

Silver Creek Township Planning Commission
Monthly Meeting
1/28/2015

Meeting called to order by William Zuhl @ 7:02

The pledge was led by Dave Grabemeyer.

Roll Call: Mike Glynn, Tom Lehrer, Walt Lehman, Jerry Donley (via phone), Dave Grabemeyer, and William Zuhl

Not in attendance: Terry Harris

Also in attendance: Steve Czadzeck from Lakeshore Environmental Inc., Attorney John Magyar, and Jennifer Stockwell

Members of the public: several

A motion was made by Dave Grabemeyer to approve the meeting agenda. It was supported by Mike Glynn.

Motion carried by a unanimous voice vote.

A motion was made to approve the meeting minutes from December 17, 2014 by Dave Grabemeyer it was supported by Mike Glynn.

Motion carried by a unanimous voice vote.

Communications: Yes – Mr. Donley asked that the email he sent to other commission members be read into the minutes. A copy of the email is attached to the minutes. The email stated that Mr. Donley strongly disagreed with the verbiage for 6.07 B.

Walt also read an email Mr. Glynn sent to Mr. Czadzek and Mr. Carey about how issues concerning the Commission need to be discussed in a regular Commission meeting and not in emails. A copy of this email is also attached to the minutes.

Public Comment: None

Zoning Administrator's Report: None

Attorney's Report: Nothing at this time. But would like to add to a future agenda the topic of "The Right to Farm Act"

Unfinished Business:

Steve received emails from an outside source with concerns that he hadn't changed anything – Steve stated that he only changed things that the Commission had directed him to adjust.

Steve added the dates back onto the township ordinances and any changes made from here forward on this project will have the date 1-15-2015.

6.07 B – Leasing and Renting of Dock Space – Bill Zuhl asked if there needed to be any other changes made to this section or is there any discussion? Walt feels that if it is taken out that there might be some problems as this section mirrors the state regulations. Mike Glynn stated that if the township is silent on this issue doesn't the state statute prevail. Jerry Donley agreed with Mike Glynn and he felt that it didn't need to be in the ordinances. Walt brought up the conflict that the township had with permanent piers and the state law and how it didn't work. He stated once again all this ordinance does is mirror the state law and it should be left in. Jerry asked which wording was Walt talking about. Steve said that Walt is talking about the email from January 1, 2015.

Tom Lehrer passed out a sheet and talked about "conveyance" and the attachment of rights. He feels this should be added. Walt stated that local law can be more restrictive but cannot be less than what is state law. John Magyar made the comment that he felt it should be a "boating ordinance", but the decision is up to the Commission. Bill Zuhl asked, "At this point where can the harvester be parked?" Steve stated it is in the boating ordinance Section 4.5 and in 6.02. They both say the same thing. Walt feels that this leaves the township open to court cases. Steve then referenced a court case from 1967 -- Thompson vs. Edmonds -- he then went on to read what the court case was about and point out by Tom Lehrer. Mr. Magyar then stated you can't convey a riparian right and gave an example. Walt read Riparian Rights. John Magyar stated that "Conveyance" is a deed not a permission.

Bill Zuhl feels that if the State Governs this then the township needs to stay out of it. Walt Lehman feels like the township is back to square one on this.

Mike Glynn feels if 6.02 G is not a permitted use that he doesn't want to do anything with this until the Boating Ordinance are voted on by the Township Board. On 6.07 B he agrees that is ok if it is mirroring the State Law.

Dave Grabemeyer wanted to make that what is written right now for 6.07 B is what the State Law is right now. Steve feels that it is stating the same as the State Law just not word for word. Steve explained how he wrote this section. Jim Magyar stated that the reason this was put in the ordinance is because of the issues that the township has already had.

Discussion followed.

Jerry Donley questioned a document sent to Steve and John Magyar by Attorney Carey and if had yet been addressed. Steve read the email that Mr. Donley was talking about. A copy of that email is attached. Mike Glynn asked Jerry Donley exactly what his thoughts were on this. Mr. Donley explained he is worried about mooring the weed harvester on a vacant lot. Steve stated the email wasn't clear as to what they were worried about and "Conveyance" was not included at this time in 6.07B.

At this point Steve asked what his directive was do we get rid of everything that was decided last month or the Commission going to leave it. Walt Lehman read the 1/7/15 suggestion that was now in writing, he likes this suggestion. John Magyar questioned the writing and it was reviewed again. Mike Glynn then questioned if it is a vacant lot, leasing or renting, but if it has a dwelling is it ok.

Discussion followed on the wording.

John Magyar asked the Commission what is their specific concerns on this and what they were trying to accomplish.

The question was 6.07 B – without "Conveyance" as proposed on January 7, 2015 – does the Commission leave it that way or change it.

Jerry Donley asked how it would it affect the Yacht Club. Tom Lehrer asked why there are so many boats stored at the Yacht Club. Jerry responded because they lease it to the people that live on the bluff. Mike Glynn referenced the Boating Ordinance again.

Walt Lehman made a motion to accept 6.07 B as written on 1/7/2015 and presented by Steve Czadzeck. Tom Lehrer support the motion. So 6.07 B will read: LEASING OR RENTING OF DOCK SPACE. Leasing or renting of dock space or moorage is hereby prohibited except in conjunction with the lease or rental of the dwelling unit on the same lot or as permitted in approved marinas.

The motion passed.

Next the commission discussed 6.02 G.

Walt feels that 6.02 G will open up the Township to litigation. John Magyar doesn't agree. Mike Glynn feels that the Boating Ordinance should be passed first before this ordinance is accepted and if it is not it should be put in as a special use. Steve asked why the Boating and Zoning Ordinances can't be accepted together. Walt explained the difference between the Boating Ordinances and the Zoning Ordinances. Bill Zuhl asked if they should leave this subject alone for right now. Mike Glynn and Walt Lehman both agree that this should addressed now. John Magyar stated that the Township should have another public hearing to get the public's opinion and that it wouldn't hurt to wait until more residence returned in a couple of months.

Discussion Followed.

Bill Zuhl asked if 6.02 G should be a special use.

Discussion Followed.

If the words non-recreational would be taken out of 6.02 G would it then be acceptable?

Discussion Followed.

Mike Glynn then asked Todd Herter what he thinks about adopting 6.02 G without the boating ordinance in place. Todd doesn't want the Boating Ordinance without the Zoning Ordinance.

Discussion Followed.

Mike Glynn would like to see the Boating and Zoning Ordinance passed at the same time.

Mike Glynn suggested that 6.02 G be postponed to adopting until the Boating Ordinance can be passed by the Township board.

Steve reviewed the items that the Commission would like him to address:

1. Amend the dates in the ordinance
2. 6.02 G – only changes with the passing of the Boating Ordinance
3. 6.07 B – Retain PDF 1/7.2015
4. 4.5 Revised in October with suggestions made by Attorney Carey

Bill Zuhl stated that a public hearing needs to be held next month for all of the revisions that have been made up to this point. Steve will send out a new draft of the Zoning Ordinances with the date of the last revision being 1/15/2015.

Jerry Donley asked. “That is then to be understood that all emails addressed/sent to the Commission will be discussed at regular meeting and will not be responded to until after the Commission has discussed each one?” The Commission agreed that going forward that this is what should be happening.

A public hearing will be held next month on the regular meeting not of February 25, 2015.

Mike Glynn then discussed the Capital Improvement Plan and presented his recommended form. He stated that he needed to clean it up a little bit and asked for any suggestions. He also stated that he will need to get with Terry Harris and Tom Lehrer to work on a grading system for the form. This will be discussed more next month.

Public Comment: None.

Commission Comments: None.

Next meeting will be Wednesday, February 25, 2015 @ 7:00 p.m.

Tom Lehrer made a motion to adjourn the meeting; it was supported by Dave Grabemeyer. The meeting was adjourned at 9:12.

Minutes respectfully submitted by: Jennifer Stockwell



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Planning Commission Meeting 1-28-2015(2)

People

Steve Czadzeck Commissioners, Three items require answers/opinions by Wednesday's meeting: 1. D. Jan 25 at 10:16 PM

Jerry Today at 4:10 PM
 To SteveC@lakeshoreenvironmental.com, bzrepair@gmail.com, tharris763@gmail.com, dgrabemeyer@yahoo.com, glynnredmill@hotmail.com, and 2 more...
 CC silvercreek@sisterlakescable.com, magyarlaw@gmail.com

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To all Silver Creek Planning Commission Members: Just for the record and please read into the January 28th, 2015 planning commission meeting, I, Jerry Donley, strongly disagree with the new verbiage of 6.07 B which I received in the e-mail sent Sunday evening January 27th, 2015 from Steve which added "or conveyance of dock space", this verbiage needs to be removed. And should read as of January 7th, 2015 per the December 17th, 2014 meeting as directed by the Planning Commission.

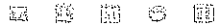
Thank you-
Jerry Donley
Planning Commissioner

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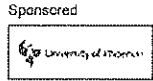
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Open Meeting Act:

People

Mike Glynn Today at 9:18 AM
 To: Steve Czadzeck, W Carey wcarey@carey-jaskowski.com
 CC: Tom Lehrer, Attorney Magyar, Silver Creek Township, B Z Repair, Bill Zuhl, Terry Harris Planning Commission, and 3 more...

Addressing all on this email list:

Although this email correspondence may have value, is this the proper venue for this exchange of ideas. If an interested party is not included on the email list that party is left out of the exchange.

Do these emails fall under the guide lines of the Open Meeting Act? All of these emails should be read into the record of the Public meeting.

Does this exchange of emails concerning matters before the Planning Commission constitute a violation of the OMA?

All business of government must be conducted in a format open to the public. All debate of issues before this Commission must be done in a meeting open to the public.

In my opinion, Lake Shore Environmental was hired by the Township as their consultant.

If a private individual or group would like to ask a question or express a concern about a matter before the Planning Commission that question should be addressed to the Planning Commission during a public meeting.

Since Lake Shore Environmental is under contract with the Township, LSE would have no obligation (out side of the scope of the contract) to answer or research questions posed to them unless LSE chose too do so, or the Commission asked the consultant to do so.

Under the Planning Enabling Act- the State of Michigan provides for the Planning Commission to create the Zoning Ordinance.

The State of Michigan provides the guidelines in the Open Meeting Acts to allow for this very public process to take place.

Sincerely:

Mike Glynn,
Silver Creek Township Trustee,
Planning Commission Member.

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FW: revisions related to 6.07B-leasing, renting or conveyance of d... People

Steve Czadzeck Jan 27 at 12:57 PM
 To: W Carey (wcarey@carey-jaskowski.com)
 CC: Lehpatt, Attorney Magyar (magyarlaw@gmail.com), silvercreek@sisterlakescable.com, Bill Zuhl (bzrepair@gmail.com), Terry Harris <tharris763@gmail.com> (tharris763@gmail.com), and 4 more...

Mr. Cary,
 Commissioner Lehror recognized that the separation of mooring (or water rights in general) from the WD properties should be prohibited. You and I seem to agree with him.

My suggestion was not included in any revision – it was emailed for consideration by the commissioners.

Your client's (ILIA) concern regarding moorage of their weed harvester is legitimate. I appreciate you directing them to the explicit permission granted in the boating ordinance.

I will be at Wednesday's PC meeting. We can assume your following suggestion will be discussed.

Thank You

Steve Czadzeck, RLA
 (aad-zik)
 Lakeshore Environmental, Inc.
 803 Verhoeks Street
 Grand Haven, MI 49417
 Office: 616-844-5050
 Cell: 616-843-5268
 Fax: 616-844-5053
 email: steve@lakeshoreenvironmental.com



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From: W Carey [<mailto:wcarey@carey-jaskowski.com>]
 Sent: Monday, January 26, 2015 6:42 PM
 To: Steve Czadzeck; magyarlaw@gmail.com
 Cc: Jerry; Stacie Thayer
 Subject: revisions related to 6.07B-leasing, renting or conveyance of dock space

Gentlemen:

The most recent suggested revisions (see above) have my clients concerned. I have explained to them that there is a legitimate need to regulate the transfer of dock space on a per fee basis. To do so would constitute the operation of a marina and subject the offending party to MNREPA violations. The township has a basis to preclude the rental or sale of dock space where such a transfer is done separate from the upland. That said, 6.07B can be interpreted to preclude the placement of the weed harvester at its' current location-a vacant lot. Since we all agree that the boating ordinance allows the use of the weed harvested as a permitted use, such an interpretation of 6.07B would create a conflict between the two ordinances. Some clarification of the lack of interplay between the two ordinances on this point is clearly needed. I suggest "Nothing contained herein

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803 Verhoeks Street

Grand Haven, MI 49417

Office: 616-844-5050

Cell: 616-843-5268

Fax: 616-844-5053

email: stevec@lakeshoreenvironmental.com

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of 6.07B would create a conflict between the two ordinances. Some clarification of the lack of interplay between the two ordinances on this point is clearly needed. I suggest *“Nothing contained herein is intended to prohibit the use of dock space for the permissive mooring of a watercraft at separate frontage, irrespective of whether or not the separate frontage has a structure or dwelling located thereon, so long as the permissive use is not implemented on a fee basis”* be added to 6.07B.

Please favor me with a reply prior to your upcoming meeting-which I understand is scheduled for this Weds.

William L. Carey

CAREY & JASKOWSKI PLLC

2373 S I-75 Business Loop | Grayling, Michigan 49738
(989) 348-5232 (direct) | (989) 348-7102 (fax)
wcarey@carey-jaskowski.com | www.careyjaskowski.com

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Steve Czadzeck Mr. Cary, Commissioner Lehrer recognized that the separation of mooring (or water rights in general) from the WD properties should be prohibited. You and I seem to agree with him. My suggestion was no

To

W-Carey (wcarey@carey-jaskowski.com)

CC

Lehpat Attorney Magyar (magyarlaw@gmail.com) silvercreek@sisterlakescable.com Bill Zuhl (bzrepair@gmail.com) Terry Harris <tharris763@gmail.com> (tharris763@gmail.com) and 4 more...

Jan 27 at 12:57 PM

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I appreciate you directing them to the explicit permission granted in the boating ordinance.

I will be at Wednesday's PC meeting.

We can assume your following suggestion will be discussed.

Thank You

Steve Czadzeck, RLA

(zad-zik)

Lakeshore Environmental, Inc.

FW: revisions related to 6.07B-leasing, renting or conveyance of dock space

People

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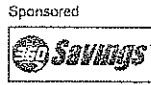
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Thank You

Steve Czadzeck, RLA (zad-zik) Lakeshore Environmental, Inc. 803 Verhoeks Street Grand Haven, MI 49417 Office: 616-844-5050 Cell: 616-843-5268 Fax: 616-844-5053 email: stevec@lakeshoreenvironmental.com



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Please favor me with a reply prior to your upcoming meeting-which I understand is scheduled for this Weds.



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Zoning Ordinance - Tom's comments

People

Steve Czadzeck Today at 1:10 PM
 To Lehpat
 CC Attorney Magyar (magyarlaw@gmail.com), silvercreek@sisterlakescable.com, Bill Zuhl (bzrepair@gmail.com), Terry Harris <tharris763@gmail.com> (tharris763@gmail.com), dgrabemeyer@yahoo.com, and 4 more...

I can see where "Conveyance" of dock space should be regulated, to cover sales and transfers separate from the actual property, not just leasing and renting.
 The following suggested definition doesn't expressly allow the transfer of dock space along with the sale of real property, but it is implied, as dock space is part and parcel of waterfront property rights.

LEASING, RENTING, or CONVEYANCE OF DOCK SPACE. Leasing, renting, or Conveyance of dock space or moorage is hereby prohibited except in conjunction with the lease or rental of the dwelling unit on the same lot or as permitted in approved marinas.

The last sentence of 4.5 was included at the recommendation of the township attorney, with the approval of the Planning commission at the December meeting.

-----Original Message-----
 From: Lehpat [mailto:lehpat@aol.com]
 Sent: Thursday, January 22, 2015 12:59 PM
 To: Steve Czadzeck
 Subject: Re: SCTwp Zoning Ordinance - Final (?) Revisions

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steve on 6.07 B

I WOULD LIKE TO SEE A CHANGE TO READ LEASING RENTING OR CONVEYANCE OF DOCK SPACE

TOM

I ALSO IN SECTION 4.5 DO NOT SEE THE NEED FOR THE LAST SENTENCE

From: Steve Czadzeck <SteveC@lakeshoreenvironmental.com>
 To: Bill Zuhl (bzrepair@gmail.com) <bzrepair@gmail.com>; Terry Harris <tharris763@gmail.com> (tharris763@gmail.com) <tharris763@gmail.com>; dgrabemeyer <dgrabemeyer@yahoo.com>; Jerry Donley (jerdld@aol.com) <jerdld@aol.com>; Mike Glynn (glynnredmill@hotmail.com) <glynnredmill@hotmail.com>; lehlake <lehlake@frontier.com>; lehpat <lehpat@aol.com>
 Cc: Attorney Magyar (magyarlaw@gmail.com) <magyarlaw@gmail.com>; silvercreek <silvercreek@sisterlakescable.com>
 Sent: Wed, Jan 7, 2015 3:07 pm
 Subject: SCTwp Zoning Ordinance - Final (?) Revisions

Commissioners, At our Dec 17, 2014 meeting you directed the following changes: 1. Leave all amendment dates throughout the ordinance. -They are retained. 2. Definitions - M - Define Moorage. -Moorage is now defined the same as "Docked or Docking". 3. Section 6.02 - Add "Moorage of Non-Recreational Watercraft" as a permitted use. It was inserted as 6.02 G - Docking, Anchoring, and Moorage of Non-Recreational Watercraft. 4. Section 6.07 B - Remove the entire section "Exclusive Use and Ownership" to eliminate the ongoing debate over the definitions of Business Invitee and Licensees. "Exclusive Use and Ownership" as proposed prohibited the leasing or renting dock space in WD. In the existing Zoning Ordinance, it was addressed in 6.02-F & G Private Boat Docks. Leasing or renting dock space was moved to 6.07 B "Exclusive Use and Ownership" to eliminate it's by right status. Since it seems clear that the commissioners want this practice limited to the special uses, consider revising Section 6.07 B as follows: 6.07 B - LEASING OR RENTING OF DOCK SPACE. Leasing or renting of dock space or moorage is hereby prohibited except in conjunction with the lease or rental of the dwelling unit on the same lot or as permitted in approved marinas. 5. Section 4.5 of the Boat Ordinance has been revised to include the NEW Attorney Cary suggestion. Moor (age) of non-recreational watercraft is allowed for so long as its use is reasonably necessary to complete the scope of any non-recreational project, including season long projects. The pdf attached are individual pages showing the proposed ordinance changes described herein. The entire Zoning Ordinance document is posted on our sharefile server, for download <https://lakeshoreenvironmental.sharefile.com/d/2c0bcf024074dec0>. If you have any content comments, especially regarding 6.07 B, please "Reply All". A final pdf copy and an editable word document will be posted when all of your comments are in and we have done another read-through. Steve Czadzeck, RLA(zadzik)@lakeshore Environmental, Inc. 803 Verhoeks Street Grand Haven, MI 49417 Office: 616-844-5050 Cell: 616-843-5268 Fax: 616-844-5053 email: stevec@lakeshoreenvironmental.com NOTICE: This e-mail message and any attachments are confidential and intended solely for use of the intended recipient. If you are not the intended recipient, you should not review, retransmit, convert to hard copy, copy, use or disseminate this e-mail or any attachments to it. If you have received this e-mail in error, please immediately notify us by return e-mail and delete this message and any attachments from your computer system. Please note that if this e-mail message contains a forwarded message or is a reply to a prior message, some or all of the contents of this message or any attachments may not have been produced by the sender. This notice is automatically appended to each e-mail message leaving the sender's

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2. Definitions - M - Define Moorage. - *Moorage is now defined the same as "Docked or Docking"*
3. Section 6.02 — Add "Moorage of Non-Recreational Watercraft" as a permitted use. *It was inserted as 6.02 G - Docking, Anchoring, and Moorage of Non-Recreational Watercraft.*

4. Section 6.07 B - Remove the entire section "Exclusive Use and Ownership" to eliminate the ongoing debate over the definitions of Business Invitee and Licensees.

REMAIN AS 1/1 PDE
"Exclusive Use and Ownership" as proposed prohibited the leasing or renting dock space in WD. In the existing Zoning Ordinance, it was addressed in 6.02-F & G Private Boat Docks.

Leasing or renting dock space was moved to 6.07 B "Exclusive Use and Ownership" to eliminate it's by right status. Since it seems clear that the commissioners want this practice limited to the special uses, *consider revising Section 6.07 B as follows:*

6.07 B - LEASING OR RENTING OF DOCK SPACE. *Leasing or renting of dock space or moorage is hereby prohibited except in conjunction with the lease or rental of the dwelling unit on the same lot or as permitted in approved marinas.* *(PLOT IN TDS-6)*

5. Section 4.5 of the Boat Ordinance *has been revised to include the NEW Attorney Cary*

6.02 G - See Subject TO PASS 2.02 BOAT OR

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