

Monday, November 09, 2015

Chairperson Manistee County Board of Commissioners

Chairperson, Manistee County Planning Commission

Dear Chairpersons,

I am writing to you to express my support for a county resolution in support of Manistee area watersheds. At its October meeting, the Manistee County Board of Commissioners (BOC) considered such a resolution, but did not support/pass the resolution. It was referred to the county planning commission for consideration and possible recommendation back to the BOC. In this letter I am asking that the county planning commission consider and pass a resolution expressing support for area watersheds. Then, during a near future meeting, I ask that the BOC again consider, then pass a resolution supporting area watersheds.

During the October BOC meeting, commissioners expressed concern about adverse impacts on riparian property rights stemming from something within a watershed plan, or possible actions by one or more of the area watershed councils/groups that would restrict riparian property rights. I will attempt to address property rights concerns, and once more briefly state my reasons for requesting support of watershed plans.

Nearly all of my experience with area watershed plans is based on work with the Greater Bear Watershed (GBW) Plan. That plan was adopted in 2013 and was the result of a partnership between the Bear Creek Watershed Council and the Bear Lake Watershed Alliance; both Bear Creek and its tributaries and Bear Lake are contained within one large watershed that drains into the Manistee River at the confluence of Bear Creek and the Manistee River where Bear Creek crosses River Road. I am familiar with the other area watersheds and watershed plans through work with other watershed groups and attendance of some work sessions and public information sessions. The foregoing, I hope, gives you sufficient background for my following comments.

First, as regards possible damage to riparian property rights, I offer the following based primarily on my work with the Greater Bear Plan.

- The GBW Plan states in its Purpose, "The purpose of this Greater Bear Watershed Management Plan is to guide and inform the integration of future activities in the watershed to protect and enhance the valuable natural resources essential to the quality of life and economic well-being of residents of the area."
- The GBW plan attempts to achieve objectives through an ambitious Information and Education Plan. I refer you to the plan's web site page: <http://www.bearwaters.org/Portals/0/Plan/Information%20And%20Education.pdf> It is clearly stated at the start of the I & E plan that the goal is to "improve understanding

and awareness of how actions on the land and water within the watershed can have a critical effect on protection of water quality and watershed resources.”

The GBW Plan, and nearly every watershed plan I am familiar with attempts to achieve watershed improvement and protection goals through an information and education campaign strategy. It is true that watershed groups will make presentations to planning commissions hoping to influence master plans and in some cases zoning ordinances in critical watershed areas. However, watershed plans are not master plans and are definitely not zoning ordinances. Furthermore, the local watershed councils are volunteer groups with no authority over zoning and land use. Land use regulation is solely the responsibility of elected legislative bodies or their appointed bodies, as defined in Michigan law. A watershed plan cannot and local watershed groups cannot create or change zoning laws affecting land use.

During the October BOC meeting commissioners used the example of Michigan Natural River designation for the Betsie River as an example of their concerns over watershed support. There appeared to be concern that local watershed groups could somehow put a local stream into the Michigan Natural Rivers program and thus trample on property rights. To address that concern, I offer the following from the introduction to the Betsie River Natural River Plan, July 1973 (revised in August 1973 and again in 2002):

“The Benzie County Board of Commissioners, Township Boards of Supervisors, Soil Conservation Service, County Planning Agencies, Extension Service, and Keep Benzie Beautiful, Inc., individually petitioned the Department of Natural Resources to consider the Betsie River as a candidate for the Natural Rivers Program. These agencies, through resolutions, pledged to assist in the planning toward protecting the Betsie River under this program. These agencies as well as other interested person have been instrumental in formulating the Betsie River Natural River Plan”

(Web page: http://www.michigan.gov/documents/Betsie_River_Plan_23126_7.pdf)

While a local watershed group, if there was one at the time, may have supported the Betsie Natural Rivers designation, it appears clear that **local legislative bodies** were instrumental in **creating** the designation. Please note that the Betsie River designation process dates back over 40 years.

I suggest that in Manistee County expressing support for local watershed plans **will not** result in Natural River designation for local streams **unless local legislative and planning bodies** specifically **support** the designations. The **GBW plan and other area watershed plans** I am familiar with **do not** contain language asking for or recommending Natural Rivers designation, and, that designation does not apply to lakes; Portage Lake, for example, is not affected by the Natural Rivers program.

Hopefully, I have addressed concerns about watershed plans and volunteer watershed councils usurping riparian property rights.

There is a property rights issue of sorts at the heart of watershed plans. It is in the nature of waterfront environments that one property owner's actions have an impact on downstream owners, or in lake environments on neighboring property. For example,

- If an upstream riparian disturbs stream banks and causes sediment to flow into a creek, downstream spawning beds are covered and lost causing downstream riparian owners to lose a fishing hole and enjoyment of a section of the stream.
- Removal of overhead woody debris in one area raises stream water temperatures causing some fish species to move seeking colder water.
- Lakeside property owners sometimes over-apply lawn fertilizers possibly causing weed beds to sprout from the lake bottom. Weed growths can rob oxygen from aquatic environments, harming fish populations; lake associations spend precious dollars fighting invasive weed beds.
- Hardened lakeshore structures to protect on beach area cause a succession of wave actions that erode neighboring beaches. Neighbors then lose beach area; to retain their beaches neighbors end up investing in their own hardened structures, at great cost.

Watershed plans attempt, through their Information and Education program strategies to inform riparian land owners on practices that protect the water resource to their advantage and their neighbor's advantage. Careless or uninformed actions by one riparian owner can impact the enjoyment of the water resource by a downstream or neighboring riparian, and that is a form of property rights loss. Watershed plans and watershed councils attempt to avoid such losses. That is a goal of every watershed plan I am familiar with.

So, I suggest that watershed plans and councils will not cause a loss of property rights. Rather, watershed plans are intended to help riparian owners enhance and/or protect their and their neighbor's property and aquatic environment.

The regulation of property rights concerns rests squarely in the realm of legislative bodies and planning agencies. Education and information programs to help riparian owners manage their land responsibly is the goal of watershed councils.

Your support for watershed plans will enhance property rights and will in a tangible way show Manistee County's support for protection of and enjoyment of our natural resources. Specifically, you can show that Manistee County recognizes the value of and importance of what many people outside of Manistee County recognize as a precious resource: our lakes, beaches, and streams.

Within Manistee County, there are five established watershed organizations and they are responsible for management of four watershed plans that are either adopted and

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recognized, or in the process of being adopted or written. It is a goal of each watershed organization to work with neighboring watersheds, with townships, villages and cities, and with county government. Your support for watershed plans and the organizations responsible for plan management will help the organizations when they seek outside support. Funders of watershed projects and organizations that can, and do provide logistical support look to see whether watershed organizations work together on mutual objectives and whether there is broad support for watershed plans.

I hope that Manistee County government can formally express its support for our local watershed plans and organizations. It is important to the future of Manistee County. Finally, please, if you have not had the opportunity, please look at our existing plans. I believe you will find them intended to enhance our water resources, and intended to protect riparian property.

Thank you for your support,

Jim Draze

Kaleva MI

NOTE: If you want to read adopted watershed plans, here are the links:

<http://www.bearwaters.org/Plan.aspx>

<http://portagelakewatershed.com/plan/>

For the Arcadia-Pierport plan (currently in review prior to adoption) here is the link:

<http://www.lakeistoland.org/arcadia-pierport-watershed/>