

1 Draft  
2 Board of Trustees Special Meeting  
3 April 23, 2019  
4 09195 Old U.S. N, Charlevoix. MI 49720  
5

6 **Call to Order:** Supervisor Ron VanZee called the special meeting to order at 7:00 p.m.  
7

8 **Members Present:** Julie Collard (Treasurer), Warren Nugent (Clerk), Ron VanZee (Supervisor),  
9 Matt Cunningham (Trustee), Bob Jess (Trustee)  
10

11 **Audience Members:** Dee Janz, Gary Janz, Roy Griffiths, Paul Zardus  
12

13 **Also Present:** Kristin Baranski (Deputy Clerk/Recording Secretary)  
14

15 **Pledge of Allegiance**  
16

17 **Conflicts of Interest:** Supervisor Van Zee asked if there are any conflicts of interest. It is  
18 acknowledged that Mr. Cunningham worked on this project (Hayes Township Park/Camp Sea-  
19 Gull). Supervisor Van Zee requests that Mr. Cunningham recuse himself from any discussion on  
20 the part of the project he worked on (fishing pier/boat launch). Supervisor VanZee feels  
21 strongly that Mr. Cunningham as an elected Trustee participates in all discussion/decisions  
22 (excluding areas of conflict). The Board of Trustees agreed. No other areas of conflict declared.  
23

24 **Review of Agenda:** All agenda items related to Phase 1 construction at Hayes Township  
25 Park/Camp Sea-Gull will be moved to the beginning of meeting (items 1 and 2 will follow all  
26 park items). Mr. Nugent requested that item #4 be clarified to PROPOSED change order. Matt  
27 Cunningham, supported by Warren Nugent, to approve the agenda as amended.  
28 Yea: Julie Collard, Warren Nugent, Matt Cunningham, Bob Jess, Ron VanZee  
29 Nay: None Motion Carried  
30

31 **Public Comments:** Public comments regarding Hayes Township Park/Camp Sea-Gull will be  
32 taken at end of meeting. No Public Comments. Public Comments closed at 7:04 p.m.  
33

34 **New Business:**

35 Supervisor VanZee stated the purpose of this special meeting is to determine what stage the  
36 project is at, what is left (per the contract) to be completed, any anticipated change orders and  
37 to address safety concerns.  
38

39 Jim Malowitz (Performance Engineering) referenced the summary report he supplied to the  
40 board members on January 15, 2019. Per said summary, the following items need to be  
41 completed per contract: asphalt, all asphalt related items (painted lines, gravel shoulder), final  
42 site restoration; walk railing installed in the sidewalk along the seawall, trash bin, kiosk, stop  
43 signs, accessibility signs. Per Mr. Malowitz the contract is 86.37% complete. The contingency is

44 at 2.9% of the 5%. He expects the full 2% contingency will be available to use. Supervisor  
45 VanZee asked Mr. Malowitz if he sees any additional items that may come up and become  
46 contingencies to which Mr. Malowitz responds "I see no other obvious things ". Mr. Malowitz  
47 also stated that "there may be a little bit of fat" in a few items that he is "going to reclaim".  
48

49 Mr. Nugent asked for clarification regarding the railings in the project.  
50

51 There was discussion about the width of the sidewalk. Supervisor VanZee reminded Mr.  
52 Malowitz that we (the township) are the customer and that per the contract that sidewalk is to  
53 be 5 feet wide, whether ADA compliant or not, shouldn't 'we' get a 5 foot sidewalk. Mr.  
54 Malowitz stated that MDC made a mistake on that portion of project and that they (he and  
55 MDC) worked out deal and it was agreed that the depth of cement would be increased 6 inches  
56 to hold railing and the 4 1/2 foot sidewalk was still ADA compliant. He has already spoken to  
57 Paul (grant contact) about it. Mr. Jess asked why Mr. Malowitz didn't come to the township for  
58 approval with 2% left in the contingency. Supervisor Van Zee clarified that there was still 2%  
59 contingency left and the township could have had the 5 foot wide sidewalks and the extra 6  
60 inch depth if he had come to the township. Mr. Jess stated that he feels this is a repeat pattern  
61 on this project. Mr. Malowitz replied that it would have been hard for MDC to correct the  
62 problem at the time it was brought to his attention.  
63

64 Supervisor VanZee began the discussion regarding the difference in elevation of the boat launch  
65 and stated that there is a discrepancy between the specifications and Risk Assessment.  
66 Safety concerns, potential change order, concerns about a trailer going over the edge of boat  
67 launch, taxpayers should not have to pay for the discrepancy, should have been caught by  
68 engineer.  
69

70 Mr. Malowitz stated that it was the contractor who was sitting right next to Supervisor VanZee  
71 (Mr. Cunningham) who built it. Mr. Cunningham stated that they built it from the drawings.  
72 Mr. Malowitz replied that the permit was correct not the drawings. Supervisor VanZee states  
73 that he believes it is something that needs to be worked out between the engineer and the  
74 contractors. Mr. Malowitz states that a rail was needed either way and if it had been part of  
75 the bid the taxpayers would have had to pay for it anyway. Supervisor VanZee stated that he  
76 has sat there for 2 years on the board and he has never heard anyone come to the board and  
77 ask if any and all of the safety issues that were taken out of the contract should have been. Mr.  
78 Malowitz responded that it was necessary to remove items not required by grant because of  
79 budget. Supervisor VanZee states that the problem is when Phase 1 of the project, with the  
80 contract being stripped down to accommodate budget, the township is left with a park that  
81 cannot be used. He adds this board does their due diligence and will not allow people in park  
82 based upon what the risk assessor said. Mr. Malowitz responds that with the 2% contingency  
83 the safety issues can be resolved.  
84

85 The Board and Mr. Malowitz then have a discussion regarding budget. Mr. Nugent makes it  
86 clear that the township has the money to complete Phase 1 with no additional change orders;  
87 any change orders will bring the township very close having to use the reserves. Supervisor

88 VanZee explains that it is best for the township to get a second opinion regarding any additional  
89 work that needs to be completed (excluding items in Phase 1).

90

91 Supervisor VanZee and Mr. Malowitz discuss the accuracy of the slope of the road in the park.  
92 Supervisor VanZee states that he wants slope to be 14%, per specs, not the 17% he saw  
93 measured recently. Mr. Malowitz will look into it.

94

95 Electric and water to the host house was discussed. Per Supervisor VanZee states it was in the  
96 contract that water and electric would always be maintained throughout project. Due to the  
97 road redesign, the water and electric need to be moved and reconnected. Supervisor VanZee  
98 does not want the taxpayers paying for this. Mr. Malowitz did not have his paperwork in front  
99 of him and will look into.

100

101 Supervisor VanZee directs the discussion to the shale wall. Mr. Malowitz refers to the GEO tech  
102 report he has. Per Mr. Malowitz after 'pulling apart' wall with backhoe during construction, the  
103 first winter there will be debris that will come down and each winter after debris will decrease.  
104 Supervisor VanZee has concerns that the amount of cubic yards that were excavated is more  
105 than what contract states and the GEO tech report was when wall was partially excavated and  
106 is not accurate. Supervisor VanZee states that Mr. McCann was concerned about wall after  
107 winter as well. Mr. Malowitz states that he is confident in wall but will not guarantee it. Several  
108 board members have concerns about wall that include: debris falling, wall not stable, liability  
109 risk from possible climbing. Mr. Malowitz suggested that the solution is to put up signs to  
110 discourage the public from being in places that are safety concerns. Supervisor VanZee is of the  
111 opinion that asphalt not be put down until the township has a second opinion on the stability of  
112 the wall. Mr. Malowitz does not feel that is necessary.

113

114 The discussion returns to the budget and the township financials. The board is adamant that  
115 budget and monies reserve discussions in past were not accurate and were skewed to support  
116 park project. Ms. Collard requests again clarification from Mr. Malowitz on contracts and  
117 invoices. Mr. Malowitz states he will have information, which the township attorney requested  
118 months ago, by the end of the week. Mr. Malowitz states again that he called Marlene  
119 (Golovitch) and she stated that all information regarding contracts, etc. are in files at township.  
120 Ms. Collard states that she does not believe it is appropriate to contact former board members  
121 regarding current issues

122

123 Based on the concerns from the risk assessment and the questions unanswered from  
124 Performance Engineering regarding contracts and invoices, The Township Board, as a whole, is  
125 uncomfortable with going forward with this project until additional information is available.  
126 Mr. Malowitz warns that if the township extends the contract again, there may be a penalty.  
127 The township board and Performance Engineering are at an impasse regarding what is safe for  
128 visitors as well as fiscally responsible and what is required to be completed to receive grant  
129 money. The board is concerned about providing the community a safe park.

130

131

132 **Public Comments:** Public comments included: additional engineering costs, request for specific  
133 answers from engineer that address what was removed from park plan, the recall was a direct  
134 result of the boat launch and not listening to what the residents wanted, signage vs a barrier,  
135 concern about only negotiating with one bidder, who is overseeing work at park and why the  
136 discrepancies, ground water/springs in wall, we need another engineering opinion and not  
137 another penny should be spent, let's not fall apart when we are so close, address issues on  
138 business side as well as public side. Public comments closed at 9:15 p.m.

139  
140

141 **Host House Status Review:** Several items (electrical, inspection, water) need to be addressed  
142 to get host house ready for host family.

143

144 Bob Jess made a motion, supported by Julie Collard, to authorize Warren Nugent to schedule  
145 (check with McCain first) work to begin on host house issues as soon as available. A role call  
146 was taken.

147 Bob Jess- Yea, Matt Cunningham-Yea, Julie Collard-Yea, Warren Nugent-Yea, Ron VanZee-Yea  
148 Nays: none

**MOTION CARRIED**

149

150 **Budget Workshop:** A budget workshop is scheduled for May 8th, 2019 at 7:00 p.m. at Hayes  
151 township hall.

152

153 Warren Nugent made a motion, supported by Bob Jess, to inform Performance Engineers, Inc.  
154 and MDC that the Board recommends not to go forward with paving until the township  
155 receives additional engineering proposals.

156 Yea: Bob Jess, Matt Cunningham, Julie Collard, Warren Nugent, Ron VanZee

157 Nay: None

**MOTION CARRIED**

158

159

160 Julie Collard made a motion, supported by Matt Cunningham, to adjourn the special meeting.

161 Yea: Bob Jess, Matt Cunningham, Julie Collard, Warren Nugent, Ron VanZee

162 Nay: None

**MOTION CARRIED**

163

164 Meeting adjourned at 9:34 p.m.

165

166

167 Respectfully Submitted,

168

169

170 Kristin Baranski

171 Deputy Clerk/Recording Secretary

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