Enhancing community and quality of life through people, parks, and programs.
Making longer lives, better lives.

Business Development Team of the Grand Traverse County Parks and Recreation Commission
Tuesday, May 5, 2020, 5:30 p.m.
Virtual Meeting
400 Boardman Avenue
Traverse City, Michigan 49684
AGENDA

On March 18, 2020 Governor Whitmer signed into effect Executive Order 2020-15. In an effort to reduce the spread of COVID-19 by limiting the number of people at public gatherings, this order suspends the rules and procedures for governmental entities requiring physical presence at meetings and hearings and it temporarily alters the rights of the public to be present at meetings.

As permitted by Executive Order 2020-15, and for the reasons stated therein and the current public health concerns posed by gatherings of people, the Business Development Team of the Grand Traverse County Parks and Recreation Commissioners will be held remotely on May 5, 2020, along with future Business Development Team meetings, until further notice. Remote participation by the public is encouraged. The meeting will be made available to the public through the following means:

Video: Watch the live video on line at stream.meet.google.com/stream/f0edd4e0-1cd8-44e3-aa79-1414ff

Public Comment: Anyone wishing to give public comment may call the telephone number and enter the pin number provided below.

Instructions for Public Comment
1. Dial: +1 617-675-4444

2. Pin: 336 812 224 0126# (Enter this number followed by the pound [#] sign.)

3. Muting/Unmuting: Once on the call, please mute the line using the “Mute” button on the telephone keypad until called upon by the Business Development Team Chair or the meeting facilitator. When calling from land line or a cell phone with no “Mute” button, dial *6 (Star 6) on the keypad to mute AND again to unmute, as directed by the Chair or the meeting facilitator.

General Meeting Policy: When both watching the livestream video and calling in for public comment, please turn down the volume on the device being used to watch the video to avoid any feedback interfering with the meeting audio.

Persons with disabilities, which the foregoing opportunities for participation will not address, may contact Ryan Walsh at 231-922-4818 or send an e-mail to rwalsh@grandtraverse.org with questions or concerns.
Agenda

Members: Pete Albers (Citizen Member), Rodetta Harrand, Rod Kivell (Citizen Member and Chair), Alisa Korn, Whitney Waara (Vice Chair), Shirley Zerafa

I. Call to Order

II. Pledge of Allegiance

III. Roll Call

IV. Public Comment
   Any person shall be permitted to address the Parks and Recreation Commission, which is required to be open to the public under the provision of the Michigan Open Meetings Act, as amended (MCLA 15.261, et.seq.). Public comment shall be carried out in accordance with the following Board Rules and Procedures:
   - Any person wishing to address the Board shall state his or her name and address.
   - No person shall be allowed to speak more than once on the same matter, excluding Commissioners’ questions. The President shall control the amount of time each person shall be allowed to speak, which shall not exceed three (3) minutes. The President may, at his or her discretion, extend the amount of time any person is allowed to speak.

V. Approval of/Additions to Agenda

VI. Park Updates Relative to COVID-19 Pandemic (Updates; Discussion)

VII. Senior Center Building Project (Update; Discussion)

VIII. Boardman River Use for Paddling; Medalie Park (Update; Discussion; Attachments)

IX. Allocation of Funds from Cell Tower Amendments and Traverse Bay Area Youth Soccer (Discussion)

X. Second Public Comment (Please refer to rules above.)

XI. Notices and Team Member Comments

XII. Adjournment
Expansion of commercial livery service on the Boardman River within the Natural Rivers District

1 message

Ertel, Patrick (DNR) <Ertelp@michigan.gov> Tue, Mar 24, 2020 at 3:22 PM
To: Tawny Hammond <hammond23@yahoo.com>, "Steve Largent (slargent@gtcd.org)" <slargent@gtcd.org>, ERIC CLONE <eric@lyrmo.tv.com>, Frank Dituri <fdituri@traverseclyma.org>, "Payette, Peter" <payettenp@Interlochen.org>
Cc: "Hettinger, Heather (DNR)" <hettingerH@michigan.gov>, "Heintzelman, Scott (DNR)" <heintzelmanS@michigan.gov>, "Moinar, Joe (DNR)" <MOLNARJ@michigan.gov>, "gtclerk@grandtraverse.org" <gtclerk@grandtraverse.org>, "kerickson@grandtraverse.org" <kerickson@grandtraverse.org>, "Murphy, Jolanda, A" <jolanda Murphy@gtbindians.com>, "Duty, Bob" <bob.duty@gtbindians.com>, "Raphael, Lakota" <lakota Raphael@gtbindians.com>, "Olsen, Erik" <Erik.Olsen@gtbindians.com>, "Bill Rastetter [rat@enlaw.com]" <rat@enlaw.com>, "Crockett, David" <David.Crockett@gtbindians.com>, "DePetro, Chad" <Chad.DePetro@gtbindians.com>, "Bury, Brian (DNR)" <buryB@michigan.gov>, "Mistak, Jessica (DNR)" <MistakJ@michigan.gov>, "Ruff, Lori (DNR)" <RuffL@michigan.gov>, "shannon@garfield-twp.com" <shannon@garfield-twp.com>

Good afternoon,

It was my intention to deliver this information in person to allow for open discussion, explanation and questions/answers. However, we’ve been increasingly restricted in public meetings at this time and I wanted to provide this information ahead of the coming field season.

The Natural Rivers Program opposes the expansion of commercial activities in the Natural Rivers District of the Boardman River. State of Michigan lands in the Natural Rivers District operate in compliance with the Natural Rivers Plan. Therefore, any non-licensed commercial activity is illegal and may be enforced by Michigan DNR Law Enforcement Division. Any expansion of commercial activity on private land is also regulated by the Natural Rivers Program. This leaves public property not in state ownership. For things like County, Township, or City parks, the Natural Rivers Program will formally oppose expansion of commercial activities. The DNR cannot directly regulate those parks for commercial livery traffic like we do on State launches and the decision to limit commercial use is within the authority of park owner. That said, any expansion, improvements or construction of launches within those public parks is subject to regulation by the Natural Rivers Program. It is highly unlikely we will issue a permit for modification or construction of launches to facilitate commercial traffic. Doing so would go against the Boardman Rivers Natural Rivers Plan.

State of Michigan property at the Forks, Schumsky and Scheck’s remains closed to unlicensed commercial use. The only licensed vendor in the Boardman River is Ranch Rudolph and the quantity of their traffic is limited.

A couple of specific questions have been submitted to me during this discussion and are answered below.

- Can a kayak, canoe or tube be rented to an individual that then transports it to a launch of their own choosing, which might be a state launch?
  - Yes. If an individual rents a vessel from a storefront/outfitter and transports it themselves, this is not regulated as commercial use of State land.
- Can kayaks, canoes or tubes be delivered to a State launch by the vendor, irrespective of whether the vendor is also transporting the individuals renting the vessel?
  - No. This constitutes commercial use of State lands.
- What is the specific language authorizing the DNR to regulate and enforce the prohibition of commercial use of State land?
  - MCL 324.501-511 and the Rules for the Regulation of Lands Administered by the Michigan Department of Natural Resources R299.921-R299.932
  - Specifically, Rule 299.922 (FA 451 of 1994, Section 504, MCL 324.504), states: "On lands owned or under the control of the Department, it is unlawful for a person or persons to do any of the following: (d) Use state-owned land for a commercial operation unless the commercial operation is conducted pursuant to a permit issued by the Department. The Department may waive the requirement for a permit for commercial operations where the Department determines that the commercial operations will not require department oversight and the commercial operation will have a minimal impact on the natural resource and the use of the lands by others."

Lieutenant Moinar, please share with your Conservation Officers.

Thank you for your cooperation. I’m happy to answer any questions.

Patrick

Patrick Ertel
Michigan Department of Natural Resources
Fisheries Division – Habitat Management Unit
989.732.3541 x5047 (desk) 989-370-1163 (cell)
ertp@michigan.gov
Thank you Ms. Hammond.

This email is to acknowledge receipt of your request. I am working it through the appropriate avenues to provide the review you have requested.

Thank you.

Patrick

Hello Mr. Ertel,

In response to your March 24th email (included below this email), the River Outfitters, in consultation with our attorney, has read and carefully considered Part 305 of the Natural Resources and Environmental Protection Act (Act 451 of 1994), commonly referred to as the Natural Rivers Act, as well as the associated Boardman River Natural River Plan. 

We acknowledge that the Natural Rivers Act does allow the MDNR to make rules regarding, among other things, usage of the Boardman River Natural Rivers District, but that nothing in the Natural Rivers Act or the Boardman River Natural River Plan expressly prohibits commercial entities from dropping canoes or kayaks at public launches, nor does it prohibit public or private usage of a designated Natural River.

To the contrary, page 9 of the Boardman River Natural River plan states:

"The mainstream of the Boardman from the "Forks" downstream to Boardman Lake, a distance of about 25 miles, provides a full day trip. The moderate to fast current of the Boardman makes this an enjoyable stretch to traverse by canoe."

In order to provide for such an "enjoyable" paddling experience, without risking the degradation of the River from overuse, Page 17 of the Boardman River Natural River Plan advises the MDNR to:

"Determine carrying capacity of river for canoes." And that "until such time as the Department of Natural Resources has established a carrying capacity and is enforcing a control program, canoe livery activities should be discouraged." Discouraged, not prohibited.

Rather than establish such a "carrying capacity" and "control program," which would objectively delineate and regulate the point at which ecological harm would be caused by an excess of kayak/canoe usage, the MDNR Fisheries Division Habitat Management Unit has instead chosen to reject our applications for the use of the Shumsky launch, and has stated that it flat out "opposes the expansion of commercial activities in the Natural Rivers District of the Boardman River," and that "any non-licensed commercial activity is illegal."
It has been 45 years since the Boardman River Natural River Plan was published. The necessary scientific studies establishing a carrying capacity and an associated control program would not only fulfill the requirements of the Natural Rivers Act, it also would generate an additional revenue stream for the MDNR by providing for the controlled licensing of ongoing operations of kayak liveries in Natural Rivers Districts, such as the Boardman River.

In considering the MDNR's recent words and actions, as well as discussions with our livery colleagues in other parts of the State, we are left to wonder why the MDNR Fisheries Division Habitat Management Unit has chosen to unilaterally, and independent of the requirements set forth in the Natural Rivers Act, prohibit livery businesses from operating on designated Natural Rivers.

We therefore respectfully request that the MDNR provide a legal opinion, supported by statute, that backs up your statement that "non-licensed commercial activity (on the Boardman River) is illegal."

Furthermore, we request that the MDNR fulfill its own, 45-year old directive to establish a carrying capacity for the Boardman River, and that the MDNR develop a unique control program that includes a permitting process for licensing the ongoing operation of commercial kayak/canoe liveries. We would expect that rather than outright ban commercial kayak/canoe liveries, such a control program would be reflective of, and designed to mitigate and/or minimize the potential kayak/canoe livery-specific vectors for harm as established by scientific evidence.

We share many of the same values and guiding principles as the MDNR. We are conservationists, advocates, and educators, and The River Outfitters was created to provide "people powered" recreational experiences that are not only sensitive to, but seek to enhance the ecological integrity of the Boardman River through education and direct experience with nature.

Thank you for considering what we have said here, and we look forward to continuing our discussions on this matter.
BACKGROUND:
The Boardman River is an approximately 28-mile long river in Grand Traverse and Kalkaska Counties and is a major natural resource in Garfield Township. The river provides the community with recreation opportunities including canoeing and kayaking. Commercial canoeing and kayaking are available in the region at Ranch Rudolf in Union Township. There has been a greater interest in commercial kayaking on the Boardman River since the removal of the three dams: Brown Bridge Dam in 2013, Boardman Dam in 2017, and Sabin Dam in 2018.

Several regional stakeholders have had conversations regarding potential commercial kayaking along the Boardman River. Accommodating more commercial kayaking on the Boardman River would require the consideration of several factors, as described by the following:

State Law
Part of the Boardman River is included within the Natural Rivers program of the Michigan Department of Natural Resources (DNR) Fisheries Division. Only the part of the river upstream from Hammond Road is included in the Natural Rivers designation; everything downstream from Hammond Road is not included in the designation. The Michigan Natural Rivers Act from 1970 guides the program and its regulations of natural rivers, including the Natural River Zoning Rules.
The Natural Rivers Program includes specific plans for each river in the program. The Boardman River Natural River Plan advises the DNR to study the river to determine the carrying capacity for canoes and kayaks and to establish a control program. Until the carrying capacity is known, the Natural River Plan does not anticipate expansion of commercial activities on this part of the Boardman River. According to communications from the Michigan DNR, “any non-licensed commercial activity operating on state land is illegal and may be enforced by Michigan DNR Law Enforcement Division. In addition, the creation or expansion of commercial activities on private lands that are within 400 feet of a designated Natural River are regulated by Part 305, Natural Rivers.” Ranch Rudolf has operated since before this law and program came into effect; they can continue to operate and are the only licensed vendor on the Boardman River.

Public property not owned by the State of Michigan, such as parks owned by a county, township, or city, are not managed by the DNR but they are still under the jurisdiction of the Natural Rivers Program. The Natural Rivers Program would formally oppose the expansion of commercial activity on these properties, and any expansion, improvements, or construction of launches in public parks is still subject to regulation by the program. The DNR clarified that individuals can rent canoes and kayaks from an off-site business and take them on their own to a launch on the Natural River without violating program regulations as long as no commercial activity takes place on the site. It appears that “commercial activity” would entail both commercial buildings on the site and commercial activities (e.g. an outfitter pulling a trailer of kayaks).

Based on recent discussions, area paddling businesses are interested in the put in and take out of canoes and kayaks at Jack’s Landing at Grand Traverse County’s Natural Education Reserve. There have been discussions between the property owner Grand Traverse County and property manager Grand Traverse Conservation District about potentially developing a Universal Access launch at Jack’s Landing, but there are no immediate plans to do so. If canoes and kayaks were permitted to put in at Jack’s Landing, they would need to take out at Boardman Valley Nature Preserve. If Jack’s Landing were further developed, then the County would need to coordinate with Garfield Township on permits and procedures.
River Access
The Boardman River has greater potential access for canoeing and kayaking post-dam removal, but it still has points where culverts are impassible, and paddlers need to take out, portage across a road, and put in again. An example of this is Beitner Road at the Keystone Rapids trailhead. The culverts for the river at South Airport Road are also impassible and the road is very difficult to cross with existing traffic levels, making this point the furthest downstream that could be reached from the beginning of the river. Plans for future trails in the area include a connection from Medalie Park to Boardman Valley Nature Preserve, which would facilitate an easier crossing of South Airport Road.

On the other side of South Airport Road, River Outfitters and TC Tritons rowing both offer programming at Medalie Park through agreements with Grand Traverse County Parks and Recreation. Grand Traverse County Parks and Recreation has not permitted additional commercial paddling activity at Medalie Park. Canoes and kayaks can also enter the Boardman River against the current from Grand Traverse Bay near Downtown Traverse City, but the FishPass project from the City of Traverse City will limit canoeing and kayaking activity.

As interest increases for all activity on the Boardman River, one of the future next steps may include the development of a recreation plan to determine the carrying capacity of the river for commercial and other activities. A recreation plan could build on and augment the Boardman River Natural River Plan and the parks and recreation plans of local municipalities.

Michigan Natural Resources Trust Fund Grant Projects
The Township has received grant funding for acquisitions and projects at several of its parks. The grant for the recent improvements at the Boardman Valley Nature Preserve (TF15-0141) included the canoe and kayak launch. According to the Michigan DNR, the grant received for this project does not encumber the site for commercial kayaking.

DISCUSSION ITEMS:
It appears that the Township can allow limited commercial kayaking on the Boardman River with some conditions. Given the information above, the following questions are proposed for discussion:

- Should Garfield Township consider allowing for limited commercial canoeing and kayaking, and if so, then what key factors need to be considered?
- If Boardman Valley Nature Preserve is used as an end point for additional canoe and kayak trips, what are some potential impacts to the park?
- If the impacts on Boardman Valley Nature Preserve are too great, are there other locations more feasible as an end point for commercial canoe and kayak trips?

ACTION REQUESTED:
This item is being brought before the Parks and Recreation Commission for discussion only. No action is requested at this meeting.