

**SPRING LAKE TOWNSHIP – CITY OF PRIOR LAKE
JOINT PUBLIC HEARING ON PROPOSED ORDINANCES REGULATING
WATER SURFACE USE MANAGEMENT ON SPRING LAKE AND PRIOR LAKE**

MAY 9, 2016

PRIOR LAKE CITY HALL
4646 DAKOTA STREET, PRIOR LAKE, MN

Present:

Doug Berens - Supervisor Glenn Kelley – Supervisor Ted Kowalski - Supervisor
Kathy Nielsen – Clerk

City Public Works / Natural Resources Director Gehler presented a history of the work undertaken over the past year to develop the proposed ordinance revisions. She provided an overview of the proposed changes to the City’s ordinance, noting Spring Lake Township is proposed to adopt an ordinance with identical provisions for Spring Lake.

Hedberg: Asked if he takes someone waterskiing from the shoreline of his home is he permitted to head straight out through the 150’ zone.

Gehler: Answered it is permitted, as long as you are taking the most direct route.

Hedberg: Suggested that during the first part of the public hearing, speakers comment only on the limitation of high bow operation south of Twin Island. Asked if anyone objects to that suggestion.

MOTION BY MCGUIRE, SECOND BY THOMPSON TO OPEN THE PUBLIC HEARING AT 7:34 P.M.

VOTE	Hedberg	Keeney	McGuire	Morton	Thompson	Kelley	Berens	Kowalski
Aye	<input checked="" type="checkbox"/>							
Nay	<input type="checkbox"/>							
Abstain	<input type="checkbox"/>							

The motion carried.

Christopher Crowhurst, 1918 Lakeview Drive: Stated he is in support of everything except the controversial issue of bow high boating since he lives on Spring Lake. Explained he is an active and passive user of Spring Lake but frequently finds himself and his family in danger while being passive users on numerous days throughout the year. Believed the introduction of the 150’ no wake zone should create a safety route for passive users, simpler to enforce since it will mirror Prior Lake. Stated it is a shame that regulation is necessary and that there is only a 150’ area for passive people to enjoy the water but he will take that over nothing. Explained in 2014 the rising waters affected his home and lake users both passive and active did not consider how the slightest wakes caused water to pour into their home. Stated it took too long to introduce no wake restrictions on Spring Lake so the introduction of consistent and automatic regulation when the water reaches the high water mark is common sense. Suggested a majority of current boat users may not even know the speed limit so the proposed regulations will bring clarity and simplification for both lakes and law enforcement. Asked that sense, logic, and fact rather than emotion drive us forward and thanked the WSUM Taskforce for the opportunity to be heard.

Kirt Briggs, 14914 Lori Road SE: Stated he applauds the ordinance changes to bring consistence across Prior Lake, Spring Lake, and state law. Explained he is in opposition to the bow-high regulation. Believed any change made in one lake will create a ripple effect in other bodies of water and drive activity to other areas of Prior Lake or Spring Lake. Stated that enforcement will draw already finite law enforcement resources to the end of the lake where calls are not coming in and the ordinance will stretch these resources. Concluded that he does not support any ordinance regulating sustained bow-high boating.

Chris Short, 3442 Sycamore Trail: Stated he has 130' of lakeshore where the retaining wall has fallen down and his family cannot fish on their floating dock without being tipped over from boat waves. Explained on a windy day between his property and the DNR access there may be ten boats going back and forth at a time but he does not believe people understand how the traffic in the narrow area causes danger. Concluded he does not like to see an ordinance put in place but hopes it will make boat users think about their speed.

Tom Quinn, 1796 Spring Lake Circle, Jordan: Stated he is a resident of Spring Lake and does not want to see any ordinances on that lake; he is not in favor for the 150' restriction on Spring Lake but he understands the concerns others have and he can live with the restriction. Stated another concern of his is the buoys. Asked who regulates the buoy process and who will monitor the buoy permits because there are some buoys out already that are almost interfering with the ski course. Concluded he is in favor of the no wake zone during high water.

Nick Modders, 3598 Willow Beach Street: Stated he lives south of Twin Isles since 1974 and has seen many things happen on Prior Lake. Explained that bow-high boats can provide a lot of enjoyment for others but as he watches the entertainment from his patio he sees how the waves affect the docks. Stated he is surprised that the Willow Beach Association docks are still intact. Suggested if boat users could see what they are doing, they would understand the impact the waves have and go to a bigger part of the lake. Noted his appreciation to the task force and hopes the presented ordinance passes as is.

Jeff Petschl, 3856 Green Heights Trail SW: Stated he owns other properties located at 3859 Green Heights Trail SW, 3950 Green Heights Trail SW, and 3915 Green Heights Trail SW, and Lot 7 Green Heights First Addition all on or across the street from upper Prior Lake. Believes the proposed restrictions are complaint driven from others' observations and are not based on Prior Lake research and measurements. Stated there is no research, evidence or science to support the ordinance and it would be irresponsible for the City, Township and DNR to pass an ordinance without evidence. Noted that the report from the WSUM Taskforce states the word education over 30 times but the taskforce is not going to provide education. Stated concerns regarding implementation and enforcement of the 150' marker buoys on a current restriction. Asked why there are going to be more rules if the current rules cannot even be enforced. Added that Prior Lake is one of the top 10 busiest lakes in Minnesota according to the Prior Lake Association information and there is a shockingly low number of citations on Prior Lake. Added that according to the final report there is only one sheriff occasionally supplemented by temporary employees for all of Scott County lakes and rivers. Asked how the new restrictions will be enforced. Stated these restrictions are just going to crowd other parts of the lake. Concluded it is the property owner's responsibility to maintain and improve their property. *Provided his points on paper.*

Jeff Young, 16270 Park Ave SE: Agreed with Petschl's points. Stated he has lived on Prior Lake for 39 years and in his youth would ride the whole shoreline south of Twin Isle almost every day. Explained this is nothing new, instead wake boarding and surfing is just getting more popular. Asked why that shoreline is any different from the other areas of the lake, saying it is not a special area. Noted he lives between Wagon Bridge and Charlie's on Prior which has a lot of traffic. Stated as long as boaters are 150' away it should be uniform around the lake. Agreed it is the property owner's responsibility to maintain their shoreline.

Mike Myser, 3857 Island View Circle NW: Explained he has been a lakeshore owner for 13 years where he and his family are active users of the lake - skiing, wakeboarding, tubing, and wake surfing. Stated they are also passive users of the lake fishing, kayaking, swimming, floating and paddle boarding. Added he dives to clean up the lake and worked for better water quality. Stated he has had to redo his shoreline twice, once in 2004 when they bought the property then again in 2013 because the shoreline needed some maintenance now due to the 2014 floods they will have to fix the shoreline again. Noted he likes to make decisions on fact and reason rather than emotion and desire. Stated he was a member of the taskforce and thanked Nielsen, Gehler, and Young for their work. Agrees with a bow-high ordinance based on facts. Believed that current rules are dated and since things change over time rules should be modified. Stated there are boat laws which hold the boat user responsible for the wake that comes off their boat. Explained how wake comes off from all kinds of boats differently depending on how they are loaded. Questioned how these characteristics make boats very different and should they be treated the same? Stated that he does not believe all the things that affect the shorelines are being considered such as storms, flooding, construction, and traffic patterns. Explained some shorelines on Prior Lake do not have any protection so they are eroding, as well as incorrectly installed walls are eroding into the lake. Explained that proper construction is possible but shorelines do need maintenance and it is the property owner's responsibility. Noted in 2014 they had a

no wake zone almost the whole year and he saw more paddle boarders, swimmers, and kayakers. Explained this observation makes him in favor of viewing ordinance amendments because the active users may not have realized their influence on passive users. Stated as a member of taskforce there was very strong disagreement on the restriction of bow high boating due to there being no evidence on the erosion. Added the reason you are getting the backlash is that the rules are not supported by facts. Concluded we owe it to our community to make policy and decisions based on facts, to consider the rights of all, the responsibility of all and the consequences of our decision.

Dave LaPorte, 16264 Lakeside Ave SE: Stated he is in opposition to the artificial sustained bow-high part of the ordinance. Explained he has lived on the lake for 20 years between Charlie's on Prior and Wagon Bridge and had his shoreline rebuilt four times. Added he understands that people use the lake differently and he uses the lake for recreation. Stated his biggest concern is the fact there is no research regarding who has erosion issues from the boat waves and who does not. Noted when he sees the high waves it can be concerning but he does not believe the presented restricted area is more important than another area on the lake. Stated it will push traffic to other areas and there needs to be more research and facts that can be statistically drawn to prove the need for this ordinance.

Mike Blair, 4257 Coachman Lane NE: Stated the taskforce made a change from the document from the last meeting tubing. If a boater is towing children, normally they do not go fast so the boat is bow-high which is inconsistent with the point of the ordinance. Explained education is important because skiers should be in 15' of water which is not near the proposed restricted area.

Dan Hoffman, 16220 Lakeside Ave SE: Commented that he is against the bow-high restriction and supports what Petschl, Young and LaPorte stated.

Liz Weninger, 2591 Spring Lake Road: Stated she is a member and chair of the Lakes Advisory Committee. Explained a story of someone on the lake who had to rescue a family from a fishing boat that capsized from the wake of a wakeboard boat. Added the backwash has phosphorus and dirt that gets into the lakes from the waves, which affects the quality of the lakes.

Mike Thibault, 16013 Northwood Road: Noted he is a 17-year Prior Lake resident, a member of a lake association, president of the 60-year old Prior Lake Water Ski Association which owns two lots on Twin Island, the slalom course on Prior Lake and the slalom jump on Spring Lake. Stated he was on the WSUM Taskforce and he is opposed to the bow-high restriction because there is no science that shows boat traffic affects erosion. Noted the MN Supreme Court in 1900 had great foresight "such restrictions are a great wrong to the public for all time; the extent for which cannot perhaps be now anticipated, the rights of property owners in and to public waters are subordinate to the public uses thereof." Explained some individuals on the taskforce had a desire to restrict boating in the shallow waters in Spring Lake because the traffic had an effect on the alum treatment so the boats should be restricted from those waters. Stated scientists were brought in which clarified boating does not affect alum treatment and no action was better than taking any action. Asked if it is better to move traffic to a more concentrated area creating even larger problems. Talked about the law against sustained artificial bow-high restriction is ambiguous because to enforce this an officer would have to be conducting a warrantless search which will cause needless attorney fees and wasted time litigating a law that will surely be challenged in court. Stated there is no legal definition that he can find with the word sustained or bow-high. Questioned how long is sustained, is it 10 feet, 100 yards, or a period of time? So how is that measured? Explained any boat that is on plane is legal regardless of the size of its weight. Asked how the sheriff is going to know if the boat is above their ballast without going on the boat. Stated a riparian right arises from owning shoreline where one can boat, hunt and swim. Quoted the MN Supreme Court regarding riparian rights "if such public waters are disturbed beyond their natural condition by the general public in the exercise of the right of common usage, neither a riparian owner nor other common user has a legal remedy to prevent the same." Stated the use of the water can be regulated but cannot prevent usage on the lake. Concluded by asking how many lakes in the state have this restriction.

Randy Baldwin, 2535 Spring Lake Road: Stated he agrees with the no wake when the water reaches the high water mark but does not agree with any of the other rules. Explained since the two lakes are separate lakes they do not have to have the same rules. Added he never had an issue with his daughters swimming in Spring Lake and feels if there are any issues it is in the middle of the lake where multiple boats are passing each other. Stated enforcement on Spring Lake is low compared to Prior Lake where enforcement already cannot handle the full enforcement that is needed for current laws. Explained it is not the sheriff's job to measure and move buoys; he knows some owners who move them out on the weekend and move them back

in during the week. Believes people on the taskforce had their own agenda. Agreed that property owners need to maintain their own shoreline and if it is eroding they have not taken care of it properly.

Joe Selle, 2615 Spring Lake Road: Stated he does not believe a specific boat causes the issues because with his ski boat it can create a big wake when pulling his children. Believed the 150' no wake is just common courtesy and the buoys are not needed. Added property owners shoreline is their responsibility because all types of waves are constant which requires constant maintenance. Concluded that he is in favor of the high water no wake portion of the ordinance.

Darcy Running, 3217 Butternut Circle: Commented that he is in favor of the ordinance for bow-high restrictions. Stated he does not want to limit people from having fun but asks boaters to consider the multiple waves coming into the shore hour after hour each day. Explained the erosion in his part of the lake is bad.

Jim Weninger, 2591 Spring Lake Road: Noted he has been on the lake 69 years and waves are part of operating boats on a lake. Explained in years past he had driven around a fishing boat and it caused one of the fisherman to fall out of the boat; boaters need to learn how their waves affect others around them. Noted on holiday weekends the lakes get very busy and even on calm days the waves are non-stop. Stated the ordinance will help to educate and regulate people because there will be more boats and more traffic as the years go on. Suggested the County Commissioners who control the budget should look into getting more sheriffs to regulate the lakes. Concluded that he enjoyed how the lake used to be but things change and it needs to be taken care of.

Jeff Zawn, 820 6th Street, Faribault: Stated he does not live on the lake but he is a wake boarder who would like to purchase shoreline property. Explained if the bow-high law is passed, there is no way he will buy a home on this lake and this is something that property owners need to consider. Suggested there just be a no wake in the specific area instead of a new rule that affects the entire lake.

Chuck Miller, 14897 Manitou Rd NE: Asked for clarification on where the bow-high restriction is proposed. Stated he found research from 2002 that showed in a large channel wave's account for 2-5% of the erosion of energy hitting the shore for a year in a narrow channel wave's account for 95-95% hitting the shore and eroding it. Explained a 2.5 centimeter wave causes no erosion, 25 centimeters is now 5 times more destructive, and a 62.5 centimeters which is a typical wake for a non-planing boat is 30 times more destructive when it hits the shore. Suggested this can be enforced by the sheriff standing in the shore with a yardstick to see how high the wake is from a passing boat; this would be a way to measure the wave.

Eric Easton, 4255 Grainwood Circle NE: Explained his boat was designed to have a high bow and asked if that will be held against him. Noted he respects those who are in favor of this bow-high ordinance but there are things that can be done such as purchasing a higher dock for the waves to go underneath or buying property that does not have as much wave action. Concluded that if a change is made, that does not take away from the majority.

Mark Overbye, 587 Vista Ridge, Shakopee: Noted he owns Gekko which is a ski boat company and he is the Vice President on the USA Water Ski Foundation Board and a member of the Water Sports Industry Association. Stated he appreciates those who talk about the erosion and ruined docks but the reality is you cannot outlaw stupidity and the lack of respect. Suggested education for the current rules. Explained he went to San Diego, California where MIT studied wave energy data regarding wake board boats and ski boats on how the waves affect erosion and property. Stated the evidence showed a breaking wave produced by wake and ski boats dissipates 50% faster than a rolling wave which is a wind driven wave or waves produced by stern drives like pontoons. Added a few years ago in Wisconsin they studied a similar issue on a small lake. Explained that this study found out 5% of the shoreline owners had wake or ski boats; they had a two million dollar impact passing legislation. Stated he did not know what the dollar amount would be for Prior Lake but he guesses it would be higher than ten million. Concluded when you pass a law that people do not like, they will just go somewhere else which will cause property values to decline.

Eric Castro, 3559 Willow Beach Trail: Stated he is against the bow-high restriction. Explained he is on the Willow Beach Association board and is not aware of any issue related to the docks or the waves. Stated the water quality is critical to this economy and he cannot see how this rule does anything but hurt that. Noted that the erosion on the lake is very important and the methods used to break waves and following the DNR rules states to avoid walls. Added an ordinance like this can encourage poor practice from people who do not agree with it.

Jim Dolbe, 4251 Quaker Trail NE: Commented that the lake is the city's best commodity and by passing this ordinance it will hurt property values which will hurt the taxes for the city as well. Explained he knows many of the shoreline owners and they are all responsible. Noted it is people who do not live on the lake

creating the issues so it boils down to education. Stated he opposes the bow-high ordinance because it is not in favor of what the majority requests.

Chad Schumacher, 3509 Basswood Circle: Explained he has lived here for 12 years and he and his family use the lake five to six times a week. Stated he is opposed to a bow-high regulation as it discriminates against certain boat owners.

Dustin Berck, 14170 Enso Court, Apple Valley: Stated the only reason he comes to Prior Lake is to wake board. While he is here he stimulates the economy. If the bow-high ordinance is passed he will no longer come to this area because he will not be able to wake board.

Doug Johnson, 5458 Fairlawn Shores Trail: Noted he opposes the bow-high ordinance because if this passes he thinks there will be another area of restriction next year and another the year after that until the whole lake is a no wake zone. Stated he feels like wakeboard boats are the low hanging fruit and it does not solve the issue of excessive traffic because there are other boats who make laps and circles. Added lakeshore owners need to take responsibility for their shoreline. Concluded he lives on the lake following the DNR guidelines for the three to one ratio of riprap and does not have an issue with erosion.

Nick Budro, 5416 Manor Road SE: Stated he is a passive user of the lake who paddleboards and he agrees with the others who are in favor of the bow-high ordinance.

Bret Anderson, 3518 Basswood Circle: Explained he has been a part of the Willow Beach Association; from his experience he's determined wind generated waves are much harder on shorelines than boat waves. Stated he maintains the docks and the budget. Noted the way boats are being made is changing and if this ordinance is passed it will have to be revised in the next couple of years since it will no longer be relevant.

Nick Waglagner, 10301 Cedar Lake Road, Minnetonka: Stated he knows people who have specifically moved to this area from out of state because of the lakes. Placing a restriction on a specific way to drive one's boat will deter people from moving here. Explained a boat can still cause large wakes without being bow-high by people pilling in the boat.

John Vice, 15568 Skyline Ave NW: Explained he moved here from Texas. Prior Lake was the go-to spot. If you start to make many regulations it will become less attractive. Stated he grew up on the Mississippi River. Having to maintain the shoreline on your property is part of being a shoreline owner.

Mike Thibault, 16013 Northwood Road NW: Stated he is in favor of the higher water levels and providing more education. Added he is opposed to the towable restriction through the no wake channel because it makes it impossible for those living in that area to take people out. Stated he is also opposed to the 150' no wake zone on Spring Lake because most of the docks go out that far and why would a person want a buoy that close to their dock.

SEEING NO FURTHER COMMENTS, MOTION BY MCGUIRE, SECOND BY THOMPSON TO CLOSE THE PUBLIC HEARING AT 9:11 P.M.

VOTE	Hedberg	Keeney	McGuire	Morton	Thompson	Kelley	Berens	Kowalski
Aye	<input checked="" type="checkbox"/>							
Nay	<input type="checkbox"/>							
Abstain	<input type="checkbox"/>							

The motion carried.

Keeney: Stated Prior Lake is special because it is a recreational area. Explained he takes pride when driving past Highway 13 and seeing the snowmobile tracks and he likes watching the activity on the lake. Stated the City Council is asked to pass an ordinance when there is some type of conflict between residents. Believed the taskforce hit this on the head with the need for education and simple reminders to boaters. Stated ordinances are tough to enforce but just the discussion of this proposed ordinance has provided education and raised awareness. Stated it is not a good idea to make an ordinance at one part of the lake that will create other areas of the lake to erupt in complaints. Noted he is not in favor of the bow-high restriction. Concluded he does not want to be the person to resolve the conflicts when it is just a matter of courtesy.

Thompson: Asked if you live in a marked no wake zone she thought you can pull a tube out as long as you go directly straight out of the no wake zone.

Todd Beck, Scott County Deputy: Answered that you can tow out from the 150' shoreline zone but under the proposed regulation you would not be able to tow through a *marked slow no-wake zone*.

McGuire: Stated he is concerned about the bow-high restrictions in a specific location and agrees this will just bring back people next year living in a different area.

Morton: Explained she does not live or boat on the lake but when she was looking over the report she realized this is giving preferential treatment to one group of homeowners. Added she would not support the bow-high restriction.

Berens: Stated there is consensus in favor of the 912.8 no wake restriction on Spring Lake. He was on the board in 2014 when the City and Township passed the temporary no wake restriction, so having that part of the ordinance in place will be beneficial. Explained most people on the lake are courteous and stay away from the docks but he thinks that staying away from the docks should be a statewide rule. Stated he does not see the harm in enforcing the 150' no wake zone.

Kelley: Asked if the slalom course needs to be outside of the 150' zone like the ski jump.

Gehler: Replied yes the ski jump and the course are currently located outside the 150' zone.

Kelley: Stated he has lived here for 23 years and the lake belongs to everyone. Believed the time has come for some regulation and the 150' ban around Spring Lake would satisfy the passive and active users. Added the boats are now faster and bigger than they used to be and there are more people coming to the lake who do not have a stake. Concluded that he is in favor of the 150' no wake zone and the rest of the ordinance for Spring Lake.

Kowalski: Stated no one really said anything about the speed change for Spring Lake because everyone was so concentrated on the bow-high. Added he does not like any ordinance but if the lake is getting busy and the taskforce believes adding a 40 mph speed limit on weekends is appropriate he agrees with them. Stated he agrees with the 150' no wake zone and the high water no wake is a given. Concluded what the taskforce has drafted for Spring Lake is good.

Kelley: Explained the buoys are not mandatory and he hopes with the 150' no wake zone people will not put out buoys as the cost and maintenance of them can become cumbersome.

Hedberg: Stated people are erratic on how the buoys are placed on Prior Lake but the bouys are used to keep boaters out of the 150' zone. Questioned what the City's responsibility is on Prior Lake. Stated this question has lead him to believe the City does not have a good place to enforce ordinances on the lake due to the resources available for enforcement but also how does the City decide if a violation has even occurred. Stated he cannot support portions of the ordinance for those reasons. Explained the City is responsible for water quality, access, and safety. Water quality is critical and the City shares that burden with the Watershed; access to this regional resource being the third most popular in the area and mentioned as the top 10 in the state, the City needs to maintain access to the lake; safety regarding boat DUIs, speeding, and unsafe operation are barely enforced due to our lack of resources. Noted the City does not have any life-guards on the beaches for eight years and he thinks that is a safety issue for the lake. Stated these are the City's high priorities but until the City has our current enforcement in place he cannot support taking on additional obligations. Explained he agrees with his fellow councilors that there should not be restrictions on a certain portion of the lake. Concluded the City should not pass the bow-high restriction since there are not resources to enforce it and this needs to be researched on a broader level. Asked Schwarzhoff to clarify which motion is being made by the council at this meeting.

Schwarzhoff: Suggested the Township Board only votes on the Spring Lake ordinance and the City Council should make any amendments to the ordinance for Spring Lake and Prior Lake then direct staff to send the ordinance to the DNR.

MOTION BY BERENS, SECOND BY KOWALSKI DIRECTING STAFF TO SUBMIT THE TOWNSHIP ORDINANCE FOR SPRING LAKE, AS IT IS PREPARED, TO THE DNR.

VOTE	Kelley	Berens	Kowalsk
Aye	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Nay	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Abstain	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The motion carried.

MOTION BY MCGUIRE, SECOND KEENEY BY TO REMOVE SECTION 703.502 REMOVING THE BOW-HIGH RESTRICTION AND DIRECT STAFF TO SUBMIT THE ORDINANCE TO THE DNR.

VOTE	Hedberg	Keeney	McGuire	Morton	Thompson
Aye	<input checked="" type="checkbox"/>				
Nay	<input type="checkbox"/>				
Abstain	<input type="checkbox"/>				

The motion carried.

Hedberg: Complimented the staff of the township and city for putting the joint public hearing together as well as the taskforce for assisting with pulling together all of the information.

Keeney: Stated the snowmobile club takes it upon themselves to educate fellow snowmobilers. Encouraged the avid skiers, club presidents and leaders to educate other lake users and lakeshore owners to make it more enjoyable for everyone.

There being no further business before the Board, the meeting adjourned.

Kathy Nielsen, Clerk
Spring Lake Township

Minutes approved _____

Glenn Kelley, Chairman

Kathy Nielsen, Clerk