



# Higgins Lake Property Owners Association<sup>SM</sup>

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**President:** Brad Gibson, **Vice President:** Charlene Cornell, **Secretary:** Herb Weatherly, **Treasurer:** Chuck Brick  
**Directors:** Ken Dennings, Bob Hoffman, Bob McKellar, Fred Swinehart, Jim Vondale and Dianne Wagner

Higgins Lake Property Owners Association  
Annual Meeting - July 15, 2017  
Roscommon High School

**Call to Order and President's Opening Remarks:** The meeting was called to order by President Brad Gibson at 8:49 A.M. Mr. Gibson introduced the HLPOA Board Members: Vice-President Charlene Cornell, Treasurer Chuck Brick, Secretary Herb Weatherly, Ken Dennings, Jim Vondale, Bob Hoffman, Bob McKellar, Fred Swinehart and Dianne Wagner.

Mr. Gibson announced that based on the registration of members, a quorum was present. As of the date of this meeting, there were 459 members, of which 130 members were present in person or by proxy, thereby satisfying the 10% quorum requirement.

Bill Case has resigned the Board after many years of service. Brad thanked Bill Case for his two decades of service to the community and for his many years as a devoted HLPOA Board Member. Mr. Gibson also expressed gratitude to Mr. Case for his service as a leader in addressing Gerrish Planning Commission issues. Brad also announced that Ken Dennings is departing from the HLPOA Board. Ken was a former HLPOA President, currently serves as a PAC member, and his efforts have greatly impacted our Swimmer's Itch endeavors. We are pleased to announce that he will continue to work on the PAC. Brad then stated that today he will step down from the HLPOA President's position but will be running for re-election as a Board member, adding that the Board will be electing officers after today's meeting.

Last, Brad addressed the 2017 membership dues increase and noted that the last increase was 12 years ago. Brad said that the increase was necessary due to extraordinary expenses incurred in getting the Swimmer's Itch program off the ground and also due to two lawsuits. Brad added that the increase was merited and that the Board would spend these monies wisely on behalf of its' members and Higgins Lake.

**Approval of 2016 Annual Meeting Minutes:** Mr. Gibson announced that the 2016 Annual Minutes were included in the meeting packet. A motion was made by Gary Trock to approve the 2016 Annual Minutes and was seconded by Bill Wichers. Marv Bolton asked for clarification of one sentence: "With respect to the Legal Fund, in the past the funds collected and spent were not reported in the Statement of Activities". Tina Powell, of Robert F. Murray and Company, responded to this by stating it is "inappropriate to report the same activity on

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both the balance sheet and the income statement. The net income (loss) reported on the Financial Summary does not equal Mr. Bolton's change in "surplus" on his Balance Sheet because of this." Note 8 to the December 31, 2015 Financial Statements explains that the cumulative balance was reported as a liability on the balance sheet but that the receipts should have been reported as revenues and the disbursements reported as expenses in accordance with generally accepted principles. The remaining balance should be treated as a temporarily restricted net asset. As a result, the remaining funds of \$10,472 were reported as temporarily restricted net assets.

A card vote was then taken to approve the 2016 Annual Minutes. The vote was unanimous, and the motion passed.

**Treasurer's Report:** Mr. Brick delivered the Treasurer's report. Mr. Brick's report as well as the Financial Statements for the year ending December 31, 2016, as prepared by RF Murray & Co., are located on the HLPOA website.

Mr. Brick stated there was a decrease in assets of over \$28,000.00 since 2015. This was primarily due to \$18,000.00 spent on two lawsuits and \$9,000.00 spent towards our Lobbyist, Public Affairs Association, working in Lansing on our behalf. Mr. Brick noted that we had impressive results from our lobbyist's expenditure, as \$250,000.00 was allotted towards Swimmer's Itch for Michigan, while the HLSIO received \$89,000.00 for Higgins Lake.

Mr. Brick then thanked Jack Cornell, a former HLPOA Treasurer, for the preparation of our monthly financial reports, which are posted on our website.

Mr. Brick added that the primary reason dues were raised was due to the significant costs incurred over the past 2 1/2 years for the defense of the recently settled law suit filed by former President Pat Springstead and by the ongoing lawsuit filed by former Treasurer Marv Bolton. Mr. Brick noted that these lawsuits were filed against the members of the HLPOA, not the Board. The total expense for these two lawsuits now exceeds \$30,000.00.

Mr. Brick then introduced Tina Powell of the Robert F. Murray Company, to review the 2016 financial statements. Ms. Powell reported that this year a financial review and not a full audit was done. A review includes applying analytical procedures to the financial data supplied by the HLPOA. No material modifications to the statements were recommended by the accounting firm. As of December 31, 2016, total liabilities and assets were \$32,258 with current liabilities of \$13,501 resulting in \$18,757 in net assets. Ms. Powell provided explanations of entries in the Financial Statements. Ms. Powell explained several items in the report, including the functional expenses of \$82,388.00, which are detailed in the year-end financial statement review. The floor was then opened for questions.

Mike Hentgen asked if the dues were raised because of the \$20,000.00 spent in 2016. Mr. Brick stated they were raised primarily due to mounting legal costs. Mr. Brick added that

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according to the By-laws notice of a dues increase is not required but added that he feels it is a good idea to do so in the future.

Carolyn Holmes supported the \$15.00 membership increase to assist in our endeavors.

Dennis Corte asked about the net asset position. Ms. Powell stated it is \$18,757.00 and if litigation costs continue to escalate, the cash position could be very low. If needed, the Board could go to the members and seek a special assessment.

Don Granzine noticed that the May 31, 2017 financial statement reflected 399 members, while the budget was based on 515 members. Mr. Brick replied that our membership as of today was 459 members and that each Board member has been challenged to obtain more memberships.

Bill Wichers stated that it might be appropriate for members to contribute extra dollars to ensure the HLPOA is financially sound and encouraged members to do so.

Linda Brick suggested that members act as our ambassadors to reach out and talk to neighbors, who may not be aware of the HLPOA.

There being no further questions, Mr. Brick thanked Ms. Powell for the financial review. Mr. Brick then asked for a motion to approve the financial statements for the year ended December 31, 2016 as reviewed by Robert F. Murray and Company and presented by Ms. Powell. A motion was made by Jerry Gray and seconded by Bill Wichers. There being no discussion, a card vote was taken. The motion passed unanimously.

Marv Bolton then made a motion to establish a financial review committee with unrestricted access and oversight review, per a letter he sent to the HLPOA Board members, as well as to many members. Chuck stated this action would render the Board non-fiduciary. President Gibson said legal counsel had advised that the motion was not legal and not a proper subject for member action. President Gibson denied the motion as inappropriate because it would require a Bylaw change, would render the Board as a non-fiduciary, and was redundant since the books were already reviewed by the independent CPA firm with the Robert F. Murray Company. Mr. Gibson then said this discussion would be tabled and covered when our attorney, Bill Carey, speaks.

Tom Kizer, who is not an HLPOA member, attempted to be recognized by the Chair in a representative capacity for Marv Bolton. Mr. Gibson informed Mr. Kizer that Mr. Bolton had already spoken to the membership and that it was not appropriate to allow a non-member representative to also have an opportunity to speak on Mr. Bolton's behalf.

Mr. Trock was recognized by the chair. Mr. Trock asked Mr. Bolton if he intended to pick up the tab for the costs of the reports and the legal fees that he was causing the HLPOA to incur.

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**Nomination and Election of Directors:** Vice-President Charlene Cornell then announced several members had expressed interest in running for the Board of Directors and have submitted biographical information, which was included in the annual meeting packet. The current Board members who are candidates for the three-year term include Chuck Brick, Brad Gibson, and Charlene Cornell. In addition, some of our hard-working Board members have decided to retire after many years of service to the Board. We wish to extend our great appreciation to Ken Dennings and William Case, who have both worked tirelessly for this organization for many years. Because of Ken's decision to not run, Mr. Swinehart is running for a 3-year term. With the inclusion of Mr. Swinehart, there are four candidates for the four open 3-year term positions.

Further, since Mr. Case has decided to retire early, Mr. Burnside is running to fill the balance of Mr. Case's term (which remaining term is 2 years, as Mr. Case was re-elected in 2016). We are also looking for a candidate to fill a 2-year term, as Mr. Osborn has withdrawn his name.

Mrs. Cornell asked if there were any nominations from the floor for the three-year terms. There being none, Charlene asked for a motion to close nominations. The motion was made by Bill Cornell and seconded by Dan Alderman. A card vote was taken, and the motion passed unanimously. Mrs. Cornell then noted that since the number of candidates equaled the number of positions, Mr. Brick, Mr. Gibson, Mrs. Cornell and Fred Swinehart were elected for the open three-year terms without the necessity of a ballot election. Mr. Jerry Gray made a confirming motion, which was seconded by Kevin Kessler. A card vote was taken, and the motion passed unanimously.

In regard to the two open 2-year term vacancies, Mrs. Cornell indicated that Mr. Burnside was nominated for one of the positions. She asked if there were any nominations from the floor. Mr. Vondale nominated Wayne Brooks to fill one of these vacancies. Mr. Brooks is a graduate of Ferris State University, works with the DEQ regarding E. coli, is a member of the Pine River Task Force and works with our Riparian Committee. He has been coming to Higgins Lake for 60 years. A motion was made by Fred Seeley to close the nominations. The motion was seconded by Mary Goedert. A card vote was taken, and the motion passed unanimously. Mr. Burnside and Mr. Brooks were automatically elected to fill the two open positions pursuant to the Bylaws. Mrs. Cornell congratulated the elected Board members.

**Riparian Committee:** Chair Jim Vondale delivered the Riparian Committee Report. The full report is posted on the HLPOA website. Highlights included:

**1.) Composition:** The committee has four Board members, Jim Vondale, Chuck Brick, Bob Hoffman and Ken Dennings and seven at-large members, Marge Kik, Wayne Brooks, Steve Ricketts, Nick Dewey, Greg Douglas, Fred Koenigbauer, and Tom Hoffmeyer.

**2.) Mission:** Under the direction of the HLPOA Board, act as a study group and resource making recommendations to the board on the wide range of riparian issues affecting Higgins Lake.

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**3.) Objectives:** By gathering information on riparian issues affecting Higgins Lake, such as marinas, road ends, illegal mooring and zoning, we help educate people on and off the lake. We work with various townships and offer resources on how and where to report violations. Working with both local and state governments, we help to protect and enforce riparian rights.

**4.) Current Activities:**

- A meeting is scheduled for August 18 with Parks and Recreation Chief, Ron Olson, to discuss concerns of the West Launch proposed repairs and expansion. DNR work scheduled for October 2017. Other concerns include boat load, invasive species, pollution, use of copper sulfate by the DNR and illegal parking.
- The AMVETS marina permit issued by the DEQ is in violation of the R-1 residential zoning ordinance. As Lyon Township has made the decision to not enforce its ordinance, the HLPOA board approved litigation to enforce this ordinance in the Roscommon County Circuit Court.
- Mr. Vondale noted the importance of reporting and enforcing illegal road end activities and illegal boat moorings. The Gerrish Township police have been enforcing these activities, while Lyon Township is currently working on an ordinance.

The proposed Marina Policy, which was included in the annual meeting packet, was then reviewed. Jacob Dubuque asked if the policy could be explained. Mr. Vondale reviewed the criteria for new marinas and expansion of existing marinas. The HLPOA policy would be to oppose any expansion or creation of a marina unless the use will not cause harm to the quality of the lake, the use will not adversely affect riparian rights, the use will not cause an adverse effect of the waters by boats legally using it, and the use is legal in all respects.

Jim Vondale then requested a motion to approve the Marina Policy. The motion was made by John Ogren and seconded by Bill Isenstein. There being no discussion, a card vote was taken. The motion passed unanimously. The floor was then opened for questions.

Tony Barnard asked if there were current plans to convert the West Launch into a marina and was informed that there were no such plans at this time.

Tony Barnard and Michael\_Hentgen asked about the status of the AMVETS Marina. Jim Vondale reported that it has been permitted by the DNR and that the HLPOA appealed the permit. We requested the AMVETS to come to the table to discuss a resolution which they refused. The administrative appeal has been dismissed and the HLPOA is now preparing a complaint to be filed in Roscommon County Circuit Court alleging that the proposed marina is a violation of the single-family zoning ordinance and is a commercial enterprise.

David Whittlesey inquired as to the position of the township. He asked if Lyon Township might rezone to allow the commercial marina. Mr. Vondale reported that Lyon Township is taking a neutral position. It is not enforcing the residential use but do not intend to rezone to approve

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the commercial use. Mr. Vondale said we are disappointed in the position Lyon Township has taken. We would have remedies if the Township attempted rezone.

Gary Trock asked if the AMVETS is running the marina already. Mr. Vondale replied that the marina has not been installed but AMVETS is renting space already at the existing facility in violation of the zoning ordinance.

Kathy Herzog stated that the DNR website advertises great fishing at the north end of the lake, which creates a road end issue, adding that it is a bigger issue in the winter vs. the 4th of July. Mr. Vondale invited Kathy to contact him, where they could raise this issue with Chief Olson.

Mr. Vondale also invited concerned riparians to join the Riparian Committee. Bill Wichers asked who he could call to report parking issues, other than HLPOA members, such as the local township or the road commission. Mr. Vondale stated that they are not likely to get a sympathetic ear, so he suggested starting with the HLPOA.

**Environmental Committee:** Fred Swinehart then delivered the Environmental Committee Report, which is posted on the HLPOA website together with the mission statement. Mr. Swinehart shared that the function of the Environmental Committee is to make recommendations to the Board, with the entire focus being the quality of the water of Higgins Lake and environmental factors affecting the lake. Highlights of the report included the following goals:

- 1.) To actively recruit members interested in science-based solutions to Higgins Lake environmental issues.
- 2.) To develop a Base Line Assessment Plan, with a focus on near shore waters and lake bottom, grounded in credible data. Plan would form the scientific baseline to support remedial action.
- 3.) To continue commitment to support efforts of Swimmers Itch Solutions LLC and MISIP to control swimmer's itch in Higgins Lake.
- 4.) To support legal lake levels established by court order in 1926 and 1982 and counter actions to remove or alter Cut River dam or alter lake levels.
- 5.) To assist and develop informational environmental programs for property owners.
- 6.) To assist and develop communication with organizations that complement HLPOA efforts.

Fred Swinehart then reviewed the toxicity problems of copper sulfate and requested that the membership pass the proposed Environmental Committee resolution that was included in the Annual Meeting packet. Fred noted that passage of the motion would allow the HLPOA to join forces with other organizations and the townships to send a clear message to the regulators that we do not approve of the use of copper sulfate in our lake. A motion was made by Cal Phillips and was seconded by Kevin Kessler. A discussion was had. A card vote was taken, and the motion passed unanimously. The floor was then opened for questions.

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Rick Trock asked why copper sulfate was currently being utilized. Mr. Swinehart replied that it has been used to suppress Swimmer's Itch. Jim Vondale stated that it also has been used for sediment problems. Ken Dennings added that the actual approval of its usage was from the Michigan Department of Environmental Quality.

**Swimmer's Itch Report:** A Swimmer's Itch Report was presented by HLSIO, SIS and the MISIP team. Copies of the reports are on the HLPOA website. Dianne Wagner, who recently joined the HLSIO Board, thanked everyone for their dedicated support of the HLSIO. Ken Dennings added that it has been a team effort with riparians, our townships and lobbyists in Lansing, where over half million dollars has been raised to bring this parasite under control. Mr. Dennings then introduced the HLSIO Board members: Bill Carey, Neal Cooley, Dale McDonald, Ed Nellist, Bob Schneider, Jim Vondale and Dianne Wagner.

Mrs. Wagner invited everyone to participate in the HLSIO fundraising dinner on August 24, 2017, adding that it is their goal to reduce the cost of the scientific program. SICON was contracted for the first two years and HLSIO selected SIS (Swimmer's Itch Solutions) for the third year, to continue their work with Dr. Curt Blankespoor. Dianne Wagner then addressed frequently asked questions to Dr. Blankespoor:

- What do you do when working on the lake? In May, we are looking for nests. In June, we are trapping. In July, we finish trapping and review data for a snail report.
- Did you find many mergansers nests? We found several holes, but could not confirm nests, due to lack of eggs.
- How many broods were trapped this year in comparison to previous years? In 2015, there were 9 broods. In 2016 there were 6 broods and in 2017 there were 4 broods trapped.
- When mergansers are reported, why don't you get out there immediately? Mergansers can travel 5 to 10 miles in a day and we cannot trap every day.
- When merganser mothers and babies are released, will they fly back? The mother's wings are clipped, so they cannot fly back for season of the release. Also, they will not leave their ducklings. The females will return the following year, but the babies will imprint in the new location and not return.
- Why can't we just kill all the snails and shoot all the mergansers? There are over 100 million snails in the lake and it is impossible to kill all of them. With respect to the mergansers, the ducklings create the greatest infection problem, so it is more efficient and economical to relocate them.
- Should we let our children swim in Higgins Lake? Absolutely. Three of 6000 snails examined were infected.
- After all our progress, are we done now or what is needed to continue combating Swimmer's Itch? While the levels are down, we need to be persistent. We are now able to create a maintenance program to remove broods from the lake.

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Dr. Curt Blankespoor gave a power point presentation which highlighted his research findings. The presentation is located on the HLPOA website. Curt gave special thanks to Ron Wiltse of Nucraft Metal Products, Ric Blamer, Chuck and Linda Brick, Dave and Karen Jordan, and Bob and Dianne Wagner for assisting the swimmer's itch efforts. As reported above, the brood numbers are down. The lake wide snail infection level was reduced from 3.9% (epidemic) in 2015 to .1% (ideal) in 2016, and the end results for 2017 are still pending. Through June 28, 2017, 4,120 snails were examined, and no Swimmer's Itch infected snails were found. Dr. Blankespoor said these results are very encouraging and that the way to maintain this program is to continue removing broods from the lake. Members are encouraged to continue reporting merganser duck sightings via email.

Dr. Blankespoor reported that duck release sites were determined based on DNR input and that there were already several sites approved for release, where the merganser- snail cycle did not create a swimmer's itch problem.

**Legal Report:** Bill Carey, the HLPOA counsel, presented the legal report. Mr. Carey stated that one law suit is resolved by settlement. The HLPOA had been sued in 2016 by former president Pat Springstead for defamation, requesting money and a retraction, of which neither had been granted. In addition, the lawsuit brought by former treasurer Marv Bolton remains pending. In this suit, the HLPOA members are being sued for various alleged violations of the Nonprofit Corporation Act. Marv Bolton claims he is entitled to additional financial business records. It is our position that the HLPOA has provided all such business records and the HLPOA has acted in compliance with the Act. Bill Carey added that the Court will determine who took the right position, with the next court date this September.

Mr. Carey also reported that the DEQ had granted the AMVETS a marina permit as previously reported by Mr. Vondale. Mr. Carey reported that he will proceed with an action against AMVETS.

Mr. Carey also reported that each year he receives phone calls about neighbor docks which allegedly angle into a riparian owner's area. He indicated that determination is not an uncomplicated process when it comes to structures in the water.

The floor was then opened for questions.

David Whittlesey asked what the process was to determine if a neighboring dock was in your area. Mr. Carey indicated that it would be necessary to hire a surveyor. The answer depends on where you are on the lake. Further, the general philosophy is to have a fair apportionment as your neighbors that are north, south, east and west of you. He added that it is technical, and the line of navigability is a factor in determining boundaries.

Tony Barnard asked about the permitting process for long private docks that accommodate multiple boats. Mr. Carey said this is covered under the Michigan Environmental Protection Act

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and is not related to road end litigation. The state has narrowed the issues that it will consider before granting a permit. It is not an effective regulatory scheme. Therefore, it is often necessary to resort to litigation brought in circuit court. This litigation will be based on local zoning ordinances and is not likely to set case law precedent for the rest of the State of Michigan.

Glenn Artz asked if the AMVETS controversy could morph into road end zoning violations. Mr. Carey said no.

Marv Bolton asked for a floor motion to create a financial over-sight committee with non-Board members and to consider the validity of signed proxies he brought with him. Mr. Carey responded that he had authored an opinion letter on these issues which is posted on the website. Mr. Carey said that the HLPOA Bylaws do not provide for a financial over-sight committee, adding that it would change the Board from a fiduciary to a nonfiduciary status. Mr. Carey stated that there is no legal basis for this motion. He also reported that the proxy ballot prepared by Mr. Bolton should not be used. The cover letter Mr. Bolton wrote to accompany the proxies stated a narrow purpose, but the proxy language was very broad creating an inconsistency likely to create voter confusion and no straightforward way of determining the voter's intent.

At the end of the Legal Report, Brad Gibson welcomed members to join any of the HLPOA Committees.

President Gibson then introduced Bob Frye, President of the Michigan Waterfront Alliance. Mr. Frye stated that he spoke on behalf of the Michigan Waterfront Alliance, a 501(c)(4) nonprofit organization, that uses its' funds for lobbying and legal support of critical lake threatening issues. The DNR is in a campaign to increase boat access. The DNR and the Michigan Waterway Commission are pushing for boat launch facilities at every lake of 100 acres or more. They are pushing this agenda even though the existing invasive species policies are already inadequate even before this push to increase boat usage in the lakes. The MWA is grateful that the HLPOA endorsed this campaign and hopes individual HLPOA members will also endorse the campaign and send a petition to the MWA Lobbyist. Mr. Frye then invited everyone to a 6:00 pm reception at the Birch Lodge on August 18, for a Hoof and Claw dinner. This event is for the unveiling of a sign for the Higgins Lake Conservancy ("Almeda Beach Wilderness Preserve"), of 28 acres of land that the Conservancy has purchased through the donations of the Townsend family, the residents of Almeda Beach and the Higgins Lake community.

Tony Barnard asked Mr. Frye who determines if a lake is 100 acres or larger. Mr. Frye indicated that it is the local assessor. Mr. Barnard then asked if there is still resistance to make certain practices a law, such as the use of boat washes. Mr. Frye said we are way behind. The floor was then opened for questions and/or announcements.

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## **Questions and Answers:**

Linda Brick thanked Dianne Wagner, Charlene Cornell, Ric Blamer and Sally Voorheis for all their efforts in producing our 2017 HLPOA Members Directory. Mrs. Brick added it was a great revenue source and asked that all members to please visit the advertisers!

Mary K. Gray inquired about 4 floating flags on the west side of the lake, which appear to be anchored there. She asked if we knew what they are. Mary Goedert thought the flags had something to do with the DNR. Brad Gibson said he would research this.

Dudley Cahn stated there is a large warning sign about Swimmer's Itch at the South State Park and asked if the sign could be taken down or made less conspicuous or more positive. Brad Gibson said he would investigate this.

Kevin Kessler asked of the Board's position, regarding the dam study. President Gibson said the HLPOA supports the legal levels and this will be addressed in the future.

Mr. Gibson then requested a motion to adjourn the meeting. A motion was made by Roger Spalding and seconded. There being no discussion, a vote was taken to adjourn, which passed unanimously.

***The annual meeting adjourned at 11:26 A.M.***

Recording Secretary: Kathleen Barger