

Hayes Township, Charlevoix County
Board of Trustees
January 10, 2022 7:00 pm
Hayes Township Hall
09195 Major Douglas Sloan Road
Charlevoix, Michigan 49720
ZOOM Meeting ID: 861 5471 3740

The January 10th, 2022 meeting of the Hayes Township Board was called to order by Supervisor Ron VanZee at 7:00 pm.

Board members present were: Matt Cunningham (Trustee), Julie Collard (Treasurer), Doug Kuebler (Trustee), Kristin Baranski (Clerk), April Hilton (Deputy Clerk/Recording Secretary)
Excused: Ron VanZee (Supervisor)

Audience Members signed in: Luanne Kozma, Ellis Boal, Tim Boyko, Paul Hoadley, Rod Slocum and Robert Jess.

CALL TO ORDER

Supervisor Ron VanZee called the meeting to order at 7:00 pm.

PLEDGE OF ALLEGIANCE

REVIEWED & APPROVED AGENDA

Item added:

Roy Griffiths presenting the EMS Authority Report

Mr. Kuebler made a motion, supported by Ms. Baranski, to approve the agenda as amended.

Yays: Matt Cunningham, Julie Collard, Doug Kuebler, Kristin Baranski, Ron VanZee

Nays: None Motion Carried

PUBLIC COMMENTS UNRELATED TO AGENDA ITEMS

Public comment opened and closed at 7:01.

- comment including thanks for the Townships involvement in the Pool Authority.
- A correspondence was read into recorded, regarding the concern of a possible commercial dining and event facility in Hayes Township. Letter attached.

Closed at 7:07

APPROVAL OF DECEMBER 10TH, 2021 BOT MINUTES

Mr. Kuebler made a motion, supported by Mr. Cunningham to approve the December 10th, 2021 Board of Trustees minutes as presented.

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Yeas: Matt Cunningham, Julie Collard, Ron VanZee, Kristin Baranski, Doug Kuebler
Nays: None **Motion Carried**

TREASURERS REPORT

Ms. Collard presented a written report reporting all Hayes Township account balances.
Treasurer report is attached to minutes.

CLERKS REPORT: APPROVAL OF WARRANTS

Clerk, Ms. Baranski, presented the warrants in the amount of \$26,677.49.
Mr. Kuebler made a motion, supported by Ms. Baranski, to approve Township warrants in the amount of \$26,677.49. A roll call was taken.

Yeas: Matt Cunningham, Julie Collard, Ron VanZee, Kristin Baranski, Doug Kuebler
Nays: None **Motion Carried**

2021 Year end review attached to minutes.

EMS AUTHORITY REPORT:

Roy Griffiths presented the EMS Authority report. Included thanks to the township for providing the station within the township. 2021 had a new record high for calls, due to Covid. The EMS employees follow all the precautions to stay safe from Covid with the Authority.

COUNTY COMMISSIONER REPORT

Mr. Jess presented the county commissioner report.

PARKS AND REC. REPORT

Ms. Collard presented the Parks and Rec. Report, full report is available at the Township Hall.

PLANNING COMMISSION

Mr. Cunningham presented the Planning Commission Report. The next Planning Commission meeting is January 18th, 2022.

ZONING BOARD OF APPEALS

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Zoning board of appeals did not meet. Mr. Kuebler reported two upcoming ZBA hearings. On January 26, 2022 the ZBA will hear a interpretation case at 6 pm at the hall. On the following Wednesday, February 2, 2022 at 6pm the ZBA will hear an appeals case.

ZONING ADMINISTRATOR REPORT

Ron VanZee presented a Zoning Administrator report.

SUPERVISOR REPORT: Ron VanZee presented a Supervisor report.

CHARLEVOIX COUNTY PARKS MILLAGE RESOLUTIONS:

**Application Resolution
Resolution NO. 01102022b**

Ms. Baranski made a motion, supported by Mr. Kuebler, to adopt Resolution NO. 01102022b.
Yeas: Matt Cunningham, Julie Collard, Ron VanZee, Kristin Baranski, Doug Kuebler
Nays: None **Motion Carried**

WHEREAS, Julie Collard, Treasurer and of Hayes Township has the authority to construct, operate and maintain the Hayes Township Bayside Park tier walkway access to Lake Michigan; and

WHEREAS, Julie Collard is requesting ^{up to \$10,000} \$10,000.00 appropriation from the Charlevoix County Board of Commissioners; and

WHEREAS, Julie Collard desires to enhance, provide or create the Hayes Township Bayside Park tier walkway access to Lake Michigan to meet the needsof users in Charlevoix County;

THEREFORE BE IT RESOLVED by Hayes Township that, pursuant and subject to all of the terms and provisions of the Charlevoix County Parks millage, application be made to the Charlevoix County Board of Commissioners for funding; and

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BE IT FURTHER RESOLVED that **Julie Collard of Hayes Township** is hereby authorized and directed to cause the necessary data to be prepared and application to be signed and filed with the County of Charlevoix;

**Application Resolution
NO. 01102022a**

Mr. Kuebler made a motion, supported by Ms. Baranski, to approve township contribution up to \$15,000, towards the Hayes Township Park Pavilion. A roll call was taken.

Yeas: Matt Cunningham, Julie Collard, Ron VanZee, Kristin Baranski, Doug Kuebler

Nays: None **Motion Carried**

Ms. Baranski made a motion, supported by Mr. Kuebler, to adopt Resolution NO. 01102022

Yeas: Matt Cunningham, Julie Collard, Ron VanZee, Kristin Baranski, Doug Kuebler

Nays: None **Motion Carried**

a.

WHEREAS, Julie Collard, Treasurer and of Hayes Township has the authority to construct, operate and maintain the Hayes Township Park Camp Sea Gull Pavilion; and

WHEREAS, Julie Collard is requesting a \$10,000.00 appropriation from the Charlevoix County Board of Commissioners; and

WHEREAS, Julie Collard desires to enhance, provide or create the Pavilion to meet the needs of users in Charlevoix County;

THEREFORE BE IT RESOLVED by Hayes Township that, pursuant and subject to all of the terms and provisions of the Charlevoix County Parks millage,

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application be made to the Charlevoix County Board of Commissioners for funding; and

BE IT FURTHER RESOLVED that **Julie Collard of Hayes Township** is hereby authorized and directed to cause the necessary data to be prepared and application to be signed and filed with the County of Charlevoix;

BOARD OF REVIEW APPOINTMENTS/REAPPOINTMENTS:

Ms. Baranski made a motion, supported by Ms. Collard, to reappoint Cliff Biddick as an Alternate for the Board of Review, term expiring December 31, 2023.

Yeas: Matt Cunningham, Julie Collard, Ron VanZee, Kristin Baranski, Doug Kuebler

Nays: None **Motion Carried**

Ms. Baranski made a motion, supported by Ms. Collard, to reappoint Jim Rudolph as the Chair of the Board of Review, term expiring December 31, 2023.

Yeas: Matt Cunningham, Julie Collard, Ron VanZee, Kristin Baranski, Doug Kuebler

Nays: None **Motion Carried**

Ms. Baranski made a motion, supported by Ms. Collard, to reappoint Roy Griffiths as an Alternate for the Board of Review, term expiring December 31, 2023.

Yeas: Matt Cunningham, Julie Collard, Ron VanZee, Kristin Baranski, Doug Kuebler

Nays: None **Motion Carried**

Ms. Baranski made a motion, supported by Mr. Kuebler, to reappoint Omar Feliciano as a member of the Board of Review., term expiring December 31, 2023.

Yeas: Matt Cunningham, Julie Collard, Ron VanZee, Kristin Baranski, Doug Kuebler

Nays: None **Motion Carried**

Ms. Baranski made a motion, supported by Ms. Collard, to reappoint Greg Denzinger as a member of the Board of Review, term expiring December 31, 2023.

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Yeas: Matt Cunningham, Julie Collard, Ron VanZee, Kristin Baranski, Doug Kuebler
Nays: None **Motion Carried**

ZONING BOARD OF APPEALS APPOINTMENTS REAPPOINTMENTS:

Ms. Baranski made a motion, supported by Ms. Collard, to reappoint Frank Shepard as a member of the Zoning Board of Appeals, a 3 year term expiring January 10, 2025.

Yeas: Matt Cunningham, Julie Collard, Ron VanZee, Kristin Baranski, Doug Kuebler
Nays: None **Motion Carried**

2022 BOARD OF REVIEW MEETING DATES:

Ms. Baranski made a motion, supported by Mr. Kuebler, to approve the 2022 Board of Review dates of; March 8th, 2022 for the organization meeting at 6pm, March 14th 2022 for the first appeal meeting from 9am – 3 pm, and March 16th 2022 for the second appeal meeting 3pm – 9pm.

Yeas: Matt Cunningham, Julie Collard, Ron VanZee, Kristin Baranski, Doug Kuebler
Nays: None **Motion Carried**

ASSET TEST RESOLUTION AND POVERTY GUIDELINES:

Ms. Collard made a motion, supported by Ms. Baranski, to adopt Resolution NO. 0110200C.

Yeas: Matt Cunningham, Julie Collard, Ron VanZee, Kristin Baranski, Doug Kuebler
Nays: None **Motion Carried**

TOWNSHIP OF HAYES
Resolution No. 01102022 C

At a regular meeting of the Hayes Township Board held at the Hayes Township Hall 09195 Major Douglas Sloan Road, Charlevoix, Michigan 49720 on January 10, 2022.

Present: Supervisor Ron VanZee, Treasurer Julie Collard, Clerk Kristin Baranski, Trustee Matt Cunningham, Trustee Doug Kuebler
Absent: None

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The following resolution was made by Julie Collard and supported by Kristin Baranski, to-wit:

ASSET LEVEL TEST

WHEREAS PA 390 of 1994 states that the poverty exemption guidelines established by the governing body of the local assessing unit shall also include an asset level test.

WHEREAS an asset test means the amount of cash, fixed assets or other property that could be used, or converted to cash for use in the payment of property taxes. The asset test is calculated based on a maximum amount permitted and all other assets above that is considered as available;

WHEREAS the homestead of persons, who in the judgment of the board of review, by reason of poverty, are unable to contribute to the public charges is eligible for exemption in whole or part from taxation under Public Act 390, 1994 (MCL 211.7u); and

WHEREAS pursuant to PA 390, 1994 Hayes Township, Charlevoix County adopts the following guidelines for the board of review to implement. The asset level test shall include but not be limited to the specific income of the claimant and all persons residing in the household, including any property tax credit returns, filed in the current or immediately preceding year;

To be eligible, a person shall do all the following on an annual basis:

1. Be an owner of and occupy as a homestead the property for which an exemption is requested.
2. File a claim with the board of review, accompanied by federal and state income tax returns for all persons residing in the homestead, including any property tax credit returns filed in the immediately preceding year or in the current year.
3. Produce a deed, land contract, or other evidence of ownership of the property for which an exemption is requested if requested.
4. Meet the Federal poverty income standards as defined and determined annually by the United States Office of Management and Budget.
5. Provide a list of asset valuations, including cash on hand, fixed assets, and any other property that could be used, or converted to cash for use in the payment of property taxes.
6. The board of review shall not include the homesteaded property to calculate the asset level.
7. If the combined total of cash on hand, fixed assets, and any other property values exceed the Federal Poverty Guidelines by one (1) times no exemption is allowed

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NOW, THEREFORE, BE IT RESOLVED the board of review shall follow the above stated policy and federal guidelines in granting or denying an exemption, unless the board of review determines there are substantial and compelling reasons why there should be a deviation from the policy and these are communicated in writing to the claimant.

RESOLUTION DECLARED ADOPTED.

HAYES TOWNSHIP FEE SCHEDULE (ADD ELECTRONIC VERSION FOR MONTHLY PACKETS):

The Hayes Township Board of Trustees came to a consensus to upload the packet for Board of Trustee and the Planning Commission Meetings, as well as a final packet uploaded after the meeting of any additional information gathered during the meeting session.

PUBLIC COMMENTS: Public comments opened at 8:00 pm.

- Comments included support for uploading packets on the Hayes Township Website
- comments regarding the upcoming ZBA hearings.

Public comments closed at 8:03 p.m.

ADJOURNMENT: Mr. Kuebler made a motion, supported by Mr. Cunningham, to adjourn at 8:05 p.m.

Yeas: Matt Cunningham, Julie Collard, Ron VanZee, Kristin Baranski, Doug Kuebler

Nays: None **Motion Carried**

Respectfully Submitted,

April Hilton
Hayes Township Deputy Clerk/Recording Secretary

Hayes Township Board of Trustees 2021 Year in Review

JANUARY

- Reappointments to PC- (3 year term) Morehead; Greenslade
- Accept resignations/fill vacancies BOR- Biddick; Denzinger
- Award bid to Drost for Hayes Township Park shoreline stabilization

FEBRUARY

- Signed Intergovernmental Agreement creating Ambulance Authority
- Adopted Hayes Township Donation and Fundraising Policy
- Charlevoix County Aerial Imagery Resolution Signed
- Resolutions for Charlevoix County Millage Grants
- Camera purchased for hall for virtual meeting attendance
- Resolution Hayes Township Park Site Plan, Community Foundation

MARCH

- Approved funds to advertise bid request for Shale Wall fence
- Award bid to B&G for removal of 4 shoreline cabins at Hayes Township Park

APRIL

- Presentations by Charlevoix Chamber of Commerce and Charlevoix Public Library
- Appoint Doug Kuebler to Recreation Authority
- Accept Beckett & Raeder proposal to oversee the shale wall fence bid process
- Budget work meeting

MAY

- Appoint Julie Collard to Recreation Authority
- Request bids for road projects

JUNE

- Annual budget meeting
- Adopted the MTA Principles of Governance
- Resolution to close Capital Project Accounts
- Accepted Bid for Susan Shore Road/See Road project
- Bayside Park Community meeting

JULY

- Appointed election workers for August election
- Title work approved for Bayside Park

AUGUST

- Lake Charlevoix EMS Authority approved by voters
- 2018/2019 State Audit completed

SEPTEMBER

- Honored 13 service members killed in Afghanistan
- Clean Title acquisition approved by Title Company on Bayside Park

OCTOBER

- Major Douglas Sloan Road Dedication
- Appointed Julie Collard to Chair Parks and Rec and Laura White to Vice Chair
- Removed dead trees at cemetery
- Approved election workers for November election

NOVEMBER

- American Rescue Plan Act Account Resolution/New account for ARPA funds
- Nature Interpretive Signs Installed at Hayes Township Park/Township

DECEMBER

- Stoppel private road name "High Meadow Trail"
- Bethany Lutheran Church Rezone
- Lake Charlevoix EMS building- Intent to issue Capital Bonds
- Food Pantry Account Resolution/New account for pantry donations
- Holiday food donation/Fruit & Ham bags distributed to community

January 10, 2022

To: Hayes Township Board of Trustees

From: LuAnne Kozma, Hayes Township resident, 9330 Woods Road

Re: Commercial dining and event facility planned for 10034 Anglers' Cove, Charlevoix.

Please read my letter aloud at tonight's Board of Trustees meeting, and into the minutes.

This letter is regarding a boathouse/dining and event facility building that is being proposed at 10034 Anglers Cove, Hayes Township, waterfront property owned by Scott and Debra Law. I have addressed this issue in the past, but this point needs the Board's and the county's attention and action.

Permits for this project were already twice applied for, to the township, first with a zoning permit application for "boat basin" which the Planning Commission approved in November 2019, and again with a zoning permit application for "boathouse" which the Zoning Administrator, Ron Van Zee, approved on July 8, 2020. The PC's approval and the zoning permit have both expired, as the township has finally admitted in circuit court.

But the project has been going through other approval processes at the state and federal levels, and the State of Michigan has issued a state permit, so it may be just a matter of time before the property owners try again to obtain Township approval.

This requires the board's immediate attention because Mr. Van Zee stated in an affidavit in circuit court (attached) that due to its attachment to the Laws' residence, the structure would be "part of the house" and not an accessory building, and that he would not require a site plan. The township asserted in court documents, speaking for Mr. Van Zee, that he is "likely to approve" it a second time, and in this manner—without a site plan and considering the building "part of the house."

However, the building applied for is a **commercial building**. The property is zoned **R-1**. The floor plans for the building are already in the Township's files, submitted by the Laws in 2020. The building plans (also attached to this letter) show a design with the Main Floor entirely for an "A-2 Assembly occupancy" for dining and associated facilities, according to the International Building Code. It appears designed to comply with ADA, and with men's and women's restrooms off of a hallway, requirements that only commercial buildings comply with. None of the facility indicates residential use. That should be apparent to any Zoning Administrator. The Hayes Zoning Administrator is already aware that the Laws intend to use this commercial building—and all of their 400+ acres of property—for the Laws' employees and charitable foundation, in addition to local organizations. This is commercial activity, not residential use. (Email between Scott Law and Ron Van Zee, obtained by FOIA, is attached).

It would be an *ultra vires* action for the Township to allow a commercial building in a residential zone.

The Board needs to instruct the Zoning Administrator that it is beyond his power, and the township's power, to allow commercial buildings or commercial uses in a residential zone. It is forbidden by the Master Plan and by the Zoning Ordinance. The Board needs to put Mr. Van Zee on notice that he is not to put the Township legally at risk for *ultra vires* actions.

Cc: Charlevoix County Building Department