiction and that a township can be more restrictive and that she does not agree with repealing any of these sections. She stated her children grew up with multiple hoists in the water and at one time she couldn't see her children when they were in the water. She stated that township is abdicating their authority and leaving it up to homeowners and is looking to the board for leadership and strongly urges the board to not repeal any of these ordinances.

Gerry Pobanz asked Mark Lesinski whether the hoists could be spread out anywhere once they are in the water. Mr. Lesinski responded that there are riparian rights which prevent a person from putting their hoist in the water in front of another's property. He stated when the USACE issues permits, they are not interested in whether it is an easement or private.

Phil Saroli commented that he understands the township doesn't want to overcrowd the beaches and he has gone through the permit process through the USACE. He stated that he was told that once it was in the water, he could put it in front of someone else's property as long as it was not impeding their use. He also commented that he received a call in the winter and had to move his hoist off the

easement and did so, but there was a rusty hoist still left on the beach and that if the township is going to make laws, they have to apply to everyone.

Cindy Jurek expressed concern that the amendment would also repeal “no docks allowed” and that someone could then have a dock extend across their property and go right to the water. Smith stated no. Mrs. Jurek also commented that Lake Township owns property at the end of Champagne Road and people get permits for their hoists and that previous to the ordinance people would leave hoists as close to the beach as they could and now she can’t wait until October when all of those ugly metal things are gone. She stated that if the ordinance is repealed, not only will it be ugly in the summer, but also in the fall and winter with rusting hoists. She also indicated that she has filed written complaints regarding boat hoists in the water horizontally along the shoreline rather than vertically and the zoning administrator told her he could do nothing about it. She stated when she goes to the beach she shouldn’t have to see six hoists across the beach and that it is a concern for children’s safety. She stated that her point is that the board should leave this ordinance alone, it is not perfect but it is better than what it was before.

Smith stated that as to Champagne Road there can’t be any boat hoists and read a news article related to the passage of SB 778 which prohibits boat dockage at road ends of inland lakes. Smith stated it also included the Great Lakes.

Mary Quinn asked how many private easements are in Lake Township and whether the township still has jurisdiction over those. Smith responded that the township does not have jurisdiction over private easements.

Jeanne Henry wanted to reinforce the saying that “if it ain’t broke, don’t fix it”. She stated she is a resident on both sides of the issue, being a homeowner on Sylva Beach Road and also a riparian owner on the lake next to an easement. She stated the riparian aspect has an effect on the viewshed of riparian property owners and being next to an easement can be a terrible place to own property. She stated in past years when it was convenient there were seven boat hoists to look at and six aluminum boats that were not moved in years. What they have now is better than what they had and she asked the board not to mess with it.

Dave Clark of Shady Lane stated he uses the Champagne Road access and has had a hoist for 12 years and has a permit from the township and the USACE. He stated he thinks some rules are okay but they need to be reasonable. Hoists should be in the water during the season and tucked up to the cliff with the walkway clear during the off season. He does not see an issue with the rules, rules are good to a point as long as they are within reason. He stated that some are going too far, that the perpendicular aspect is tough since most hoists are out on the second sandbar and children are playing in the water in front of them. He doesn’t think it is a big problem as long as they are not one after another, but that perpendicular is dangerous.

Linda Collins read part of a letter she sent to the board on February 10, 2012 and stated she bought property to use and enjoy her wave runner. She asked that the board re-read her entire letter.

Walt Kloc stated he attended the meetings when the planning commission was discussing the ordinance and he has an issue with regard to putting hoists perpendicular because if you keep walking out into the water it gets deeper and stated that section needs to be repealed. He also stated that as far as the registration of boat hoists he believes that the enforcement has not been uniform.

Motion by Fischer to adjourn, seconded by Hartsell. Meeting adjourned at 8:41 P.M.

Valerie McCallum, Clerk