

**FRUITLAND TOWNSHIP
PARKS AND RECREATION
WORK SESSION
May 18, 2011**

PRESENT: Chairperson Laura Shields, Commissioners Jeff Marcinkowski, Roger Missimer, and Mary Nagengast.

ABSENT: Commissioner Steve Urban.

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

CALL TO ORDER: Chairperson Shields called this meeting to order at 6:35 p.m.

PLEDGE OF ALLEGIANCE

ACCEPT OR AMEND MAY 18, 2011 AGENDA

1. Exhibit 1 – original “easement” wording from Minion Dake dated 1953

Chairperson Shields welcomes the public, and thanks attorney Bob Eklund to the meeting. The timeline that Eklund created was reviewed, and states that everything started in 1953, when Mignon Dake deeded two parcels, one to Winterwood Shores, and additional property is some on Duck Lake. A few dates, of which are more recent, were brought to the attention of the board to give them an idea of the way things have happened regarding this easement with Winterwood Shores. A claim of appeals was requested in February 2007, and the court ruled that there was no standing in the lawsuit.

Judge Marietti heard the case, but the court never addressed if the easement was valid or not.

Chairperson Shields questioned whether it was the repairian association who brought about the lawsuits against both entities. Eklund stated that the Township owns the property, and didn't take a stand, and that they acted as if what the court decided, they would live with.

Bob Eklund stated that the court of appeals said that Winterwood Shores had no standing, so the appeal was reversed. Marcus Dunes decision was not reversed because it was stated that they do had rights. Therefore, the only item overturned was the easement with Winterwood Shores. Winterwood Shores never entered an appeal to overturn the decision that they had no standing. No order was ever created to say whether they do or do not have docking rights and/or easement. Because the township owns the property, it is up to them to decide if the docks are allowed or not.

2. Email from Jerry Rumps dated May 5, 2011 – what the Township has allowed for 8 years with no dispute

Rumps stated that each homeowner of Winterwood Shores has ½ of a dock, and for most of the eight years, there has been three docks, with six possible boats. His email stated that over the last 10 years, the configuration has been one common platform from the bank, to a diagonal platform with two or three short fingers, with the potential to have six boats. Rumps also stated that from 2001-2006 there was no dispute about the docks whatsoever.

Upon public comment from Mr. Robert Hubers, 4368 Winterwood Shores, it was stated that the docks have actually been on the lake since 1996, and that there has been no dispute since then.

Commissioner Roger Missimer stated that with all the paperwork and deeding of the parcels, there is no basis for the Township to challenge the docks because the homeowners, do in fact, have easement, and that Marcus said that very thing when he gave Fruitland Township the property.

Mr. Bill Traynor, 6305 Sheltering Way, stated that Marcus owned the property, and that Scenic was an easement to the property. He said that technically, Marcus didn't need an easement, and that it was his shoreline. He said that Marcus couldn't have given the land had he not owned it.

Commissioner Mary Nagengast questioned whether Marcus defined an easement when he deeded the property to the Township, and Chairperson Shields and Mr. Bob Eklunch said he did indeed do so. Commissioner Missimer read the legal document with the evidence of the said agreement.

3. Our proposed easement agreement which we revoked in April 2011/ Email from Jerry Rumps dated February 19, 2011

Chairperson Shields stated that it is her understanding that the amended easement agreement that was presented caused the three groups involved to go back and fourth trying to come to an agreement. She stated that in June of 2009, it appeared as if everyone was close to agreement, and fine tuning it, and things shifted gears and ended up in a two year period with the board trying to figure out where things stand. She believes that things are essentially in the same place as they were in 2009.

Chairperson Shields touched on the email from Jerry Rumps dated February 19, 2011, referencing Hugo Ferrari, and that they were unable to reach him in any and all attempts to reach him. Shields stated that our agreement stated that everyone in the association has to sign it, and that if they don't, it would be null and void. The email from Rumps discussed the bi-laws, and that the association controls the current easement, and that Mr. Hugo Ferrari signed the acceptance of the bi-laws when he purchased his property.

The email on March 2, 2011 from Bob Eklund to Laura stated that he read the bi-laws, and that the association does in fact control the easement, and that they are in charge of any easements and signing on the behalf of it's residents.

5. Email from Bob Eklund dated March 2, 2011

The email on March 2, 2011 from Bob Eklund to Laura stated that he read the bi-laws, that the association does in fact control the easement, and that they are in charge of any easements and signing on the behalf of it's residents.

6. Email from Bob Eklund dated May 2, 2011

Bob Eklund stated in the email that Winterwood Shores was willing and authorized to enter into an easement agreement with the Township based on the documents provided by Mr. Jerry Rumps, and that the proposed easement agreement is acceptable to their association.

7. Email from Bob Eklund dated May 2, 2011 – legal steps

In a discussion about the legal steps, it was questioned as to why it is stated in the agreement that each party has to sign, and whether there was a legal reason. Mr. Eklund stated that the reasoning was simply for enforcement reason, but that there is really no legal standing for this. He suggested something similar stays in there to make sure there is no question as to everyone being bound to the easement agreement.

Commissioner Mary Nagengast questioned whether or not, later on down the line, whether the association would have standing, or if an individual property owner could go back on an easement and say that they did not sign the agreement. Mr. Bob Eklund assured that in cases with associations and bi-laws putting an association in charge of decision making, there is no question that it would protect the township and the easement agreement.

Commissioner Shields questions whether we should revisit the agreement, and that her belief is that all that should need to happen is fine tuning. She feels that the fine tuning should include the decision on having an association sign as apposed to each individual home owner, and all related information on the matter. She stated that the agreement will be dated and have a timeline.

Mr. Hubers discussed how the land was gifted, and the case of Judge Marietti, his decision and standing on the dock is incorrect. He said that Marcus made it clear in the deeds what he wanted done with the properties. Hubers feels as if court is not necessary, that it will just cause more grief, hassle, and spent money. There is always going to be grief and hassle because everyone has opinions and ideas of how things should be handled, but that it is up to the Township to make the final decision.

Motion by Roger Missimer, second from Jeff Marcinkowski, **ADOPTED** to move forward with and readdress the amended easement agreement with Winterwood Shores at the June 6, 2011 meeting and submit it for approval.

4 AYES, 0 NAYS, 1 ABSENT

Roll Call Vote: Missimer-Aye, Nagengast-Aye, Marcinkowski-Aye, Shields-Aye.

ADJOURNMENT:

Motion by Mary Nagengast, second from , **ADOPTED** to adjourn the May 18, 2011 work session of the Fruitland Township Parks and Recreation Commission at 7:45 p.m.

4 AYES, 1 ABSENT

Respectfully submitted,

Mary Sanford, Secretary