

HAYES TOWNSHIP
BOARD OF TRUSTEES REGULAR MEETING
April 8TH, 2024 7:00 PM
HAYES TOWNSHIP HALL
09195 MAJOR DOUGLAS SLOAN RD
CHARLEVOIX, MICHIGAN 49720
ZOOM 849 2451 3210

The April 8th, 2024, 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), April Hilton (Deputy Clerk/Recording Secretary), Ron VanZee (Supervisor) and Kristin Baranski (Clerk)

Audience Members signed in: Stan Boris, David Zipp, LuAnne Kozma, Ellis Boal, Jerry Simpson, Kevin Willis, Kathy Simon, Connie Foster, Sherry McCarry, Paul Zardus, Bob Jess, Betty Henne, and Laura Ford.

CALL TO ORDER

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

PLEDGE OF ALLEGIANCE

REVIEWED & APPROVED AGENDA

Add Maple Grove Road Commission Proposal.

Add Hayes Township Generator Purchase.

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

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

Nays: None Motion Carried

PUBLIC COMMENTS:

Public comment opened and closed at 7:03.

Public comments included:

- Asked how the Zoning Administrator enforces the Zoning Ordinance.
- Commented on the latest issue of the Hayes Township Voice.
- Commented on the latest issue of the Hayes Township Voice. Does not feel the board is being transparent.

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- Corrected an error within the correspondence attached by Ellis Boal. Ellis as the Attorney mis-spoke. Would like to see the Hayes Township Voice questions and clarification answered by the Board of Trustees.

Closed at 7:12

APPROVAL OF MARCH 11TH 2024 BOT REGULAR MEETING MINUTES:

Mr. Kuebler made a motion, supported by Ms. Baranski to approve the March 11th, 2024, Board of Trustees regular meeting minutes as presented.

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

Nays: None **Motion Carried**

TREASURERS REPORT

Ms. Collard presented a written report reporting all Hayes Township account balances.

CLERKS REPORT: APPROVAL OF WARRANTS

Clerk, Ms. Baranski, presented the warrants in the amount of \$42,828.61.

Ms. Baranski made a motion, supported by Mr. Kuebler, to approve Township warrants out of the General Fund in the amount of \$42,828.61. A roll call was taken.

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

Nays: None **Motion Carried**

Ms. Baranski made a motion, supported by Mr. Cunningham to approve the installment payment for the EMS building loan in the amount of \$10,248.13, the total installment payment will be offset 100% by the LCEMSA monthly lease payment. A roll call was taken.

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

Nays: None **Motion Carried**

Ms. Baranski made a motion, supported by Ms. Collard to approve the proposal from Austin Hale in the amount of \$1100.28 to install three new closet doors at the Hayes Township Hall and repair the door at the Hayes Township host house. A roll call was taken.

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

Nays: None **Motion Carried**

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COUNTY COMMISSIONER REPORT

Robert Jess presented the County Commissioner Report.

PARKS AND REC. REPORT

The next regular Parks and Rec meeting is April 15th, 2024.

PLANNING COMMISSION

Mr. Cunningham presented the Planning Commission Report. The next regular Planning Commission meeting is April 16th, 2024, at 7:00 pm.

ZONING BOARD OF APPEALS

ZBA did not meet.

ZONING ADMINISTRATOR REPORT

Ron VanZee presented a Zoning Administrator report.
Report available at the Hayes Township Hall.

TRUSTEES:

Mr. Cunningham announced the Skid Pier has been put in. Also suggested the old swim buoys at the Hall need to be removed.

SUPERVISOR REPORT: Ron VanZee presented a supervisor report.

Wanted to let everyone know there has been multiple bear sightings in the area, would like to remind residents to remove food sources for the next month.

MAPLE GROVE RD PAVING PROJECT PROPOSALS:

Ms. Baranski made a motion, supported by Mr. Cunningham to approve the bid proposal from the Tri-County Excavating, LLC in the amount of \$366,920.80 for the Maple Grove Road paving project.

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

Nays: None

Motion Carried

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UNDINE CEMETERY GROUND PENETRATING PROPOSALS:

Ms. Baranski made a motion, supported by Ms. Collard, to approve the proposal from Trimedia in the amount of \$13,950.00 from the ARPA fund, for the Undine Cemetery Ground Penetrating services.

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

Nays: None **Motion Carried**

TREE REMOVAL HAYES TOWNSHIP HALL PROPOSALS:

Mr. Kuebler made a motion, supported by Ms. Baranski to approve to proposal from Crandell Logging in the amount of \$500 to remove the tree at the Hayes Township Hall.

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

Nays: None **Motion Carried**

ELECTION INSPECTOR APPOINTMENTS:

Ms. Baranski made a motion, supported by Mr. Kuebler to approve the Election inspectors for the May 7th, 2024, special election.

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

Nays: None **Motion Carried**

UNDINE CEMETERY LAWN PROPOSALS:

Ms. Baranski made a motion, supported by Mr. Kuebler to approve the proposal from Drost Landscaping for Spring clean-up at Undine Cemetery in the amount of \$850.00.

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

Nays: None **Motion Carried**

ROAD MILEAGE RESOLUTION:

Resolution 04082024

HAYES TOWNSHIP ROAD MILLAGE RESOLUTION -:Ms. Baranski made a motion, supported by Mr. Kuebler to adopt the following resolution.

WHEREAS, the Township Board of Hayes Township wishes to provide Road Repair and Maintenance; and

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WHEREAS, townships, may provide Road Repair and Maintenance, as authorized by Public Act 51 of 1951, MCL 247.670; and

WHEREAS, townships may impose and levy ad valorem property taxes to finance lawful public services, as authorized by the Michigan Constitution of 1963 and other laws; and

WHEREAS, the Township Board of Hayes Township wishes to levy 1 mill for Road Repair and Maintenance;

NOW, THEREFORE, BE IT RESOLVED that the Township Board of Hayes Township, Charlevoix County, approves the following millage Ballot question language and directs the Clerk to submit it to be placed on the August 6, 2024 election ballot:

HAYES TOWNSHIP

Proposal to Renew Road Millage

This proposal renews the 1 mill road millage previously approved by the electors that expired after the December 2023 levy.

Shall the limitation on the amount of ad valorem taxes which may be levied by the Township of Hayes, Charlevoix County, Michigan, against taxable property in the township be increased by up to one (1) mill (\$1.00 per \$1,000 of taxable value) for a period of four (4) years, 2024 through 2028, inclusive, for the purpose of providing funds for road repair and maintenance, and shall the Township levy such millage for these purposes? If approved and levied in its entirety, this millage would raise an estimated. \$245,596.41.00 for the Township in 2024.

Roll Call

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

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CHARELVOIX COMMUNITY POOL RESOLUTION:

Ms. Baranski made a motion, supported by Ms. Collard to approve resolution # 482024b granting a charitable gaming license to the Charlevoix Area Community Pool of Hayes Township for fundraising purposes.

CITY OF CHARLEVOIX EMS ATTORNEY RESPONSE:

Ms. Collard made a motion, supported by Mr. Cunningham to approve Todd Millar the Township attorney to send a letter to the City of Charlevoix EMS.

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

Nays: None

Motion Carried

TOWNSHIP STAFFING POSTION:

Ms. Baranski made a motion, supported by Mr. Kuebler to approve April as the Assistant Zoning Administrator through her training at the hourly rate of \$25 with a minimum of 8 hours a week with a review in 30 days at the May regular Board of Trustee meeting.

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

Nays: None

Motion Carried

HAYES TOWNSHIP GENERATOR PURCHASE:

The Board came to a consensus to research cost of a generator for Hayes Township Hall.

PUBLIC COMMENTS: Public comments opened at 8:10 pm.

Comments included:

- Recommended a generator.
- Concerned the City of Charlevoix letter was kept under Attorney Client privilege.
- Supported the previous comment. Informed the Board they sent a FOIA request to the City of Charlevoix and explained what they received from the City of Charlevoix.
- Asked the board what the Cemetery budget is for this fiscal year.
- Asked when the agenda for the Parks and Rec meeting will be sent out.
- Paul Zardus stated when he was Sexton and first received the records for the Cemetery were a mess and very unclear and makes the job almost impossible. Stated he is appalled as a taxpayer the amount of money goes towards frivolous lawsuits.

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- Commented on the March issue of the Hayes Township Voice. Found the letter from Todd Millar disrespectful and has lost respect for the Townships Lawyer. Public comments closed at 8:27 p.m.

BOARD OF TRUSTEE COMMENT:

Mr. VanZee clarified the Letter from the attorney in the Voice was from the Township Attorney.

Mr. VanZee stated the Clerk can provide a description of the Zoning Administrators job duties.

ADJOURNMENT: Ms. Baranski made a motion, supported by Mr. Kuebler, to adjourn at 8:29p.m.

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

Nays: None **Motion Carried**

Respectfully Submitted,

April Hilton

Hayes Township Deputy Clerk/Recording Secretary

news item for the next Hayes Township Voice

To:  millar <tmillar@parkerharvey.com>
To: k@hayestownshipmi.gov" <clerk@hayestownshipmi.gov>
Cc: "Kayla E. Sklener" <ksklener@parkerharvey.com>

Mon, Apr 1, 2024 at 11:04 AM

Kristin,

As I explained on the phone, the gist of the court of appeals ruling was that these three judges disagreed with Judge Hayes that Kozma's lawsuit was devoid of legal merit. In other words, while they did not rule that she had a winning case by any stretch, she had enough of a viable legal argument to avoid sanctions. As a result, she does not have to pay sanctions. That is all this case stands for.

Todd

Todd W. Millar
Attorney

DIRECT 231.486.4519 EMAIL tmillar@parkerharvey.com

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[Quoted text hidden]

news item for the next Hayes Township Voice

1 message

Ellis Boal <ellisboal@voyager.net>

Sat, Mar 30, 2024 at 8:27 PM

To: Ron VanZee <supervisor@hayestownshipmi.gov>, kristin baranski <clerk@hayestownshipmi.gov>, treasurer@hayestownshipmi.gov, Matt Cunningham <trustee2@hayestownshipmi.gov>, Doug Kuebler <hayestrustee5@gmail.com>

Cc: Todd Millar <tmillar@parkerharvey.com>

Boathouse update: Court vacates \$6040 sanction against LuAnne

On March 14 the Michigan Court of Appeals vacated a circuit court sanction of \$6040 leveled against LuAnne Kozma, to have been paid by her to neighbors Scott and Debra Law.

The decision is downloadable here: <https://protectlakecharlevoixshoreland.org/wp-content/uploads/2024/03/Kozma-v-Law-coaDecision.pdf>

The sanction had been imposed by Judge Roy Hayes of the Charlevoix Circuit Court for LuAnne having filed a supposedly frivolous lawsuit against the Laws in 2022, about a proposed basin/boathouse/event center on their property near her in Hayes Township on the shore of Lake Charlevoix.

The event center, made of stone, with a winding staircase and several mens/womens toilets, would have seated and fed 350 guests.

Her suit sought to order them not to proceed with construction pending a Township hearing.

At various times the Laws secured approval for the project from the state and federal governments. But a Township permit was also needed, LuAnne's suit contended. She had earlier started a separate suit to force the Township Zoning Board of Appeals (ZBA) to timely process Interpretation requests she and two cousins had filed.

Attached to Township Attorney Todd Millar's reply brief against that case, Supervisor/Zoning Administrator Ron Van Zee signed an affidavit in November 2021, notarized by Treasurer Julie Collard. The brief stated the affidavit was a "determination" that no Township permit was needed for the basin because it was supposedly governed exclusively by the state and the federal governments; and once they gave approval according to Todd, Ron would "likely" issue a Township permit.

Ron had previously issued a permit for the boathouse, but it had expired.

(The ZBA did schedule hearings for the Interpretation Requests for January-February 2022. Those hearings self-aborted after LuAnne uncovered that one of the ZBA members, Roy Griffiths, had violated a ZBA protocol barring secret communication with another ZBA member. Separately we found out Roy was ineligible to sit anyway.)

In September 2021 LuAnne had filed a 53-page appeal with the ZBA against the Van Zee affidavit, arguing the Township indeed did have co-authority over the shoreline, and for that the Laws had to wait on excavating till the ZBA could make a decision.

The ZBA finally held a hearing in August 2022. It dismissed appeal of the Van Zee affidavit, despite that the Michigan Zoning Enabling Act (MZEA) specifically allows appeals to the ZBA of "determinations," even if no permit has been issued. The ZBA voted 4-1 on a motion of Chair Tom Darnton that Ron's affidavit was not an administrative decision, and the ZBA therefore had no jurisdiction.

ZBA member Rex Greenslade dissented.

Meanwhile in the suit on which the Appeals Court ruled last week, LuAnne had asked the Circuit Court to tell the Laws to hold up excavation till the ZBA could rule. The Appeals Court noted the Laws had flown a helicopter at low altitude over her and her property, a provocation. See the helicopter video here: <https://www.youtube.com/watch?v=EWUlkqBfGQ>.

On August 5, 2022, Judge Hayes rejected that suit. Further, the Laws contended the suit was not only wrong but frivolous because the Township had not granted an actual permit. They said they didn't want to wait because they wanted to have a big party in the boathouse at Christmas rather than having to go to a restaurant.

Judge Hayes agreed and imposed a punishment against LuAnne, as the Laws had requested. He settled the amount at \$6000 for attorney time + \$40 for two filing fees.

Such a counter-claim is sometimes called a "SLAPP" suit ("Strategic Lawsuit Against Public Participation").

The Law attorneys were Jennifer Schafer and Harry Golski, assisted by the Laws' corporate counsel in Indiana, where they own Zotec Partners, a medical billing company.

The Court of Appeals has now reversed and vacated the \$6040, holding LuAnne's suit was not frivolous but had "arguable legal merit."

She had noted that under the MZEA all "proceedings in furtherance of the action appealed" are stayed if a ZBA appeal is filed.

But the Circuit Court had reasoned:

"The automatic-stay statute was inapplicable in this case because the zoning authority had issued no permit and plaintiff [LuAnne] therefore did not have a valid appeal to the zoning board of appeals."

The Court of Appeals took its time toying with this. It suggested the automatic-stay statute actually might not apply here because construction of a basin might not amount to a "proceeding." But then again it might, because otherwise irreparable damage could occur and the Legislature would not have created a right without a remedy.

(The US Supreme Court's very first decision made this point in 1803, holding a right without a remedy was an absolute no-no.)

Still, LuAnne's theory about the automatic stay had never been tested in Michigan's higher courts. Like an artist standing before an easel, her suit was creative.

The Court of Appeals appreciated that, and held the Charlevoix Court's order against her was "rooted in a factual error." The Court had "clearly erred."

Importantly though, the Court also noted the Laws had never lifted a shovel.

And the ZBA eventually ruled 4-1 in a different appeal, filed by LuAnne and cousins Irene Fowle and Elisabeth Hicklen, that no excavation was allowed, period, in the Township's Shoreland Protection Strip on the Lake.

It went on to rule unanimously in October 2022 that two buildings connected by a 100-foot covered porch or breezeway, are not considered "connected," and therefore do not constitute a single structure. Rather, they are two separate buildings. Another body blow to the Law project.

50 people and organizations appeared before or wrote the ZBA in the cousins' support on that one.

Though the issue was not directly before it, the Court of Appeals ruling was an implicit rejection of the ZBA's holding in August 2022 that it had no jurisdiction to rule on Ron's "determination."

So, kudos to Rex.

The Laws gave up fighting this case long ago. and didn't even file briefs in the higher court.

LuAnne has filed for court-stipulated costs from the Laws, for filing fees, transcripts, and an appeal bond, summing to \$1392.80. They Laws have not objected.

Ellis

 **coaDecision.pdf**
357K

BS&A system and data security

1 message

Jim Mahon <jim_mcmahon_iii@yahoo.com>

Tue, Mar 12, 2024 at 2:56 PM

To: Kristin Baranski <clerk@hayestownshipmi.gov>, Julie Collard <treasurer@hayestownshipmi.gov>

Cc: Ron Van Zee <supervisor@hayestownshipmi.gov>, Matt Cunningham <trustee2@hayestownshipmi.gov>, Doug Kuebler <hayestrustee5@gmail.com>

Dear Kristin and Julie,

Thank you for answering my question at last night's BOT meeting regarding the new BS&A system configuration - that the BS&A system is host based, not local server based. There are lots of benefits that come with a host based system.

The purpose of my email is to suggest some considerations for system setup, not to give direction. With the new BS&A system, one objective would be to provide complete security and backup for Hayes Township's financial data and processes.

These considerations below are not an entire list. Perhaps, you have already given thought to security (both system and local) and to data base recovery.

1. Choose parameters that protect against ransomware, malware, and hacking. What software would be in place to prohibit downloading of questionable files and software?
2. Choose multilevel authentication (best) for all users. At a very minimum, use nothing less than two-factor authentication (2FA). Each user's authorization must be based on each person's specific need-to-know.
3. Is Hayes Township's data partitioned off from all other data bases and systemwide users? Are there sufficient firewalls to protect Hayes Township's data?
4. Are all inquiries and updates tracked (by user ID) and recorded by the BS&A system to help determine whether there has been nefarious activity?
5. In the case of a catastrophic event, such as a ransom demand or data recovery, will the township also maintain monthly or quarterly digital backup files, in a physical safe here at the township hall? This is in addition to the backup files that BS&A maintains.
6. Does the Hayes Township's auditor have processes and procedures available for you to use regarding all security and data integrity issues?

Also, remember to consider how your local laptops should employ the same security requirements and data recovery safeguards. You don't want your local laptops to be a vehicle to infect the system or data.

Please understand that this email is not 2nd guessing the plans that you have already made, but just some thought-starters as you scope out how you will implement the BS&A system, safeguarding the total system and the township's data. Good luck as you move forward.

Thank you.

Jim McMahon

phone: 231-347-9829