

Chairperson Justin Hall called the Board of Review to order at 6:30 pm for the purpose of calling the Board of Review into session during the thirty day period beginning on the second Monday of May pursuant to Sec. 70.47 (1) of Wis. Statutes and adjourning it to a later date due to the assessment roll not being complete at this time.. Motion by Meixner, seconded by Valentin to adjourn the Board of Review until June 20, 2015 from 8:00 am to 10:00 am at the Town Hall and for the assessment roll to be open for examination with the assessor, Claude Ringlemon, on June 19, 2015 from 5:00 pm to 7:00 pm at the Town Hall. Motion carried. Meixner, Bisonette and Clerk Warshawsky will be attending.

These are the minutes of the regular monthly meeting of the board of Supervisors of the Town of Bass Lake, Sawyer County, held on Monday, May 11, 2015. Members Present: Chairperson Justin Hall, Supervisors Doug Mrotek, Ralph Meixner, Joel Valentin, Brian Bisonette, Treasurer Kari Aderman and Clerk Erica Warshawsky.

Chairperson Hall called the meeting to order 6:31 pm.

Clerk Warshawsky affirmed agenda was posted in compliance with open meetings law.

Motion by Mrotek, seconded Meixner to approve the consent agenda listed below less items d and e and with minor changes to the minutes of the April 2, 2015 Planning Committee meeting approved by the Planning Committee:

- a. Approve Agenda
- b. Review and Approve Vouchers for April, 2015
- c. Minutes of the April 21, 2015 Regular Meeting
- d. Minutes of the March 2, 2015 Fire Department Meeting
- e. Minutes of the April 6, 2015 Fire Department Meeting
- f. Minutes of the April 2, 2015 Planning Committee Meeting

Motion carried

Hall reported that letters regard the proposed Public Reserve Strip Ordinance were referred to the Planning Committee and will be part of the official minutes. Letters were received from the individuals below and attached (please see attachments 1 – 9):

1. Carole Mickschl
2. John Utzig on behalf of Sara and Nancy Utzig
3. Michael J. Isham, Jr., Chairman of the Lac Courte Oreilles Tribal Governing Board
4. S. Brattlie
5. Frank and Myrna Cowen
6. Richard Laumer
7. Michael Chistwek
8. Norbert Daleiden
9. Edmond C. and Judith A. Packee

Hall reported that correspondence was received from Enbridge in response to the letter from Clerk Warshawsky regarding questions from the townspeople. The letter from Enbridge did not answer any of the questions in the letter. Hall and Warshawsky will work on a response. Hall reported that Enbridge spoke to Fire Chief Marvin Mullet regarding concerns they would like the Town to sign off on. Hall will work with Mullet reviewing the concerns before signing off.

Hall presented the Rezone Application for Thomas G. Butterfield et al – Tony E. Butterfield. The property has 17 total acres. The purpose of the request is to change the zoning from District Industrial One to District Residential/Recreational One to construct a dwelling. The applicant was present and confirmed that there are no industrial activities being conducted on the property. Motion by Meixner, seconded by Mrotek to approve the rezone application as presented by the Planning Committee. Motion carried. Applicant requested a Condition Use Permit for the property and was informed the he will have to apply for that separately.

Hall presented the Conditional Use Permit Application for Vaughn Skille – Milestone Materials, operator (known as the Skille gravel pit). The permit is desired for the three (3) year renewal of conditional use permit #97-007 for the location/operation of a non-metallic mineral extraction, including a rock crusher which was approved at public hearing on

May 19, 1995 and renewed most recently on May 18, 2012. Motion by Meixner, seconded by Valentin to approve with the conditions set by the Planning Committee. Motion carried.

Hall reported that the request from Fred Ruedy to use the public reserve strip will be tabled pending the outcome of the proposed Public Reserve Strip Ordinance per Planning Committee Chairperson Mark Olson's request.

Fire Chief Marvin Mullet presented the Fire Department Report. Mullet reported that the department has received dress shirts and turn out gear. Mullet reviewed the training the department has received. Mullet reported that he received a call from ISO and the Town can review water sites and possibly lower our ISO rating to an 8b from 9. Marv and Noah Training. Mullet reported that he ordered radios. Discussion followed.

Hall reported that the appointment of a new/temporary Fire Chief will be tabled until the Fire Department holds an election.

Mullet reported that the tender truck was taken to Marshfield to get a valve fixed.

Pay Rate for Hose Testing - Tabled to next month

Mullet reported that he has not received any word back regarding grants.

The list of business for fire inspection was reviewed by the Board. Mullet explained that most businesses require two visits per year and some require one visit per year.

Mullet received a request for outdated turn out gear for a girl's career group. Mullet asked the Board for permission to donate the outdated gear. Aderman suggested removing all Bass Lake labels and logos. Motion by Meixner, seconded by Mrotek to donate the outdated gear. Motion carried.*

Highway Crew Chief Truit Campbell presented the Highway Report. Campbell reported that April was a quite month with 1 plowable snow. The Highway Department has been refacing signs. Campbell reported that backing is needed for some signs with gunshot wounds. Campbell reported that the Williams Road benches have been installed and are still there. Campbell asked all members present to please call the highway shop for roads with sand build up. Campbell reported that dirt work at is underway for the new shop approach in the front and back.

Bids for New Highway Shop Septic System – Tabled to next month due to the bid notice not being submitted in time.

Campbell requested bidding out the steel liner and installation for the new highway shop. Discussion followed. Motion by Valentin, seconded by Bisonette to bid out the steel liner and insulation. Motion carried

Hall presented the Driveway Permit application for Michael Wittaker and Bridgette Strand. Campbell reviewed the application and wants a minimum of a 12" culvert on the Durphee Lake side. Motion by Meixner, seconded by Mrotek to approve the driveway permit. Motion carried.

Treasurer Kari Aderman presented the Treasurer's Report. Aderman reported that as of April 30, 2015, the Town has a total of \$565,983.49 in all of their accounts. The Clerk and Treasurer balanced for the month. Motion by Mrotek, seconded by Valentin to approve the Treasurer's Report. Motion carried.

Clerk's Report - None

Mullet reported that the construction inspection of the Fire Hall is still pending. Fire Department Secretary Hugh Murtha will contact the inspector and set up a time.

Hall read the motion from Planning Committee Chairman Mark Olson regarding the proposed Ordinance Regarding the Public Reserve Strips Located in the Northwoods Beach Subdivision:

Motion:

To recommend the Town Board send back the public reserve strip ordinance to the Planning Committee for further review and recommendations.

The Planning Committee will review ordinance and offer recommendation to Town Board after:

- The Town Public Property surveys are completed
- Violations are identified
- The intentions are "clarified and expanded" to incorporate the prior Town policies and practices

Basis:

An example which may not have been clear in the proposed ordinance was the intent of "removal of items that have been placed at some time prior", where intention was to follow the Towns' prior practices and policies on enforcement. The intent may have to be clarified to incorporate the Towns' prior policies and practices such as:

- Intent is not to make property owners move prior long-term existing homes that infringe on the public reserve strip setbacks.
- Intent is to continue Town prior practices and policies such as road right-of-way and side property line setbacks to public lands have been looked at differently than the public reserve strip setbacks and public shoreline enforcement .
- To continue to follow prior Town practices and policies to handle utilities (septic lines, etc.) that infringe on public land on a case by case basis.

Edmond Packee stated that the previous motion was stayed and the Board has to act on it. Hall stated that one thing lacking in the motion is to add public input. Motion by Meixner, seconded by Bisonette to approve the motion above with addition of public input. Motion carried. Hall stated that Hall and Olson will walk the public reserve strip. Hall stated that the meeting will be noticed. Hall asked all interested to give their email address to Warshawsky and she will email the notice. Hall stated that it may be in July. Packee stated that he has a major concern with the poor communication between the Town and "we the people". Discussion followed. Hall stated that a notice will appear in the paper and the website and a letter will be sent to property owners. Hall requested the comments and questions be submitted to the Clerk so Hall and Olson can address them when they come around. Valentin asked for the creation of a subcommittee so there is public input. Discussion followed. Hall stated that he is not against a subcommittee and asked if anyone would be interested. Discussion followed. Hall stated that he would like to take the public input and do a revision or start from scratch. Once a draft is complete, publish the draft and have a hearing for possible changes. Discussion followed.

A suggestion was made to publish agendas in the paper. Discussion followed. Motion by Valentin, seconded by Mrotek to publish agenda in paper and increase the budget. Motion carried. *

Hall opened the bids for Town Hall ramp. Bid is as follows:

Firm	Bid Amount
LCO Development Corporation	\$3,718.00

Motion by Meixner, seconded by Valentin to accept the LCO Development Corporation bid. Motion carried.

Recognition of Service – Dave Aubart: Aubart was not present to receive his plaque.

Hall presented the Temporary Liquor License Application for the Grindstone Lake Association for their July 4, 2015 picnic. Motion by Meixner, seconded by Mrotek to approve the application. Motion carried.

Public Comment

Motion by Meixner, seconded by Mrotek to adjourn. At 7:33 pm. Motion carried.

* Items were not properly noticed and will be on the June 8, 2015 agenda.

Donna

From: "carole" <c_mickschl@hotmail.com>
To: "Donna Yocum" <donna386@centurytel.net>
Sent: Wednesday, April 29, 2015 8:54 PM
Attach: scan of basslake ordinance#2015 xx.pdf
Subject: Fwd: Reserve Strip Ordinance

Hi Donna,

I am sending this to you as it was brought to my attention that someone is instigating to propose and ordinance to strip us of our rights to use the lakeshore in front of our cabins. As I looked at the map of the reserve strip, it appears that it goes from the boat landing in the bay all the way to Scipio. Originally I thought the reserve strip only went as far as Atkins but the map show differently.

I am sick about this whole thing and can't believe that someone would think this is a good idea. Please send this on to Norb Daleiden and any others that you might think would be involved and interested. This is just a proposal but will be on the agenda in the next town board meeting. Please let me know if you got this and if you have heard anything about this.

Hello to Dick. Hope to see you in a few weeks.

Carole Mickschl

Subject: Reserve Strip Ordinance

Attached--read it carefully

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Hello to Dick. Hope to see you in a few weeks.

Carole Mickschl

> Subject: Reserve Strip Ordinance

>

> Attached--read it carefully

>

Erica Warshawsky

From: "Erica Warshawsky" <ericaw@basslakewi.gov>
Date: Monday, May 04, 2015 9:32 AM
To: <j.utzig@comcast.net>
Attach: Town of Bass Lake Planning Committee Public Land Analysis.pdf
Subject: Re: Letter to be read at Tonight's meeting
John,

There is not a meeting tonight. The next Planning Committee meeting will be held this Thursday, May 7, 2015 at 6:30 pm and the next Town Board meeting will be held on Monday, May 11, 2015 at 6:30 pm.

Your letter will be distributed to the Planning Committee and the Town Board at each of the meetings. It will be up to the Chairperson of the Planning Committee and the Chairperson of the Town Board to decide whether or not your letter will be read out loud at the meeting.

Attached is an informational packet about the proposed ordinance.

Please let me know if you have any questions. My office hours are Monday, Tuesday and Thursday 8:30 am – 3:00 pm.

Erica Warshawsky
Town Clerk
14412 W County Highway K
Hayward, WI 54843
Phone: 715-634-8469
Fax: 715-634-8470

From: j.utzig@comcast.net
Sent: Monday, May 04, 2015 8:17 AM
To: ericaw@basslakewi.gov ; kariaderman@charter.net
Subject: Letter to be read at Tonight's meeting

Erica/Kari

It is my understanding there is some Bass Lake meeting tonight. Certainly no one from our family can attend with only being notified over the weekend and it is being held during the week. I am requesting that my letter on behalf of the Utzig family be given to each member and be read out loud at the meeting. I would also like confirmation that my request to have copies given to the meeting members and this was read during the meeting. If this request is not going to be followed than I would like a response as to why it specifically is not going to happen no later than noon on Monday, May 4, 2015.

To Bass Lake members.

My grandfather and father had been coming up to the Bass Lake area since the 1930's. My family have been coming up there for over 85 years. My grandfather personally built that

boathouse on our land back in the 1940's at a time when they could. It is my understanding that some type of proposal is being made or voted on that would require boathouses or shed's or any type of building to be torn down. I don't have any of the specific information since the notes from either the Board or Planning committee have not been posted for months and curious if that was done on purpose so people could not get the specific facts. It is my families position that when our boathouse was built over 75 years ago that it grants us to be grandfathered from any proposals or requires to make us take down any establishment and/or property. I'm not sure why Bass Lake thinks they have the authority or ability to tell a property owner they have to take down personal property especially one that has been in existence for over 75 years. It would be our position that if this does occur then any and all building including cottages that are close to the shoreline will also need to be removed. If Bass Lake proceeds with any such proposal I will ensure that any and all legal recourse against Bass Lake and its Board Members will be taken. It is of course an action I would prefer not to take but will take whatever steps necessary to preserve something that my grandfather personally built in order to keep it in the family. I can be reached at 224-475-8030 if you would like to discuss further. I am requesting a copy of the minutes from this meeting as well as the previous two months including any and all documents provided at those meetings sent to this email address (j.utzig@comcast.net).

Thank you for your time and hopefully you give great consideration as to what I have stated above

John Utzig and on behalf of Sara and Nancy Utzig (Owners of 7584 N Court Oreilles Lake Dr. Family built and owned for well over 85 years)



Pride of the Ojibwe

13394W Trepania Road. Hayward. Wisconsin. 54843
Phone 715-634-8934. Fax 715-634-4797

May 6, 2015

Town of Bass Lake, Sawyer County
Town Board
14412 W County Hwy K
Hayward, WI 54843

Re: Request for Consultation Pertaining to Draft Ordinance regarding the Public Reserve Strips
Located in the Northwoods Beach Subdivision

Dear Town Board Representatives,

It has come to the attention of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians that the Bass Lake Town Board is considering approval of an Ordinance regarding the public reserve strips located in the Northwoods Beach subdivision. These public reserve strips are located within the exterior boundaries of the Lac Courte Oreilles Indian Reservation. As such, the Lac Courte Oreilles Tribe has extensive powers over the regulation of the use of reservation property including the right to impose land use and zoning controls. See, e.g. *Brendale v. Confederated Tribes & Bands of the Yakima Indian Nation*, 492 U.S. 408 (1989). The Lac Courte Oreilles Tribe is hereby requesting that the Tribe and the Town Board hold a meeting to discuss the protection of the public reserve strips and that the Bass Lake Town Board table any action pertaining to this Draft Ordinance pending the occurrence of such a meeting.

If you have questions or concerns regarding this request please feel free to contact me or Kekek Jason Stark, Legal Director at the number listed above. Thank you in advance for your time and consideration of this matter.

Sincerely,

Michael J. Isham, Jr.
Chairman

RECEIVED MAY 11 2015

Erica Warshawsky

From: "Tim Miller" <tsmiller@chorus.net>
Date: Thursday, May 07, 2015 8:31 AM
To: <ericaw@basslakewi.gov>
Cc: "Edmond Packee" <ecpackee@alaska.edu>
Subject: Meeting 05-07-15
Please make sure this statement is read at meeting

We are adamantly opposed to the newly drafted ordinance governing the public reserve strip in Northwoods Beach.

First of all, the plan commission has lost sight of the duty that has been assigned to them. The drafting this ordinance is a perfect example. There has been no research on the financial expense to both township and those affected, no research on the damage that will be done to reserve strip when items removed. Ask yourselves how this ordinance is serving all residents of the Bass Lake Township.

Ethics come into question on this whole issue. If this ordinance is not stopped tonite, the State Ethics board, The State Attorney Generals office, and our elected senators and assemablymen will become involved. Also, local and regional news sources. The public will all agree that this plan commissin is misusing their office for their own personal reasons, not the residents of Bass Lake. The attempt by the plan commission to sneak thru this ordiance is inexcusable.

The intent of the ordiance is to protect the reserve strip. Then protect it, we all can work together on protecting the reserve strip, it should not be a dicatorship. We all want to protect the reserve strip, as well as the lakes.

Removing all structures noted in ordiance will only damage the reserve strip. The regulations set forth by the DNR should be used. Maybe the affected residents begin the legal battle to take ownership the the reverse strip and then all the politics of the reserve strip can stop. Most of the reverse strip is not usable. Maybe one has to look in their own back yard and see how they have violated the DNR regulations on lakeshores.

S Brattlie

May 6, 2015

Town of Bass lake, Sawyer County
Planning Commission,

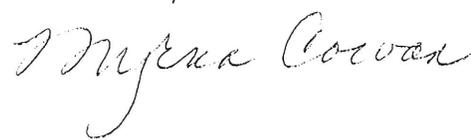
Re: Ordinance Regarding The Public Reserve Strips Located In The Northwoods Beach
Subdivision NO. 2015-XX-XX

Planning Commission,

After reading this proposed ordinance, I now believe the old adage "A camel was really a horse designed by a committee". What is it that prompted this proposed ordinance? It makes absolutely no sense and creates a hardship on the said property owners. Does every property owner on Lake Courte Oreilles have to conform to the ordinance or only the owners on or adjoining the strip? And, if so, why?

Does everyone need to change the size of his deck to conform to a four foot by four foot configuration, reposition his pier to the three foot water level, moor floating items 200 feet from the shore (which creates a danger to other boaters and is 50 feet more than the DNR allows), remove all manmade structures from the so-called strip which have been approved by the DNR, or grandfathered in? This is a bad piece of legislation and we hope that you will discontinue your efforts in proposing such an ordinance.

Frank and Myrna Cowan, (shoreline property owners—down to the lake)
14301 W Court Oreilles Lake Drive
Hayward, WI 54843

RECEIVED MAY 07 2015

Erica Warshawsky

From: "rlaumer" <rlaumer@gmail.com>
Date: Thursday, May 07, 2015 12:37 PM
To: <ericaw@basslakewi.gov>
Subject: Ordinance regarding the Reserve Strips of Northwoods Beach

Erica please forward this to Mark Olson chair of the planning committee:

Mr Olson, I am compelled to contact you via email because of previous commitments that would not afford me the chance to attend the planning meeting.

In addition to the letter that Ed Packee and I assembled regarding the draft ordinance, I am adding discussion regarding soil erosion on the hills of the Reserve strip and that a 4x4 deck would force activity onto the strip causing undo impact onto the vegetation that we as stewards of the strip have put considerable time and money into preserving it's vegetative integrity. Stairways and deck concentrate activities onto these structures minimizing impact to the delicate vegetation.

The 200Ft. mooring limit is a dangerous president putting floating structures further into the lake to become a boating hazard is not logical.

I would ask that input from the community be solicited and considered in any action that has such a wide implications and impact on the residents of the town.

Regards,

Richard Laumer

Erica Warshawsky

From: "Michael Chwistek" <mrestorationsupply@yahoo.com>
Date: Thursday, May 07, 2015 3:05 PM
To: <ericaw@basslakewi.gov>
Subject: Ordinance regarding the public reserve strip
Sir

I am appalled that someone Phil Nies and the rest of the planning committee is proposing changes to our access to the lake (Grindstone) My father installed a lift for my mother due to her Parkinson disease over 30 years ago. She is not able to walk down the stairs any longer so the lift is necessary I am no lawyer but you can be certain that I will be hiring one (With her disease and age I will probably find one to do it pro bono) to fight these changes to the end. Also how can you restrict the pier lengths, number of boats or mooring of boats WITHOUT CHANGING TO RULES ON THE ENTIRE LAKE ??? is that's even legal or overstepping your bounds.

Michael Chwistek

DALEIDEN & TREMAINE, LTD.

ATTORNEYS AT LAW
2815 NORTH DOUGLAS AVENUE
ARLINGTON HEIGHTS, ILLINOIS 60004
(847) 577-7438
FACSIMILE (847) 577-7458

CHICAGO OFFICE
130 WEST CANAL STREET
CHICAGO, ILLINOIS 60606

May 6, 2015

Town Board
Town of Bass Lake,
Sawyer County, Wisconsin
Town Hall
14412 W County Highway K
Hayward, Wisconsin 54843

Dear Sirs:

I am the owner of Lots 9 and 10, Block 62, Second Addition to Abendpost Beach Subdivision and oppose your further consideration and enactment of an "Ordinance Regarding the Public Reserve Strips Located in the Northwoods Beach Subdivision."

The proposed Ordinance is based upon an inaccurate statement of facts. The plats of 1925, 1926, and 1927 do not reflect any so-called reserve strip applicable to the Second Addition to the Abendpost Beach Subdivision. Please note that a careful inspection of the plats shows that there is not such a reserve strip affecting lots in said Second Addition. Stated another way, there is no reserve strip relative to Lac Court Oreilles from Atkins Avenue to Scipio Avenue, as shown on Attachment 1 to the proposed Ordinance.

If the Town were to adopt the Ordinance and enforce it against owners of lake lots in the Second Addition to the Abendpost Beach Subdivision, such action would constitute an unconstitutional taking of property. The Town and the members of the Town Board would be subject to lawsuits filed by those owners and their title insurers. The resulting legal fees, which would be paid from the Town's funds (i.e., the funds of taxpayers), would be incurred for ill-advised reasons. I suggest you consult with the Town's attorneys in this regard and so that the Town and the members of the Town Board may become aware of their potential liabilities.

I suspect that all property owners who are similarly situated will ally themselves with the positions taken in this letter.

Very truly yours,



Norbert A. Daleiden

RECEIVED MAY 0-9 2015

14225W Court Oreilles Lake Drive
Hayward, WI 54843

7 May 2015

Mr. Mark Olson, Chair
Planning Committee
Town of Bass Lake Sawyer County
14412W County Hwy K
Hayward, WI 54843

I and my wife Judith Packee, voting residents in the Town of Bass Lake, strongly oppose the proposed ordinance. We provide each member of the Planning Committee with a copy of "Infringement upon the Rights and Granted Privileges of Adjacent Property Owners" and wish it to be included in the official minutes of tonight's meeting.

Issues for opposition include:

- Not on the 2 Apr 2015 agenda of Planning Committee; no opportunity for the public to be aware; violation of open meeting law.
- Writing of draft ordinance is beyond Planning Committee authority and without going through an attorney.
- Role of Planning Committee is advisory to the Town Board; how did it go from advisory to motion which was stayed because many of the Board members had not read it or had time to consider it.
- Planning Committee serves at the pleasure of the Town Board; The town Board serves at the pleasure of the voters.
- The ordinance is an attempt to bully/threaten—basically do what I say or you get punished—this is not serving the public (property owners [seasonal and full time] and voters).
 - threat of police action (Sheriff and LCO), I spoke with both—this is minor and how handled is discretionary.
 - fine of at least \$500 is absurd—1st DWI fine is \$300; DWI is far more serious/important than a ordinance.
 - threat to not allow a violator to use pier or moor boat (DNR has authority from OHW outward, not the Town)
- Reference to adverse possession—court cases have allowed adverse possession of municipal lands—this is a bluff, Planning Committee does not serve public by bluffing the people.
- "If there are items that have been placed at some prior time, they must be removed by September 15, 2015" is sheer nonsense. Grandfathering comes into play and is acceptable (a right) under common law; some of these items have been in place for more than 80 years. Removing by 15 September 2015 will cause more environmental damage than if done in a planned, organized manner taking advantage of two winter seasons. Grandfathering must be allowed.
- Grandfathering of seasonal storage of boats, lifts, and pier components must be allowed to continue.
- We agree:
 - We do not own the strip, we have been granted privileges of use since grandparents (Voelz) bought property in 1929—the last time was in the early-mid 1980s by Mr. Jim Shuey, a Board member, with a handshake as were all the previous permissions.
 - Cutting/removal of trees prohibited without permission of the Town (except for safety or environmental concerns.
 - No camping

Another issue is the impact of Billy Boy Dam on the lake levels. Lac Court Oreilles and Grindstone Lake surface levels are the same due to backing up of the water. This has resulted in the water/wave action eroding out the toe of the slope. On the Grindstone side in particular, the slopes are beyond the angle of repose and will continue sliding downward until the angle of repose is reestablished. The Town, as property owner, is responsible for rip-rapping to prevent erosion on its property from eating back into the adjacent private property.

Suggestions: Three ordinances are needed for three separate issues covered by the current proposed ordinance:

- a) Road access: All access roads are continuation of existing streets (survey on both sides to the lakes as indicated by the plat maps, especially Abendenpost Beach, Second Addition.
- b) Unsurveyed Strip "Public Reserve Strip"
- c) Vegetation preservation and manage to extend along all shores for all lakes.

I liken this to the common rule of thumb when I worked in the private sector 30+ years ago: KISS: Keep it Short and Sweet, or alternatively, Keep It Simple, Stupid.

Before these ordinances are developed for consideration; all boundaries need to be surveyed and adjacent property owners meet with Town Board members to discuss boundaries including turning points and corners.

Finally, the Town Planning Committee must work with property owners (seasonal and full time) before acting or creating rules and regulations that result in an angry community and confrontations

Please, add these comments to minutes of this, the 7 May planning meeting. Thank you

Edmond C. Packee Sr.

Judith A. Packee

Edmond C. Packee, Sr.; Ph.D.

Judith A. Packee

**Town of Bass Lake
Planning Committee
Ordinance # 07-23-03**

Infringement upon the Rights and Granted Privileges of Adjacent Property Owners

Attached to this letter is the Ordinance. Please read carefully and consider how it will affect your property. In the past, from the time of you as an individual property were told you could do this on a verbal okay. For somethings a written permit may have been provided. In some cases, such as stairs, piers/docks, benches, erosion control devices were generally agreed to and allowed. Certain structures were not permitted and in some cases the equivalent of a cease and desist order was given to stop construction. In many cases the Town basically did nothing in the unsurveyed strip between the private property and the high water mark (about 60 to 70 years). The Town essentially abrogated any responsibility for managing this unsurveyed strip for a long period until the 1990s. Common law, we believe, does not permit, ignoring, or cancelling, oral permissions given previously by the same governmental agency without all parties involved.

After talking to neighbors in the Northwoods Beach area, Mr. Richard Laumer (seasonal resident) and I, Edmond C. Packee Ph.D. (year-round resident) spoke individually and together with three attorneys and came to the conclusion that this ordinance is flawed, over reaches the Town's authority, could impact negatively property values, and violates Common Law by "by a "taking" without compensation. State of Wisconsin law does not require an adjacent property owner to seek the advice of the neighbors; but this is public land, owned by all property owners and residents in the Town. Therefore, out of common courtesy and the magnitude of the expense that this ordinance can cause individuals, the Town should meet individually with each property owner (seasonal and fulltime) before rewriting and/or passing the corrected ordinance.

The Planning Committee serves at the pleasure of the Town Board. The Planning Committee nominates for Town Board approval, its own members. This is incestuous! Does the Planning Committee represent the people of the Town or their own interests? This must be resolved.

The Town refers to this unsurveyed strip as a "public reserve" strip. We believe it is the result of a surveying technique using straight lines as the edge of 100-ft lots. We also believe the Town collected property taxes (pre-1960) for this strip from the adjacent property owners. If anyone recalls this tax, please advise us immediately. The map, page 3, of properties impacted by the proposed ordinance, is incorrect. On the Lac Courte Oreilles side: the map indicates that the "reserve strip" extends west of Atkins Avenue, it does not, and appears to omit Wise Boulevard northward. On the Grindstone Lake side it ignores accesses west of Post Avenue. To excuse the errors, the writer(s) state, "Attachment 1 [the map] is for Ordinance reference only, actual recorded plats may be attained from Sawyer County Register of Deeds." This sort of statement is unacceptable in an ordinance—map should be accurate to become law. The map suggests that the Town does not know where their property is. In fact the Town Board only recently approved a survey contract to determine boundaries of both the street extensions and the unsurveyed strips. It behooves the Town to complete the property boundary survey and meet with property owners to confirm understanding of corners before enacting this or any similar ordinances. The meetings with property owners is imperative since earlier perceived property lines are not correct (can be off by 4 feet or more) based on recent private property owners' official surveys. Somewhere in document the properties (lot number minimally) should be identified.

So where are these unsurveyed strips? On the Lac Courte Oreilles side, it extends along Court Oreilles Lake Drive from Atkins Avenue eastward toward Anchor Bay to Wise Boulevard (1st Addition to Abendenpost Beach subdivision) and then northward along Otte Road to the junction of Otte Road and Maple Street (Abendenpost Beach subdivision). On the Grindstone Lake side, it extends along Poplar Lane eastward from Evergreen Avenue to Post Avenue. Further complicating this are street (avenue) extensions from the above mentioned roads to the high water marks of both lakes which are approximately the same due to the Billy Boy dam backing up the outflow from the lake basins. On the Lac Courte Oreilles side, these include Scipio, Lawrence, Henrich, Atkins, Fox, Post, Lincoln, Grant, Bay View, possibly Wise Boulevard, and Otte (north end). On the Grindstone side, we believe these include Evergreen, Dixon, Rockford, Linne, Post, Poplar (Grindstone Channel). We will be checking the Grindstone side when County offices are open on May 4 May. If there is any change, we will contact the adjoining property owners.

The proposed ordinance (attached) is flawed and misleading.

- The map (attachment 1) is misleading and can cause people to feel secure and not take action, and vice-versa.
- The term "public reserve strip" is not defined and suggests that the intent was a reserve strip rather than a surveying affect; the term includes access roads to the high water mark.
- The map (attachment 1) and discussion mixes "reserve strip" and streets/avenues/roads that extend to the high watermark; these are two very different issues and should be separated into separate items (ordinances?) and dealt with separately.

- Ed, a Certified Forester #568 and Professional Soil Scientist #1709, questions the use of “sensitive” areas; the areas are typical of much of the surficial geology of the Town of Bass Lake; sensitive areas include natural wetlands and aquic (wet soils), slopes greater than 50%, and eroding glacial till deposits at the toe of slopes resulting from the Billy Boy dam higher water levels; both Lac Courte Oreilles and Grindstone Lake have approximately the same surface elevation (less than one third of a foot).

Wetlands and aquic soils with high silt and clay content should have no vehicle traffic unless frozen, and no meandering foot paths. Within the unsurveyed strip, the only wetland/aquic soil areas are from the Anchor Bay boat landing and westward for approximately 100 feet—the majority of the boat landing area was filled-in by the Town of Bass Lake. Eastward, the aquic soil is well-drained sand with a shallow water table. Slopes 50% or greater are very limited within the unsurveyed areas. All slopes, even those less than 10% are subject to erosion if water is diverted or concentrated onto them. Severe gullying occurred locally on two properties due to improper Town maintenance; on set of gullies resulted in the adjacent private property owner terracing the gullies and sheet eroded areas and using native rock and topsoil to fill the gullies. One storm resulted in the neighbor’s property and adjoining unsurveyed strip being washed out in the early 1950s—this required 10 or 13 dump truck loads to fill in—the Town paid for the work and so-doing admitted responsibility. To avoid such problems on the slopes, disturbance should be minimal and no runoff water be concentrated onto the slope; minor terracing should be allowed to minimize the risk of erosion. The toe-of-slope problem can be remedied by native rock rip-rap upward from the high water mark where wave action eats away at the slope. Several private property owners after consulting with the Wisconsin DNR have done this. To the best of our knowledge, the Town has not done this in the unsurveyed strip. It appears that the main argument is one of aesthetics.

The Town is using the “sensitivity” argument to justify its actions regarding the “taking” of private property, the removal of temporary and permanent and temporary structures ranging from benches, retaining walls, sheds, and boathouses. With exceptions, the private property owners’ record of maintaining the unsurveyed strip is at least equal to that of the Town of Bass Lake, if not better. To avoid/minimize future encroachments onto the unsurveyed strip, the Town should send a written notice regarding the cans and cannots for the unsurveyed strips.

- Reference to plats is incomplete and not a service to the public. What plat titles do the years refer to? Furthermore, these plat maps should be available at the Town Hall. The Town started this issue and should not force individuals to spend time and money chasing plat maps.
- The management of any man-made alterations to the natural environment will protect against the decline of the natural resource. Management is not the elimination/removal of all man-made structures except stairs. Most of these structures were permitted verbally, the standard approach into the 1960s. Regardless of whether permission was or was not granted, these structures are grandfathered and are likely protected for use (ownership, use, maintenance) by “Common Law.” Removal of many structures will have a negative impact on the environment.
- Private property owners are members of the public; private property owners pay taxes which support the services provided by the Town of Bass Lake. The Town of Bass Lake exists to provide services. The way this ordinance was prepared and attempted to be pushed through without a notice to the public IS NOT SERVICE. April 2 Planning Committee meeting agenda—no mention, Planning Committee minutes not available. This approach is nothing new for the Planning Committee. The Town Board of Supervisors meeting of Apr 21, 2015 agenda states “Ordinance Regarding the Public Reserve Strips Located in the Northwoods Beach Subdivision No. 2015-04-21 (A) says nothing about reviewing and passing. It was tabled to the May 11, 2015 meeting. Ed Packee went to the April 21 meeting, no copy of the proposed ordinance was available; he requested a copy on Thursday, April 23, 2015 and received it most amicably.
- The adjoining property owners concur that the use of the unsurveyed strip is a privilege, but once permission was granted it is permanent unless there is a stipulation to the contrary. This granting of privilege was part of a 1967 lawsuit (Town of Bass Lake et al. vs. Edith E. Frick et.al. addressed this issues. Unfortunately, only the summary is available; the issues and stipulations are not. Stipulations were not available as of late afternoon 1 May 2015 from the Town nor the County despite being requested earlier in the week. Furthermore, the Town made little noticeable effort regarding the orders and judgment in more than two decades. Many previous owners, deceased family members and others were under the impression that existing structures were okay and could be maintained, but know new structures would be allowed without permission of the Town Board. Does the Town have the stipulations? Does the Town know what those stipulations state? Without the stipulations, should the decision be vacated? Anyone who has information or copies of the stipulations, please advise us.

- The strip was never “reserved” for public use. The Town should provide documentation that the unsurveyed strip was ever designated a public reserve.
- Where and when did the idea of “temporary use” come into being—before or after structures were in place? Town must document this.
- Reference to adverse possession—why does adverse possession come into the ordinance? A Wisconsin Court decision found contrary to the opinion of municipalities that adverse possession exempted municipalities it does not. This has been documented in court. Is this an attempt to bully or bluff, i.e., tell people why bother because they can’t do this?
- Section 4 item b) ignores State law (re: adverse possession involving municipalities); Common Law permitted structures before at least 1967 and more recent permits; if valid, permitted and unpermitted structures to be removed is a “taking” and owners are commonly required to be compensated. Is the Town prepared to use tax dollars to compensate for its “takings”? The Board should take recent/current/future action against infringements from the time of passage of the ordinance and prior to a certain date (10 years of structure’s existence).
- Grandfathered structures/uses are protected by Common Law. This needs to be revised.
- Within the properties abutting the unsurveyed strip, where does a platted Town Road “traversing a lot”—what lots? Streets accessing either lake were surveyed and are not part of a lot; the same goes for public land. This is why there needs to be two ordinances to minimize confusion.
- “If there are items that have been placed at some prior time, they must be removed by September 15, 2015.” The time line is absurd! It challenges Common Law. Is this another attempt to bully or punish. Enforcement of this will result in environmental damage. It will result in significantly increased costs to the owners. If the ordinance were to pass, the time frame for removal should be minimally two full winters and then until the end of the summer. Who paces for site rehabilitation, since permission was granted on a permanent basis and now the Town is requiring something to be done—the Town should pay for the rehabilitation effort and in so doing has no right to passage through or over private land.
- Cutting/removal of vegetation should be to the standard set by Sawyer County Zoning Shore land-Wetland Protection Ordinance Amended: September 20, 2012. Zoning regulations were initiated in 1934 and were updated most recently in September 2012 recently. The Town should not selectively treat properties to create spot zoning. If the Town is sincere about their concern, an ordinance should be developed that addresses shore land-wetland protection for all shore land properties in the Town—then everyone is treated equally. There is concurrence with requiring a permit in writing.
- The idea of a deck of maximum size of 16 ft² (4X4 ft) along the stairs is unrealistic. What about decks that already exist along the stairs or in the stair imprint? Is the unsurveyed strip to be used by the public or is use being discouraged?
- Piers and boat lifts are the purview of the Wisconsin DNR as well as the lake bottom from the high water mark into the lake. This is an overreach by the Town. It is unacceptable. The three-foot water depth is meaningless—is it high water or low water; three feet means disturbance of the bottom (prop wash is almost a given for bigger boats); no mooring of boats with 200 feet of high water mark allowed; Wisconsin DNR requires permit for mooring more than 150 feet from high water mark—why the discrepancy; does the mooring issue include rafts?
- There is no problem regarding “No Camping”.
- There is no problem with the 10-foot set back concept; but is the word pervious and not impervious.
- Enforcement by Sawyer County Sheriff or LCO Police Department is illogical; they have more important things to do. Have they been contacted? Have they agreed? As taxpayers is enforcement of such an ordinance wise use of tax monies? Does the Planning Committee believe the County Sheriff or LCO Police have nothing better to do? Is this a bluff or an attempt to bully? May be the Town of Bass Lake needs a constable?

- Fine is more than DUI 1st Offense. This is another attempt to bully. Is this the way the Town provides service to its residents?
- Threat regarding removal of pier and boat for not less than one year is invalid; the Town cannot dictate to the Wisconsin DNR.

Property owners and others need to say NO! Kill the ordinance. Table the ordinance until surveying is done and Planning Committee has met. Demand that the Planning Committee meet with you on your property! Delay implementation. Object in everyway possible and use numerous arguments from this document and any of your own—put everything into your words. The longer the better. Change slightly (add a new concern, comment in each message. They need to say this as forcibly/bluntly as possible.

Property owners need to contact each Planning Committee member by telephone, e-mail, regular mail, in person. Telephone numbers are in the phone book for Hayward area. Attend the next planning meeting Thursday May 7, 2015 at 6:30 pm at the Town of Bass Lake hall. You can do all approaches. Anything written should be sent/delivered for receipt no later than 1) pm Thursday the 7th. Attend the Planning Committee meeting; bring a friend (doesn't have to be a resident/property owner from along the strip). Each of us has to make noise—lots of noise. Pass this information to others. Definitely try to attend the meeting.

E-mail through the Town of Bass Lake at: ericaw@basslakewi.gov
 Telephone through the Town of Bass Lake: 715-634 8469
 Fax through Town of Bass Lake: 715-634-8470+
 Mailing address: Town of Bass Lake, 14412 W County Hwy K, Hayward, WI 54843

Do basically the same for Town of Bass Lake Supervisors. Attend the Board of Supervisors meeting, Monday, May 11, 2015 at 6:30 pm at the Town Hall. Anything written should be sent/delivered for receipt no later than 1) pm Monday May 11. This meeting is the most important to attend

If you have questions, contact either of us.

Richard Laumer
 3116 W 44th Street, Minneapolis, MN 55410
 612 916 2107
rlaumer@comcast.net

Edmond C. Packee
 14225 W Court Oreilles Lake Drive, Hayward WI 54843
 715 634 3760
ecpackee@alaska.edu

Look forward to meeting/talking to you

Town of Bass Lake, Sawyer County, Board of Supervisors.

Justin Hall, Chair 715-634 4226
 Ralph Meixner 715 634 1554
 Brian Bisonette 715 699 0490
 Joel Valentin 715 699 4788
 Doug Mrotek 715 634 4027

Town of Bass Lake, Sawyer County, Planning Committee

The Town of Bass Lake, Sawyer County, Planning Committee's duty is to implement the 20-Year Comprehensive Land Use Plan for the township. "The plan shall be made with the general purpose of guiding and accomplishing a coordinated and harmonious development of the municipality [Town of Bass Lake] which will, in accordance with existing and future needs best promote public health, safety, order, convenience, prosperity or the general welfare, as well as efficiency and economy in the process of development." In specific duties, no mention is made of drafting ordinances is made.

The Planning Committee consists of 7 members appointed by the Town Board: their phone numbers are available in the Hayward phone directory.

Mark Olson Chair 715 634 1810
 Dorothy Brueggen
 Dick Theis
 Dan Tyrolt
 Mark Laustrup
 Phil Nies
 Helen Chevrier (alternate)
 Joel Valentin

ERRATA: Evergreen, Dixon, Rockford, Linne, Post, Poplar (Grindstone Channel) should read Lake, Evergreen, Dixon, Birch, Rockford, Wonder, John Morton, Post, Grindstone Shallows, Poplar (Grindstone Channel).

We apologize for this not being there or in the mail by Monday morning. We first obtained a copy of the ordinance on Thursday, April 23; we requested additional information and received it from the Town on Tuesday Apr 28. Both of us had work commitments; we got together on Friday May 21; visited the courthouse, two attorneys, and began drafting our comments, and contacting residents along the unsurveyed strips. Ed has met with board members. Both the proposed ordinance and our comments are enclosed.

Everyone (adjoining and back lot owners) we have talked to about the strip opposes the proposed ordinance. They want the property frontage line and road boundaries surveyed before any action is undertaken except to cancel the proposed ordinance. You may get this after the Tuesday, May 7 2015. Still take action even after the May 7, 2015 meeting date and ask that your letter/e-mail be entered into the minutes with reference to the unsurveyed strip. Make sure to try to attend the Bass Lake Board of Supervisors meeting if you can—it is important that we the people show our strength.

Ed Packee
Dick Laumer