

**FRUITLAND TOWNSHIP
PARKS AND RECREATION
WORK SESSION
September 8, 2010**

PRESENT: Chairman Jim Duncan, Commissioners Laura Shields, Jeff Marcinkowski, Roger Missimer and Steve Urban

ALSO PRESENT: Supervisor St. Amour and four (4) interested parties.

PUBLIC COMMENT:

1. Mr. Bill Traynor from Marcus Dunes gave an overview of previous litigation and then stated that with regret Marcus Dunes rejects the Amended Easement Agreement draft dated 9-7-10 and the unacceptable limitations of their legal rights. They are content with their rights which have been upheld by the courts. They can see no reason to consider this draft. Upon their attorneys advice they will hopefully and optimistically resubmit the amended easement draft they gave in April and are willing to consider minor changes to it.
2. Dr. Hubers from Winterwood Shores stated he was able to talk with a few of his neighbors and there are four (4) items with which they have concerns. They are as follows:
 - Concerns with the Association monitoring and controlling the easement when the rights are deeded to property owners not to the Association.
 - Concerns with only being allowed one (1) boat and one (1) boat lift, this would indicate they could not have one (1) boat and (1) Kayak.
 - Concerns with definition of uplands, would rather it say waters edge.
 - Concerns with policing of easement restrictions.

NEW BUSINESS:

1. Easement Agreements for Marcus Dunes and Winterwood Shores

Chairman Duncan read the entire Amended Easement Agreement draft dated 9-7-10.

Mr. Bill Traynor took exception to the following things:

- That docks shall not extend from the upland portion of the Easement Area into Duck Lake more than 50 feet, shall not have a width in excess of 4 feet, and shall not have any "T" or "L" extensions.
- That each Marcus Dunes party may have one boat and one (1) boat and one (1) boat lift.
- That all docks shall be removed at the end of each boating season (April 1 to November 30), and stored off-site (not in the Easement Area). However, notwithstanding this requirement, an existing year round dock is currently located on the Easement Area. This dock may remain on-site year round, provided that this right shall expire five (5) years

after the effective date of this Amended Easement, or when such dock is replaced, whichever occurs first.

- Concerns with the Association monitoring and controlling the easement when the rights are deeded to property owners not to the Association.
- Concerns with providing proof of insurance coverage to the township to be entitled to exercise any of the rights otherwise granted to them by this agreement.

Commissioners Comments:

Commissioner Shields agrees if there is not a legal reason the agreement has to be with an Association it should be fine to have it with property owners. She believes boat lift needs to be defined. She believes this is way too many boats, it infringes on the safety of the Duck Lake owners and the public. It would mean six (6) docks, twelve (12) boats in addition to what Winterwood Shores already has there, however; she does understand that there is an easement that needs to be honored. She does not know how far a dock should be allowed into the water but believes the fifty (50) foot is okay.

Mr. Rissi was asked if Duck Lake owners have dock requirements. He said no.

Commissioner Urban states if the DNRE does not restrict why are we trying to.

Chairman Duncan states we are trying to be good neighbors. He went on to say that maybe we should leave out the fifty (50) foot dock length requirement and reword to say navigable water depth of 36”.

Commissioner Shields states she understands the animosity between all the parties but everyone needs to get along – heal the hate so this agreement can be worked out.

Mr. Bill Traynor asks for “temporarily” to be removed from 3. B.

Commissioner Shields states she does not have a problem with that.

Commissioner Shields believes property owners should be asking their insurance company to send a copy for proof of insurance to the township but that it should be up to the township at audit time to get proof of insurance if we don’t have it.

Mr. Rissi does not believe this is sufficient proof.

Chairman Duncan stated this will be taken under advisement.

Commissioner Urban states he believes this agreement can be reworded to accommodate all parties involved.

Consensus was a work session is necessary with Supervisor St. Amour and Attorney Robert Eklund.

Chairman Duncan advises that the easement rights is for ingress/egress only, they do not have riparian rights.

Commissioner Missimer stated he would have liked to have settled this with a gentleman's handshake, however; that did not happen. He had high hopes this meeting would be congenial, however; it is going down hill. He said they have heard some diverse opinions and they will keep their heads high and go back to the drawing board.

Commissioner Marcinkowski stated he does not think the insurance coverage is too restrictive and that we need to follow up that insurance coverage is in place. He made reference that the four (4) foot dock width had not been revisited.

Commissioner Urban states he believes Marcus Dunes concerns have been addressed all except the one boat per dock.

Commissioner Shields comments that her opinion is that no matter what they come up with nobody is going to be happy and that she will be very disappointed if they end back up in court. She went on to say that this is going to take a lot more thought and then advises both Marcus Dunes and Winterwood Shores that they will do what they can but they need to consider the Duck Lake property owners also.

Mr. Bill Traynor states with the current agreement a shore station would not be allowed for wave runners. This causes an imposition to at least one of the Marcus Dunes property owners.

ADJOURNMENT:

Motion by Laura Shields, second from Jeff Marcinkowski, **ADOPTED** to adjourn the September 8, 2010 work session of the Fruitland Township Parks and Recreation Commission at 7:25 p.m.

5 AYES

Respectfully submitted,

Sally Dion (via tape), Secretary