

Hayes Township Board  
Special Meeting Minutes  
May 30, 2019  
09195 Old U.S. N, Charlevoix, MI 49720

The special meeting of the Hayes Township Board was called to order by Supervisor Ron VanZee at 7:00 pm. at the Hayes Township Hall, 09195 Old US 31 N., Charlevoix, MI 49720.

Board members present were: Matt Cunningham (Trustee), Julie Collard (Treasurer), Warren Nugent (Clerk), Ron VanZee (Supervisor), Bob Jess (Trustee)

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

Audience Members signed in: Doug Kuebler, Paul Hoadley, Marilyn Morehead, Bill Henne, Jerry Simpson, Gary Janz, Dee Janz, John Royal, Jim McMahon, Diane McMahon, Betty Henne, Marylou Wickowski, Patricia Wickowski, Jim Malewitz, Shirlene Tripp, David Zipp, JoEllen Rudolph, Jim Rudolph, Scott Parker

**PLEDGE OF ALLEGIANCE:** Supervisor VanZee asked everyone to join him in the Pledge of Allegiance.

**REVIEWED AGENDA:** Agenda Approved as-is.

Mr. Jess made a motion, supported by, Ms. Collard to adopt the agenda. ~~as amended~~

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

Nays: None            **Motion Carried**

**PUBLIC COMMENTS:** Public comments included: Status of park at end of Burgess Road, comments regarding Dr. Vitton's report, change order #11, anticipated park completion date, reference to 'donor' for change order #9 and encouragement for the board to take Mr. Malewitz up on offer, park open by July 4<sup>th</sup>, protecting shale wall and showcasing it, Performance Engineering has

a roadmap for lingering safety issues (they will at no charge put in a temporary snow fence in top of shale wall, install escape ladder and throw rings on pier).

Public comments closed at 7:10 p.m.

**Amend Budget:** The Board amended the budget to adjust for grants deposited and transfer from general fund into phase one project.

AMEND BUDGET RESOLUTION 053019 – Amend line item 101-800-Grants Charlevoix County Grant by \$10,000.00 increasing the total budget amount to \$10,000.00, Charlevoix Community Foundation by \$794.47 increasing the total to \$794.47, DNR Waterways by \$434,312.97 increasing the total to \$434,312.97, and the Land & Water Conservation Fund by \$135,000 increasing the total to \$135,000. The Total grant Income will be increased to \$580,107.44. Amend line item 990 Transfer to Capitol Project by \$309,590.73 increasing the total to \$953,797.33. The total unallocated budget amount will increase to \$981,797.33 and the Total Budget amount to \$1,330,788.33.

Mr. Nugent made to motion to adopt resolution 053019 to amend budget, supported by Mr. Jess. A roll call was taken.

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

Nays: None            **Motion Carried**

**Fence Proposal:** The board reviewed the proposal from Harbor Fence Company for a 3-rail whole log fence to be located at top of shale wall for safety reasons (to open park). Mr. Nugent stated the fence company is requiring a 50% deposit to schedule installation. A \$5000.00 grant has been applied for through the Par Plan to help offset fence cost. Supervisor VanZee states that the board is working diligently to make park safe so park can be opened. The board does not want to have to touch the township's reserve fund. Mr. Jess voiced concern that it is not enough fence to cover all safety issues.

Mr. Nugent made a motion, supported by Mr. Cunningham, to submit a \$4000.00 down payment to Harbor Fence Company to be put on the summer schedule for installation of the fence on top of shale wall. A roll call was taken.  
Yeas: Matt Cunningham, Bob Jess, Julie Collard, Warren Nugent, Ron VanZee  
Nays: None            **Motion Carried**

**Change Order #9:** Mr. Cunningham recused himself. Change order has been discussed during several previous board meetings. Mr. Jess believes it is best to finish contract as is and move on. Mr. Nugent clarified with Mr. Malewitz that Performance Engineering will put in a snow fence at top of shale wall, an escape ladder and throw rings on fishing pier at no charge to township. Mr. Malewitz confirmed. Supervisor VanZee has concerns about specific areas of concern about completed work (guardrail along seawall, width of sidewalk). Mr. Malewitz (Performance Engineering) stated that it is common as an engineer to make some engineering decisions on site. The board members and Mr. Malewitz (PE) discuss stability of the shale wall, Professor Vitton's report, fence required for stability of wall and fallen shale. Mr. Nugent suggests the rail referenced in change order 9 use the standard township bid process. Mr. Malewitz states that township can use his design/drawings at no charge. Ms. Collard feels that, as mentioned in Mr. Malewitz's letter to Mr. Gambos (risk assessor) the current Hayes Township Board has lost faith in the current engineer and that it would be best for Performance Engineering finish the contract as stated, no additional change orders, and move on. Supervisor VanZee listed several areas (tiles added to deal with springs, host house issues and additional costs, removal of Arts and Craft building) additional costs that were incurred. A resident asked the board if the donation for change order #9 is still on the table. Supervisor VanZee replied per an email from Mr. Malewitz a donor is no longer available. Supervisor VanZee made the promise that the board will do everything to get the park opened as soon as possible with safety concerns addressed. Mr. Nugent clarified a contingency fund is not an actual fund, the monies for all contingencies is actual general fund money. Ms. Collard stated the monies spent thus far for Phase One total \$1,792,644.15 with \$855,264.15 of the total coming from the townships general fund.

Mr. Nugent made a motion, supported by Mr. Jess, for Performance Engineers and MDC to complete project per contract and board will complete safety issues using regular bid process to get park open.

Yeas: Bob Jess, Julie Collard, Warren Nugent, Ron VanZee

Recused: Matt Cunningham

Nays: None        **Motion Carried**

**Road Name Change:** Mr. Jess recused himself. A resident would like to add a road name at Angler's Cove. The original requested name (Charlawvoix) is too confusing. Alternate name, Lawvoix Lane Private, is acceptable. Mr. Nugent made a motion, supported by Ms. Collard, to approve Lawvoix Lane Pvt. for Angler's Cove private road.

Yeas: Matt Cunningham, Warren Nugent, Julie Collard, Ron VanZee

Recused: Bob Jess

Nays: None        **Motion Carried**

**Engineering Proposal:** The Board reviews new engineering proposal from Beckett&Raeder for \$6,850.00 that will focus on shale wall and slope areas extending from the west property line easterly to the top of the newly installed retaining walls for grass walkway/roadway. Mr. Nugent stated his concern regarding shale wall and, per Dr. Vitton's recommendation for a fence, the need for a second opinion to ensure several things: the stability of shale wall, boat launch functionality (with possibility of fence to hold fallen shale and keep people away from shale) and the shale at base of grass walkway causing walkway to be 2 feet wide instead of 6 feet wide. Ms. Collard stated a second opinion is vital to make sure wall is safe and thus protect all visitors and shale wall. Mr. Malewitz reassured the board that Performance Engineering has had two different experts examine shale wall several times and the wall is stable the fence is to keep people away from shale wall. He also confirmed that turn analysis determined a 24-foot boat can make the turn at launch with fences installed. Mr. Jess would like a second opinion but does not want township to spend any more money. Mr. Cunningham does not want to spend any more money but stated, for the township to be responsible, it is necessary to spend

the money and get a second opinion. Supervisor VanZee agreed with Mr. Nugent, per Dr. Vitton, the fallen shale should not have been hauled away but left to create the supporting base the professor spoke about.

Mr. Nugent made a motion, supported by Ms. Collard, to accept Beckett&Raeder proposal of \$6,850.00 to address stability and slope of shale wall area. A roll call was taken.

Yeas: Matt Cunningham, Warren Nugent, Julie Collard, Ran VanZee

Nays: Bob Jess                    **Motion Carried**

**PUBLIC COMMENTS:** Public comments included: understanding about safety concerns, fencing, an donated plaque for shale wall offer from Marilyn Morehead, park hosts, shale wall clean up responsibility, fallen shale removal, scaling of shale wall, DEQ application compared to current situation, additional grant opportunities, several comments regarding hoping for park to be opened by July 4<sup>th</sup>, Park and Rec meeting June 5<sup>th</sup>, 2019 at 7 pm at park host house, manual regarding rain gardens, concerns about visitors walking on walls, cabin removal status, wall capstones, host house, Mr. Malewitz (Performance Engineering) again stated the township is welcome to any and all of his engineering drawings at no charge for future use.

Public comments closed at 8:52 p.m.

**ADJOURNMENT:** Mr. Cunningham made a motion, supported by Ms. Collard, to adjourn at 8:53 p.m.

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

Nays: None                    **Motion carried**

Respectfully Submitted,

Kristin Baranski

Hayes Township Deputy Clerk/Recording Secretary