

**MINUTES SILVER CREEK TOWNSHIP
SPECIAL BOARD WORKSHOP HELD ON JULY 1, 2015**

The special workshop meeting was called to order by Supervisor Bill Saunders at 4:00 p.m. on Wednesday, July 1, 2015. The Pledge of Allegiance to the Flag of the United States of America was led by Clerk Runyon.

MEMBERS PRESENT: Supervisor Bill Saunders, Treasurer Maureen Kuriata, Clerk Barbara Runyon, Trustee Joel Moore and Trustee Mike Glynn present. Township Attorney John Magyar and recording secretary Arlene Sarabyn were also present.

MEMBERS ABSENT: None.

Supervisor Saunders stated the reason for the workshop was to discuss suggestions from the June 20, 2015 special meeting on the Boating Ordinance and the Zoning Ordinance

Clerk Runyon provided written information to board members on recommendations and possible changes that were previously discussed. She also provided several definitions of the word "guest" and furnished that as well.

Supervisor Saunders asked if there were any comments and there were none.

BOAT ORDINANCE DISCUSSION OF RECOMMENDED CHANGES

Using the information Clerk Runyon had furnished, he started with Section 1.1 of the Boat Ordinance. Mr. Hall had suggested changing first sentence, line four to read "and benefits to the Township residents that it is desirable to retain and maintain . . ." adding the word and. Clerk Runyon concurs with this change.

Clerk Runyon read further recommendations Mr. Hall presented on Section 1.1. He recommended it be changed to read "it has further been recognized that the lack of regulation may result in impairment of these important irreplaceable natural resources of the Township, and may further result in the destruction of property values and threaten the public health, safety, and welfare of all persons making use of lakes within the Township." These changes remove the language "a nuisance condition" and replaces "shall further" with "may" and removes "and properties adjacent to lakes in the Township." Attorney Magyar also agreed the term nuisance should be removed. There were no further comments.

Clerk Runyon believed Section 3.1 (m) under definitions "Storage Tanks" should be deleted. Magyar agreed that it should be removed.

In Section 4.1 it had been recommended to delete the first sentence of "Floating rafts, trampolines, floats, ski jumps, or other floating platforms with an exposed surface area exceeding one-hundred (100) square feet shall not be anchored, placed, or used in any lake." Mr. Magyar questioned the second sentence, "No person shall install or maintain a pier, dock, boat storage device or anchor a raft, ski jump, trampoline, float, or platform except on bottomlands owned by that person." He stated the township cannot regulate or control trespassing, therefore, he recommended striking that sentence also.

Bill Zuhl, Planning Commission chairman commented that on November 18, 2014 the Planning Commission recommended deleting all but the last sentence of that paragraph.

In Section 4.3, Parks, Easements, and Common Areas, in the second sentence "No dock or mooring for watercraft shall be located at or on any right-of-way, park, road, common area, alley, dedicated walkway or easement (or bottomlands thereof) which abuts or terminates at a lake, nor shall any personal activities such as swimming, sunbathing, picnicking, and/or group activities be permitted, nor shall any watercraft, boat, canoe, kayak, paddle boat, rowboat, or similar vessel be anchored, moored, beached, or stored at or on any such park, right-of-way, common area, road, dedicated walkway, or easement (or bottomlands thereof)", Magyar recommended ending the sentence after ...terminates at a lake. He stated if there are things allowed or not allowed in dedications of plats, or easements, we don't want to get into regulating that. It's a civil matter.

Trustee Glynn commented that Section 4.3 Exception should be deleted.

Magyar stated that in Section 4.3 Exception is meant to take us out of deciding who has riparian rights on a certain lot or easement. On the last sentence of this section, there should be a period after "involved", and the remainder, "and this Section 4.2 shall not apply to each such separate frontage." should be deleted.

It was questioned in Section 4.4 Dock Repair, if it should be left in the ordinance. Magyar commented it can be left in as long as we are going to enforce it.

In Section 4.5, Moorage, Supervisor Saunders recommended deleting the entire second sentence which reads "All moored watercraft shall be maintained in good repair, afloat, and free from defects which might pollute the waterways or create a nuisance.", because we are not qualified to say if watercraft is in good repair. The DEQ will control that if it is reported.

Trustee Glynn questioned whether we should leave Section 4.4. dock repair since it's the similar language.

Clerk Runyon questioned if dock repair is not included in the ordinance, do we have other remedies for it? Attorney Magyar stated that if it's not in the ordinance, we don't regulate it. He feels it appropriate to be in the ordinance. Trustee Moore questioned who determines what is in good shape? Magyar said the Building Inspector could determine if a dock is in good repair or not. If it's not, he needs to state the reason for the determination. Clerk Runyon suggested calling the DNR if you feel watercraft is in disrepair.

Magyar suggested deleting the remainder of the paragraph.

It was concluded deleting the second sentence and included part of the next sentence which is "Moorage of marine construction equipment, tenders, barges, research vessels, or similar watercraft used in bona-fide marine construction, dredging, lake maintenance, scientific, or environmental purposes shall be allowed for the extent of the project." The remainder of the sentence and paragraph were deleted.

Saunders asked if there was anything else in reference to Section 4.5 and there was not.

ZONING ORDINANCE DISCUSSION OF RECOMMENDED CHANGES

Supervisor Saunders stated that Tim Hall suggested in Section 1.02 Purpose changing “limit the improper use of lands and bodies of water” to “protect land and bodies of water from improper use...” There was no discussion on this matter.

Attorney Magyar stated in Section 2.17, we should not provide a definition for “Public Nuisance.” It should be removed completely. Trustee Glynn remarked there are several areas in the ordinance where “nuisance” or “public nuisance” is used. It was agreed to return this matter to the township planning commission for their recommendation. Attorney Magyar recommends removing nuisance and defining the problem rather than using the “nuisance” term. Public nuisance should only be used at the end of the ordinance with reference to violations.

Supervisor Saunders questioned if there is any more discussion on Section 1.02, changing to “protect land and bodies of water from improper use...” Trustee Glynn suggested “encourage the proper use...” Saunders stated it would be looked into.

In Section 2.21, Definition, under “Vegetative Strip”, it was agreed to replace “obnoxious plants” with “noxious plants”.

Also in Section 2.21, Definition, it had been suggested to add “Guest”. Clerk Runyon commented that she printed off several definitions of the word. After a discussion, they agreed they liked the definition from the Cambridge Academic Contact Dictionary, “a person who is staying with you in your home, or a person whom you have invited to a social occasion, such as a party or a meal”. It was also noted that “Guest” should be under Section 2.08.

In Section 6.02F, Permitted Land Uses, Supervisor Saunders recommended changing the wording from “Private boat docks, accessory to residential uses shall be used only by persons residing on the premises or their guests...” to “Private boat docks, accessory to residential uses shall be used only by persons and their guests residing on the premises...” Attorney Magyar recommended leaving “residing” in the wording. Trustee Glynn questioned why we are making a distinction on vacant property. Discussion followed. It was agreed to change the wording as recommended.

In Section 6.03 Special Land Uses F, Supervisor Saunders recommended adding F. Private dock on vacant residential parcel. Agreed to add.

In Chapter 14 – 14.08 Specific Special Land Use Standards – it was recommended adding GG. Private dock on vacant residential parcel. Agreed.

Also in Section 14.08 Specific Standards – Under GG. Private dock on vacant residential parcel, add:

1. One dock shall be permitted for each parcel.
2. Dock and pier shall be used only by property owner and their guests.
3. Dock and pier shall not be leased, rented or otherwise made available for compensation.
4. All docks and piers allowed under this section shall meet all standards of the Township Zoning Ordinance.
5. Parcel considered for special use shall be under single ownership.
6. This section is meant to avoid key holing or avoiding the need for a license for a marina.
7. Multiple Ownership lot.
 - a. Primary owner, i.e. first name on deed shall be considered single owner and user of dock.

Discussion followed. Bill Zuhl questioned #7 if it would take away the rights of the second owner. It was answered that it would not. Jerry Donley questioned if the Indian Lake Improvement Association.

purchased a piece of property, they would need a Special Land Use Permit. Attorney Magyar stated no, it is permitted use.

Clerk Runyon questioned if all the addendums are included in the new ordinance. It appears some are added and some are not. There are currently three addendums. Magyar agreed they should all be added.

Runyon asked if there were any questions on the information sent to the County Planning Commission. There were no questions.

Supervisor Saunders adjourned the workshop at 5:37 p.m.

Respectfully submitted,

Arlene Sarabyn
Deputy Clerk

**MINUTES OF THE SILVER CREEK TOWNSHIP
PUBLIC HEARING HELD ON JULY 8, 2015**

The public hearing was called to order by Supervisor Bill Saunders at 6:30 p.m. on Wednesday, July 8, 2015. The Pledge of Allegiance to the Flag of the United States of America was led by Treasurer Maureen Kuriata.

MEMBERS PRESENT: Supervisor Bill Saunders, Treasurer Maureen Kuriata, Clerk Barbara Runyon, Trustee Joel Moore and Trustee Mike Glynn.

OTHERS PRESENT: Attorney John Magyar.

The Supervisor announced that the Public Hearing is for public comment on the establishment/renewal of the Magician Lake Weed Control District. He then asked for public comment.

PUBLIC COMMENT

Tom Lehrer provided the board members with literature on the chemical Navigate and pointed out the adverse effects the chemical causes to humans, fish and vegetation. He voiced his concern with chemical treatment and it's affects in the future. He also voiced his concern over paying \$17,000 this year for treatment when there is nothing to treat, and why the budget shows \$11,000 for chemical treatment. He stated he read PA 188 of 1954 and couldn't find any reference to the board being able to renew a project after it was completed. He also stated if the total assessment is 5% larger than the original roll, it should be applied toward the next tax levy.

Jim Sullivan, President of the Magician Lake Improvement Association, reported that Navigate has never been used to treat the lake and they do not plan to ever use Navigate.

Someone from the audience blurted out that it is listed on the chemicals that were presented and mailed.

Jennifer Jermalowicz-Jones said that it doesn't mean it was going to be used.

Jim Sullivan continued stating that it may be listed but has never been used and will never be used.

Jennifer Jermalowicz-Jones, Consultant from Restorative Lake Sciences, stated that when the project began Magician Lake had 162 acres of milfoil; they now have just under 6 acres by treating with Triclopyr, a safe systemic herbicide. They did not treat with 2, 4-D. She said they used Tricolpyr because of its safety record. It is tested by the EPA and approved by the DEQ. She went on to say that when preparing her annual report in the late Fall, she has to estimate what may come back in the spring, indicating why there are some discrepancies in terms of acreage. She believed having a surplus in the account is important because you don't know from year to year what may happen. She reported that a lake in Mason County had eradicated its

milfoil, and this year they had 100 acres of milfoil return costing them over \$50,000 to treat. She reiterated that it is important to have a surplus for emergencies.

Walter Lehmann supported Tom Lehrer's comments. He believes treatment has effected the fish population. No natural weeds.

Don Blackman submitted a written statement to the board. He stated that the original petition in 2010 was circulated to eradicate or control Eurasian Watermilfoil only and the township never approved weed control for any other species. The Magician Lake Improvement Association began treating for other plant species without authority of Silver Creek Township. He stated that the board needs to know exactly what they are approving before giving an extension. He also provided that the last report from Restorative Lake provides a budget which includes treatment for Keeler Township weeds and noted that Silver Township Board does not have the authority to levy or assess property owners outside their jurisdiction. He requested more monitoring, and objects to an extension of the five-years until there is something specific.

Jerry Falasz, a cancer survivor, voiced his objection of chemical treatment of the lake. He believes that it has effected the fish population and vegetation of the lake, and believes more reporting should be done. He questions why it's necessary, if there is nothing to treat. He would like to see it renewed annually, and believes there is too much money in reserved.

Jim Sullivan provided a copy of the original petition which stated "aquatic vegetation" and not Eurasian Watermilfoil exclusively.

Jim Dudley believes the public should have faith in the Magician Lake Improvement Association, Restorative Lake Sciences, the people treating the lake and the township board and trust their decisions. They are trained and are the experts. He had a problem with weeds prior to treatment, and has been pleased with the outcome of the weed treatment. He believes the wildlife and fish have not been affected and that fear tactics are being used.

Tom Lehrer understands he cannot change minds, but wants to warn everyone. He questioned if the chemical being used now doesn't have the same result.

Jennifer Jermalowicz-Jones remarked that the chemical does not have the same result.

Tom Lehrer continued stating we have no milfoil, and questioned why the budget is treating 17 acres.

Jennifer Jermalowicz-Jones responded that they have to come up with a budget which is likely; they cannot underestimate and ask for additional monies later.

Tom Lehrer continued suggesting we should wait and see what happens before treating further.

Jennifer Jermalowicz-Jones from Restorative Lake Sciences clarified that Restorative Lake Science is the consultant only; they are independent of PLM, the company that treats the lake. Restorative Lake Sciences oversees the treatment and are objective when they do the survey.

She stated she also works very closely with the DNR. They are careful to target only invasive species. They are using the special assessment funds responsibly and are keeping the eco-system in balance.

Cynthia Polk Muller stated she was in favor of continuing the treatment and believes it's been a positive. She has does not feel it has hampered the growth of fish, turtles, frogs or wildlife.

Don Blackman rebuts fear tactics being used, but believes fear tactics is what started the special assessment district in the first place. He reiterated his concern over the affects chemicals are having on the lake, and again questioned treatment of weeds other than EWM. He asked that we error on side of caution.

Jerry Falasz asked who polices PLM?

Jennifer Jermalowicz-Jones responded that Restorative Lake Sciences does.

Jerry Falasz inquired how long they have been doing it.

Jennifer responded as long as they've been doing it.

Jerry Falasz complained that he noted mud and debris on his pier after PLM had treated, and called to complain and never received a call back. He also objects to the rods that are being used on the postings that are placed after treatment, believing they are a hazard to small children; plastics rods should be used.

Jennifer Jermalowicz-Jones responded by saying it is a state requirement and that legislation would have to be changed; it's a DEQ requirement.

Jerry Falasz believes common sense needs to be used. He also noted a lack of grasses and minnows on his property.

Supervisor Saunders asked for further comments.

Clerk Runyon noted that she this public hearing had been properly noticed in the Dowagiac Daily News on June 19th and July 1, 2015 and had been sent first-class mail to each property owner in the district. I have affidavits and they are part of this record and on file with my office.

Craig McCoy noted that he had been on the lake for many years and agrees that there are less fish, but believes it may be caused from having more boats on the lake, jet skis, et cetera.

Clerk Runyon stated that she did not receive any written objections except the one given tonight by Don Blackman. She noted she had the assessor do an assessment and it would affect 397 parcels at \$40 a parcel and vacant parcels at \$20.00

Silver Creek Township Assessor Bill Kays explained that it is based per unit; some parcels could have two units or more on their property. There are 361 one-unit parcels the others are multi-

unit parcels. Leased property would be charged per unit; we can't tax on personal property. He also explained that vacant property would be assessed at one-half or \$20.00.

Clerk Runyon noted the total assessment would generate \$17,260.00.

There was no further public comment, and Supervisor Saunders closed the public hearing at 7:34 p.m.

Dated: July 9, 2015
To be approved on August 12, 2015

Barb Runyon, Clerk