

HAYES TOWNSHIP
BOARD OF TRUSTEES SPECIAL MEETING
July 30th, 2025 7:00 PM
HAYES TOWNSHIP HALL
09195 MAJOR DOUGLAS SLOAN RD
CHARLEVOIX, MICHIGAN 49720
ZOOM 849 2451 3210

The July 30th, 2025, meeting of the Hayes Township Board was called to order by Supervisor William Conklin at 7:00 pm.

Board members present were Matt Cunningham (Trustee), Julie Collard (Treasurer), Doug Kuebler (Trustee), , William Conklin (Supervisor) and Kristin Baranski (Clerk)
Also present: Todd Millar (Township Attorney) and April Hilton (Deputy Clerk/Recording Secretary)

Audience Members signed in: Diane Conklin, Betty Henne, Carey Cuddeback, CT Martin, Darcy Phelps, Catherine Phelps, Tim Boyko, Kevin Willis, LuAnne Kozma, Ellis Boal, Carol Umlor, Kim Fary, Jim McMahon, Shelly VanWart, Mel Czechowski, and Diane McMahon.

CALL TO ORDER Supervisor William Conklin called the meeting to order at 7:00 pm.

REVIEWED & APPROVED AGENDA

Mr. Cunningham added item #3A BRI Zoning Ordinance Consultant/Board Contact.

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

Yays: Matt Cunningham, Julie Collard, Doug Kuebler, William Conklin, and Kristin Baranski.

Nays: None Motion Carried

PUBLIC COMMENTS: Public comment opened and closed at 7:03 pm.

- Resident stated they are the representative for the residents in the lawsuit on the agenda tonight. Objects to April Hilton being part of the executive session due to her being assistant zoning administrator. Presented the board with the affidavits they submitted to the courts today.
- Mr. Conklin requested if the offer to dismiss the court complaint is still in place if the Board agrees to have the ZBA review the appeal.
- Resident stated since they made that offer a couple weeks ago as a good faith offer, they have amended the court complaint and would have to speak with his clients before answering.
- Stated the board had an experience similar to this current lawsuit with the Law Boat House and LuAnne Kozma. Therefore they have lost confidence in the Zoning

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Administrator, especially because the Zoning Administrator listens to legal counsel opinion instead of listening to a resident.

- Stated they have a complaint about the website, under the ZBA section the language is not consistent with the Ordinance.

Closed at 7:21 pm

BRI ZONING ORDINANCE CONSULTANT/BOARD CONTACT:

Mr. Cunningham made a motion, supported by Mr. Kuebler to appoint Clerk Kristin Baranski as the Board contact person for Beckett and Raeder for the Zoning Ordinance rewrite project.

Yays: Matt Cunningham, Julie Collard, Doug Kuebler, and William Conklin.

Recused: Kristin Baranski

Nays: None Motion Carried

DISCUSSION OF CURRENT LITIGATION (KIM FARY, PAT FARY, DARCY PHELPS, CATHERINE PHELPS, JOELLEN RUDOLPH, MIKE TAYLOR, SUMMER LAVANWAY, CAROL UMLOR, SHELLY VANWART, KEVIN WILLIS V. HAYES TOWNSHIP (BOT MAY GO INTO CLOSED SEASON):

Mr. Cunningham requested if any board members had a conflict of interest. NONE

Ms. Baranski made a motion, supported by Ms. Collard to approve the board of trustee to go into closed session.

Yeas: Matt Cunningham, Julie Collard, William Conklin, Doug Kuebler and Kristin Baranski.

Nays: None Motion Carried

Ms. Baranski made a motion, supported by Ms. Collard to approve the board of trustees come out of closed session.

Yeas: Matt Cunningham, Julie Collard, William Conklin, Doug Kuebler and Kristin Baranski.

Nays: None Motion Carried

Ms. Collard made a motion, supported by Mr. Cunningham to approve Todd Millar defend the lawsuit.

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

Nays: William Conklin Motion Carried

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BOARD OF TRUSTEE COMMENT:

Mr. Conklin's correspondence attached.

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

Yeas: Matt Cunningham, Julie Collard, William Conklin, Doug Kuebler and Kristin Baranski.

Nays: None **Motion Carried**

Respectfully Submitted,

April Hilton Hayes Township Deputy Clerk/Recording Secretary

July 30, 2025

Dear Township Residents and Township Board:

In deference to the opinion of Mr. Millar directed to Mr. VanZee, dated June 30, 2025, I offer another perspective which mirrors my personal philosophy regarding the perceived problem with government... It often overlooks common sense.

Since December, 2024, it is and has been my position that all opinions of the Township attorney (except confidential matters) should be emailed to the Township Board, at the time of the attorney's response. Contrary to my recommendation, the Board voted that an attorney's opinion be provided in the reports of the Township officials and not emailed to all BOT members. This Attorney Opinion, dated June 30, 2025, was not provided by the Zoning Administrator in his Zoning Report in July.

There are, of course, competing policy considerations for strict adherence to the law, such as keeping township costs down by rejecting flawed appeals that would otherwise use township resources. The deadlines also serve the interests of citizens by allowing citizens who have obtained a permit to have certainty that their permit is valid, once the 30-day deadline has expired and the permit is no longer subject to a ZBA appeal. Permits would be devalued if the permittee could not justifiably rely on the permit once the appeal period has expired. It would raise the specter of a permittee expending significant resources on a presumably valid permit, only to then have it belatedly appealed, thereby placing the investment at risk.

But there are unique circumstances that warrant flexibility, such as in this case where it would be inequitable (not fair) to take the hard "procedural" line – the "Pickleball Appeal" was clear from my reading of the form which was served on May 29 and was signed by the Agent on behalf of the named principals. Perhaps agency law may pre-empt my conclusion, but the equities reflect that Notice (substance) was given to the Township outlining certain clear and articulated concerns with the issuance of a Permit to Pickleball Storage.

In this case, I do not believe that the appeal FROM an administrative zoning decision to the ZBA is jurisdictional.... although I agree that an appeal FROM the ZBA to Circuit Court is jurisdictional.