



Higgins Lake Property Owners AssociationSM

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President: Charlene Cornell, **Vice Pres:** Greg Semack, **Secretary:** Herb Weatherly, **Treasurer:** Bruce Carleton
Directors: Wayne Brooks, Brad Gibson, Mark Lutz, Bob McKellar, John Ogren, Fred Swinehart

Higgins Lake Property Owners Association Annual Meeting – July 16, 2022 Hybrid Meeting via ZOOM and at Roscommon High School

Call to Order and President's Opening Remarks: The meeting was called to order by President Charlene Cornell at 8:47 A.M. Mrs. Cornell informed members attending via ZOOM, they can ask questions by utilizing the chat button. President Cornell asked anyone with a question, please spell your name and repeat the question. Last, President Cornell asked if all proxies had been submitted.

Mrs. Cornell then introduced the HLPOA Board members. The executive committee consists of President Charlene Cornell, Vice-President Greg Semack, Treasurer Bruce Carleton, and Secretary Herb Weatherly. Board members include Becky Gibson, Bob McKellar, Jack Cornell, John Ogren, Fred Swinehart, Wayne Brooks, and Curt DeVoe. The HLPOA Administrative Assistant is Kathleen Barger.

Quorum criteria was met.

Approval of 2021 Annual Meeting Minutes: President Cornell stated that the 2021 Annual Meeting Minutes had been forwarded to all members. Mrs. Cornell then introduced Herb Weatherly. Secretary Weatherly asked if there were any corrections to last years' Annual Minutes. There being none, Mr. Weatherly asked for a motion to approve the 2021 Annual Meeting Minutes. A motion was made by Bob Frye, seconded by Pat Springstead. Mr. Weatherly asked for a vote and the motion passed.

Guest Speaker Presentation: President Cornell introduced Dave Udy, chair of the Gerrish/Lyon Utility Authority (GLUA). Dave Udy thanked the HLPOA for the opportunity to speak at today's meeting. Mr. Udy added that if any questions are not answered today, he can be contacted by phone or email.

Mr. Udy said over the last few months, we have been progressing toward approval of the Higgins Lake public sewer community project, by speaking to our legislators and lobbyists, and by listening to residents at public meetings. First, we needed the GLUA to submit a special assessment district, which was completed in June of 2022. Both township boards accepted it, allowing us to apply to EGLE for a 115-million-dollar loan. Second, another resolution was then passed, that said we would not move forward without sufficient funding. What we can do now is to attend the July 25th public hearing, which is at 7:00 P.M. at the Gerrish township hall. Residents are invited to make public comments. A second public hearing will then be scheduled after the November elections, probably in December or January. Mr. Udy said while we understand what is happening on the lake, the main question is what it will cost, which we will not know until December or January. Mr. Udy then acknowledged his wife, thanking her for her support over the past five years. The floor was then opened for questions:

1. Carl Schiller asked of a guess-estimate of the sewer costs.

Mr. Udy stated that the 115-million-dollar cost was the estimate from the engineering firm, Fleis & Vanderbrink. Residents will be alerted to their cost whether they own a home, an empty lot, or a business. Again, no bills will be moved through the legislation until after the November elections.

2. Dan Alderman asked of the amount to be funded.

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Mr. Udy replied that several ideas about that were discussed, and they asked for the entire amount, 115 million dollars. This is Higgins Lake, a jewel in Michigan. We have a 10,000-acre lake with 2 state parks and road-ends. The DNR estimates they launch 1,000 boats on the lake on peak days. This is a state-owned lake, and it is up to the state to protect it. Most of the legislators understand the problem.

3. Charlotte Mlot asked if we are going to be required to get new septic tanks?

Mr. Udy said with the S.T.E.P program, everyone will get a new septic tank, either in the same place or in a new area.

4. Calvin Phillips asked what is the purpose of the July 25th meeting?

Mr. Udy answered that the purpose of the July 25th public hearing is to allow residents to make comments about the program and hopefully, reveal new information. It is not a question & answer meeting. Residents can expand on whether they are in favor or opposed.

5. Glenn Fausz asked will the system take solids and where will the liquids be disposed? Mr. Fausz added that at the GLUA meeting, it was stated that the system will take solids.

Mr. Udy replied that the system will remove effluent via system pumps and pipes and solids by pumping individual tanks on a timely basis. Multiple systems were examined over the last 4 years. The septic tank effluent pump (S.T.E.P.) uses a watertight tank, where only effluent is pumped and every 3 to 5 years the tank will be pumped. Mr. Udy added that when the liquids are removed, they will go to a waste-water treatment plant where they will be processed.

6. Glenn Gelderbloom said we are the headwaters here of the Muskegon River Watershed that runs 250 miles out to Lake Michigan. Will this take water out of our system?

Mr. Udy replied that yes, we are the headwaters, and we will not be taking water away from the Muskegon Watershed.

7. Rick Goedert asked how do you arrive at a no-go?

Mr. Udy said it is based on the amount of the grant funding and the townships.

8. Bruce Cornett stated there are signs around the area for a grass roots effort to reject the sewers by stopping and signing a petition. Is there an effort to gather signatures in support, other than just mailing the petitions to everyone?

Mr. Udy replied that petitions are on both the HLPOA and HLF websites.

9. A member asked about the results of the petition support.

Mr. Udy said he has no knowledge of the number of petitions submitted. After July 25th, a clerk will examine and total the petitions for and against the sewer project.

10. John Allaban asked can you touch on the current petition support process and the importance of it seeing this project be approved?

Mr. Udy answered that residents can help support the process by petition.

11. Glenn Fausz stated for your information, some of the irritation about the S.T.E.P. system and some who oppose it, is people feel it is genuinely not a sewer system.

Mr. Udy replied they have investigated hundreds of S.T.E.P. systems in North America and Canada. It is a hybrid sewer system and while it does not collect solids, it does not allow those nutrients to go into the lake. In 2017 – 2018, a complete sewer system was examined, which would require trenching. The biggest problem was that residents did not want that happening to their property. Also, the cost was estimated at 185 – 190 million dollars.

Members Val Doane, Jeff Novak, and Gary Wolf thanked Mr. Udy for this helpful information.

Dave Udy concluded by stating this has been a very unique journey for him, as he has been coming here all his life. He loves Higgins Lake for all the outdoor activities. Back in 2017, Mr. Udy met with a Lyon township supervisor about getting both townships together to discuss a sewer system. While many thought this would not happen, they got the supervisor's approval, and it has progressed from there. Is it a perfect system? Probably not, but people understand what is at stake for over the next 100 years. Mr. Udy added that it will eliminate the septic seepage problem on our lake. It is up to the residents to take it over the finish line, as the townships and

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GLUA have taken it as far as it can go. Thank you for your support! President Cornell thanked Dave Udy and then introduced Bruce Carleton for the Treasurer's report.

Treasurer's Report: Treasurer Bruce Carleton also thanked Mr. Udy for the great presentation, stating we are fortunate to have had him leading the sewer initiative and to have him as a guest speaker today.

Mr. Carleton spoke of our accounting procedures and started by explaining the budget process, then how our internal monthly financial reports are prepared and reviewed at our monthly Board meetings, and finally how quarterly reports are posted on our website. Externally, we utilize the Croskey Lanni CPA firm who was hired four years ago. Croskey Lanni prepared our 2021 review, where we again passed with no exceptions. We continue to be pleased with the quality and service level of Croskey Lanni. Mr. Carleton then commented on these items from our 2021 Review Statement:

- On the Statement of Activities, membership dues continue to be our #1 form of income at \$53,000.00, followed by donations to both the restricted and unrestricted funds at \$35,000.00, then directory advertisers at \$8,000.00. On the expense side, our biggest expenditure for the year was the \$24,000.00 spent in the environmental category including the lake water analysis, with \$10,000.00 spent on the Dewey Road culvert project that opened the creek to spawning fish again. This year, Restorative Lake Sciences (RLS) will conduct another lake study, where it will be compared to the base study conducted in 2019, at a cost of \$19,000.00. Regarding legal issues, \$10,000.00 was spent on the successful litigation to limit the AMVETS marina and we also spent \$9,000.00 on lobbying efforts. The lobbying expense will rise significantly for 2022 where our new firm, Scofes & Associates, is actively engaged in seeking public funding for the sewer project.
- In regard to our Statement of Financial Conditions, our net worth was \$89,000.00 for the year ending 2021 vs. our net worth of \$17,000.00 in 2017, so our financial condition has shown a significant increase in strength over the past four years.

Mr. Carleton thanked members for their support, adding that he hopes our transparency, and sound financial condition gives them confidence to maintain their support of the HLPOA. Mrs. Cornell then introduced member and HLPOA attorney Bill Carey, who will address legal issues via ZOOM.

Legal Report: Bill Carey --appearing via Zoom--thanked President Cornell and the HLPOA Board for inviting him to speak at today's meeting.

Mr. Carey discussed three legal matters. In each case, the HLPOA has been directly or indirectly involved. First, Mr. Carey reported on the successful conclusion to the AMVETS litigation. The litigation with AMVETS was commenced due to AMVETS initiating a commercial operation in a single-residence zoned area. New commercial operations by the AMVETS included operating a 32+ multi-family marina and hosting wedding receptions and other large social gatherings. In the lawsuit HLPOA argued that the brand-new marina was a new activity was not a legal nonconforming use under the Lyon Township Zoning Ordinance. Judge Bennett agreed that the operation violated the zoning ordinance. After negotiations, a consent judgment and AMVETS reduced the marina to allow for ten boats by 2024. Similarly, the consent judgment limited the hosting of wedding receptions and other social gatherings to two a year. Further the gatherings are required to held inside the lodge. Bill Carey and Dane Carey (Kuhn Rogers PLC of Traverse City) were co-counsel for HLPOA in this matter. Mr. Carey next spoke of the important affiliation HLPOA has with the Michigan Waterfront Alliance (MWA). Charlene Cornell, Bill Carey, and his son, Dane Carey are MWA members. Earlier this year MWA, by and through counsel, Dane Carey, filed an amicus brief with the Michigan Supreme Court supporting plaintiff/appellants that had challenged the issuance of a boat ramp construction permit at Eagle Lake. Eagle Lake POA sued EGLE in circuit unsuccessfully. Likewise, the POA was unsuccessful in the Michigan Court of Appeals. The State of Michigan had successfully argued in both lower courts that EGLE cannot be sued by a 3rd party based on an allegation that a permit should not be issued. and it is currently before the Supreme Court. MWA's amicus brief asserted that EGLE was not immune from such a challenge. Ultimately, the Eagle Lake POA was unsuccessful in its Supreme Court case. However, the Supreme Court was clear that the challenge to the issuance of a permit was a lawful claim and might have been successful with different fact. The Supreme Court's recognition of a

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private individual or group having the right to challenge the issuance of a permit is a huge step forward for environmental groups throughout the State.

Lastly, Mr. Carey reported that MWA, and by extension, the HLPOA, is supporting the North Lake Leelanau POA regarding an easement expansion proposed at that lake. In that matter, certain individuals purchased an easement with the intention of operating a 20-boat marina facility. EGLE presented an enforcement letter to cease & desist, as the marina group was operating without a permit. MWA joined this cause lobby EGLE to follow-through with a second step of enforcement.

The floor was then opened for questions:

1. Bob Holmes is concerned with the lake level, as it is the lowest it has been at Higgins Lake. Is there a legal Lake limit?

Mr. Carey thanked Bob for this question because the question served as a reminder to mention that the lake level case has been returned to the 34th Circuit Court (Roscommon) from the Michigan Court of Appeals. In this matter, lake residents sued the Roscommon County Board of Commissioners, based upon an alleged failure by the Board to properly maintain the lake level. The lawsuit was based upon the existing court order requiring a legal lake level for both summer and winter. The residents said that by the failure to maintaining the lake levels, the commissioners had breached their responsibilities. Judge Bennett heard the case 1 year ago and the case was dismissed. The Court of Appeals has returned the case to the trial court for further review. A new court date has not yet been set. Mr. Carey speculated that the date will be in early 2023, adding that the Higgins Lake Land Conservancy may again intervene to protect the Cut River Dam from possible removal.

2. John Hamilton asked has anyone noticed activity on short-term rentals? There are some in my neighborhood. Mr. Carey remarked that STRs are the hottest real estate topic throughout Michigan. Preemptive state regulations are unlikely. Different jurisdictions have different approaches. "To regulate, not ban", is one approach. Mr. Carey stated that he receives one inquiry per week regarding the topic. On Higgins Lake at least one lawsuit is pending.

Bill Carey thanked everyone for the continued opportunity to represent the HLPOA on its legal matters.

Riparian Report: Riparian Committee Chair, John Ogren, stated he will give a summary of what the committee has been involved with over the past year.

Mr. Ogren said the committee continues to meet with local law enforcement officials before Memorial Day and after Labor Day for advice and to discuss member issues. Some of the issues addressed are the Marine Patrol schedule and their needs, road-end abuses including overnight mooring, and township plans for short-term rentals.

Mr. Ogren reported that funds have been given to the Marine Patrol for additional hours and for equipment. Regarding illegal mooring, Public Act 56 road-end warning signs and boat tags were purchased with HLPOA funds and member donations. The police identified locations for the signs, based on previous complaint experience and supervised the installment of these signs. More locations have recently been selected. The boat tags are in routine use by the Marine Patrol, the Sheriff's Department, and Gerrish township for notification for boats where owners are not present. Regarding short-term rentals, we are in limbo as there has not been any legislation in Lansing, putting us in a "wait and see" posture.

Mr. Ogren said they also meet with the HLF and local DNR representatives, to try to improve the Aquatic Invasive Species (AIS) risk at the three DNR boat access sites on the lake. However, he does not feel there has been much progress. The DNR believes they do more at Higgins Lake than at any other inland lake in the state. While boat wash equipment is installed at all three sites, it is used way too seldom to be effective in preventing other invasives from entering the lake. Inspection by the DNR of boats entering the lake is the solution that is needed. There are four invasives in the lake: Eurasian water milfoil, starry stonewort, and zebra and quagga mussels. Once in the lake, they are all but impossible to eradicate and very expensive to control. The DNR uses a chemical treatment at all three locations to control Eurasian water milfoil and a DASH boat in the lagoon to harvest starry stonewort. The HLF had their DASH boat working 42 days last summer in the open waters and harvested 400 "onion bags" of invasives and they are back at it again this year, for the 8th consecutive year. Mr. Ogren thanked the HLF, adding he does not know where we would be without them!

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Finally, Chair Ogren said we are conducting a follow-up study with RLS this year, for a comparison to our 2019 base case study. The study will tell us whether enough is being done to control invasives. He added that the study will be posted on our website and hopes that the HLF, DNR, and EGLE will be interested. John Ogren then introduced Fred Swinehart.

Environmental Committee: Environmental Chair, Fred Swinehart, thanked John and then listed who the members are on the Riparian Committee: Board members Fred Swinehart, Wayne Brooks, Curt DeVoe, John Ogren, and Herb Weatherly. At-large members: John Blizzard, Melanie Brown, Kevin Kessler, and Richard Larobardiere. Mr. Swinehart then thanked local organizations that assisted in environmental projects: Higgins Lake Foundation, Higgins Lake Land Conservancy, Big Creek Lane Association, Roscommon County Community Foundation, Huron Pines, and the Walter Family Foundation. Last, Mr. Swinehart thanked the HLPOA members! Chair Swinehart stated that all the environmental information can be found on our website. There are both historical and current information provided. Regarding the lake level, Chair Swinehart acknowledged member Chuck Brick for his contributions and support of the lake level findings. Lake level information is listed in graph form, along with USGS data.

This year, Mr. Swinehart said that the culvert on Little Creek will be replaced soon. A macro-invertebrate study will be done at Big Creek and the Cut River to gather more data.

In summary, Mr. Swinehart said that scientific efforts support removing the nutrient level on the lake and Mr. Udy gave the solution to this problem. Chair Swinehart also encouraged members to join the environmental committee. Greg Semack was then introduced.

Swimmer's Itch Report: HLSIO Chair, Greg Semack, informed us that there is a strain of avian flu that affects wild birds and commercial flocks. Permits for relocation of mergansers have been suspended in order to try and cut down transmission of this flu. Mr. Semack said that the HLSIO spoke to the DNR, asking to use Quaziprantel, a drug that kills parasites, to control merganser parasites this season on Higgins Lake, but the request was denied. Swimmers Itch cases thus far have been minimal, with four cases reported. Chair Semack also said that a snail infection rate study was done at Crystal Lake, and another study will be done at the end of the summer. The information may provide useful data as to the expansion of SI when birds are not allowed to be relocated.

Mr. Semack then stated that we were also unable to relocate Canada geese this season. HLSIO Board member John Ogren has been in charge of our goose relocation program in the past. John Ogren had our relocation contractor conduct egg and nest destruction, and 43 eggs were destroyed thus continuing our program of attempting control of the goose population.

Mr. Semack said that a Helisoma snail study was done in 2021. It found that this snail, which can cycle with Canada geese, largely does not create SI. Its' parasite does not invade human pores in anything close to the number typical of the stagnicola snail's parasite, which cycles with the common merganser. This study will be published in 2022.

This summer on Higgins Lake, a study will be done that tracks swimmers to see if they contract SI and if so, their location. The study is designed to determine if there are hot spots, along with ecological factors that may contribute to SI. Bob Holmes had asked about the status of SI and Greg said he hoped he answered his question.

Mr. Semack then notified everyone of the annual HLSIO fund-raiser, which is scheduled for August 18, 2022, at Jim and Laura Wilt's barn. The event will be catered by Fred's of Roscommon. Details will be on both the HLPOA and HLSIO websites. Bob McKellar was then introduced.

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Nomination and Election of Officers: Elections Committee Co-Chair, Bob McKellar, stated that three members should be on this committee, and with Co-Chair Herb Weatherly, one additional member is needed. Mr. McKellar encouraged members to apply to join.

Bob McKellar said the election of officers is very important for the health and welfare of the HLPOA. There are four officer positions, where the current officers (Charlene Cornell, Greg Semack, Bruce Carleton, and Herb Weatherly) have agreed to serve for another term. Co-Chair McKellar opened the floor for nominations. There being none, nominations were closed.

Next, Mr. McKellar said that there are four open spots for three-year terms for Board members, and bios were included in the annual meeting packet for Wayne Brooks, Bruce Carleton, Curt DeVoe, and Herb Weatherly. Co-Chair McKellar then asked for nominations from the floor. There being none, nominations were closed. Bob McKellar then stated that according to our bylaws, when there is 1 nomination per open position, there is not an election, and it is simply announced that the nominee shall assume that position.

Motion for Bylaws Change: President Cornell addressed the proposed bylaws change, stating it is limited in scope in that it concerns adding a compilation option for our annual review. This change would also reduce the review cost by \$1,000.00 annually, if a compilation is selected. Charlene Cornell then read the proposed change to Article IX, 9.3:

Prior to the beginning of each fiscal year, a committee of the Board of Directors shall estimate the income and ordinary expenses for the coming year, determine funds necessary to carry out Association activities for the same period, prepare a budget for the year and submit it for approval to the Board of Directors. At the end of each fiscal year, the Associations' financial report will be prepared for the Members. The Board of Directors shall retain an independent accountant or accounting firm to conduct an annual assessment of its' accounts and records and to prepare a report to include a statement of financial position, and the related statement of activities, expenses and cash flows for the year then ended. The Board of Directors, by majority vote, may at any time elect to have a limited scope or full audit, a review, or compilation performed by the independent accountant or accounting firm. The Members may, by a majority vote at the Annual Meeting or at a special meeting called for such purpose, require a limited scope or full audit be performed instead of a review or compilation and to prepare a report of such audit. Reports of audits, or reviews, or compilations will be made available to the membership.

President Cornell moved to approve this change, seconded by Kevin Kessler. The motion requires a 2/3 vote. A count was taken by members raising their voting cards, along with a count from those attending via ZOOM. Eighty-five percent of voters were in favor. Motion passed.

Announcements: President Cornell shared that Dr. Jennifer Jermalowicz-Jones, of Restorative Lake Sciences, was currently on the lake, beginning the 2022 lake study.

Mrs. Cornell also shared that there is an article in the summer issue of the Riparian Magazine highlighting the HLPOA-led program of working with the Roscommon Area Public High School's chemistry students and teachers to sample and analyze the near-shore waters of Higgins Lake throughout the summer. They are trained and supervised by professional water scientists at Raven Laboratory and are supported by water chemistry training in their school by their science teachers. Several other local benevolent organizations and individuals support the effort with generous financial contributions. The program is now entering its 5th year and has exposed many high school graduates with multiple years of hands-on scientific field work. The program's objective is primarily to expose students to possibilities for future careers in chemistry or other scientific endeavors.

President Cornell thanked all who participated in the Annual Meeting and for all the devotion and countless hours from the Board, members, and volunteers.

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Greg Semack then thanked Jeremy Lundy, of the Roscommon High School IT staff, for his work in having a successful hybrid meeting today!

Adjournment: President Cornell asked for a motion to adjourn the meeting. The motion was moved by Herb Weatherly, seconded by Bill Cornell. Motion passed. The meeting adjourned at 10:34 A.M.

Recording Secretary: Kathleen Barger, HLPOA Administrative Assistant