



President's Message

by Pat Springstead, HLPOA President

As your incoming president, be assured that my priority will be to continue the good work of Ken Dennings as well as his predecessor, Bob Frye, as we move into the future and the HLPOA continues its mission "to protect, preserve and enhance the quality of Higgins Lake and its watershed."

We celebrated the seventieth anniversary of the HLPOA at our annual meeting; we also bid an emotional and heartfelt farewell to Ken Dennings as he stepped down from his presidency to attend to family commitments.

Since our annual meeting, our Executive Secretary, Jane Case, has retired from her position, and our Executive Director, Bill Case, will retire soon. I would like to acknowledge the ten years of dedicated service they have given to our organization. Bill and Jane not only gave freely of their time but also of their home as HLPOA responsibilities grew. One example of their dedication was the summer Bill and Jane handled over 900 phone calls in their house on the swimmer's itch hotline! There is no way the HLPOA can thank them enough.

Currently the work of HLPOA runs the gamut from legal and legislative issues, to strategic planning and organizational restructuring, to protecting our lake environment. It is the mission of this board to inform you in a timely manner of the many important situations around our beautiful lake.

Road End and Legal Activity

This has been an extremely busy year for our attorneys, Bill Carey and Rich Jaskowski. In the past year alone, the HLPOA has spent nearly \$35,000 in legal fees, money we would much prefer to spend in other ways. Currently we have four different cases at the Appellate Court level.

In this issue's Legal Report and also in the minutes of the Annual Meeting, you will read about our efforts regarding boat ramps, signage at road ends, and the repeal

of a Lyon Township ordinance allowing boat hoists at road ends. Also, Townline, Kelly, Newman and Hoffman road ends have all been issued notices of violation by the DEQ for operating marinas.

It is a testament to the effectiveness of the HLPOA in the relentless pursuit of road end violations that fewer boats were observed at the road ends this summer in comparison to last year. There are, however, a few very serious exceptions: road ends in the Kelly Beach and Sovereign Park areas and at Bismark Rd. In August of 2005, Judge Baumgartner made a ruling that will give the HLPOA an enforcement tool to uphold the *Jacobs* ruling in the thirteen subdivisions that were previously litigated around Higgins Lake. The Judge ruled that, henceforth, when we present evidence of violations, he will apply sanctions. There will be hearings in front of Judge Baumgartner and Judge Thomas in November of this year.

It has been an exceptionally active legal period, and we greatly appreciate the generous contributions that members have made to the legal fund.

House Bill 4576-H3

This bill regarding use of road ends was recently sent back to committee. HLPOA lobbyists are working with the Republican leadership to get the bill out of committee and moved to a vote. The HLPOA will be working to introduce the bill in the Senate also. If we can get this bill passed, we will have the enforcement tool we need without having to go to court.

We are asking once again that you contact both your Representative and Senator to support House Bill 4576 - H3 without amendments. Our membership comes from many districts in the state; your call or e-mail representing your district is very important. Those who oppose this bill will also be calling and e-mailing, so please spend a few minutes on this priority. Ongoing news will be posted on our website www.HLPOA.org. Please visit this website once a week for current news.

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President's Message

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Gerrish Marina

Gerrish Township is seeking a grant from the DNR for a marina to be constructed at the site of the Higgins Lake Boatyard on the south end of Higgins Lake. The grant deadline was August 1, 2005, and as a result of the Township not having an updated recreational plan, the grant application has been delayed. They may reapply for the grant in the Spring of 2006. We will monitor this over the course of the winter and work to protect your riparian interests.

Water Quality and Millfoil Update

The HLPOA Environmental Committee continues the important work of testing the water of Higgins Lake, monitoring levels of dissolved oxygen, chlorophyll and phosphorous. The benthic barriers have been very successful; the lake bottom underneath the panels that overwintered is completely free of millfoil and actually showing a return of natural weed varieties. Rick Meeks is heading up the Environmental Committee and has spent countless hours working out on the lake. Look for his article in this issue.

Strategic Planning

Last January the HLPOA held a restructuring and strategic planning workshop. Results of the workshop were detailed in the Spring 2005 *WaterLines* and may be reviewed on the HLPOA website.

Goal Number One was to develop an organizational restructuring plan. What became very evident is the importance of the HLPOA having a space of its own. In the past, Ken Dennings, Bill Case and Stan Cooke ran all HLPOA business out of their homes, taking up an inordinate amount of time and space. This resulted in records, files, equipment and supplies of the HLPOA spread out in various locations.

The HLPOA has located an ideal office location at 207 Terrace in Roscommon. We are currently in the process of interviewing for an administrative assistant to replace the retiring Executive Director. This will relieve board members of the need and burden of using their personal residences for HLPOA business matters. The central office will combine all resources in one location and provide a place for members to come for information or resources. Look for Laurie Tudor Smith's article in this issue for more details.

The Higgins Lake Property Owners' Association has accepted the hard role of leadership in tackling the problem of enlightened lake management. For 70 years the HLPOA has been the primary force striving to preserve the beauty

and quality of Higgins Lake and its environment. I would like to thank all the past and present Board of Directors for their unselfish time and work as dedicated and uncompensated volunteers to protect, preserve and enhance the quality of Higgins Lake and its surrounding watershed. This board will work to maintain the same high standards that our previous boards have set.

Environmental Committee

by Rick Meeks, Chair

Water Quality Testing

HLPOA members were busy with water quality testing this summer. Volunteers donated their time and boats for this important project. This reinvolvement of HLPOA members in the water testing process is a continuation of our participation in the 31-year-old Michigan Lakes and Streams Association / Michigan Department of Environmental Quality Cooperative Lakes Monitoring program.

Tests were conducted every two weeks throughout this past summer. On each scheduled date some or all of the following measurement tests were conducted: Total Phosphorus, Chlorophyll, Clarity (Secchi Disk), and Dissolved Oxygen and Temperature. Water samples were frozen and, at the end of the summer, forwarded with the data collected to Lansing for analysis. Results were not yet available at press time, so we will report them in a future edition.

Eurasian Water Milfoil

An extensive survey of the milfoil in the lake was done in late August. In general the news is good as we seem to be holding our own in our fight against this invasive plant. The verdict is still out on the effectiveness of the milfoil-eating weevils. The results were less than hoped for when the weevil company diver took samples in early September. We are waiting for official lab results.

The 15'x15' bottom cloth panels, while labor intensive, seem to be doing the best job. Early in the summer of '04 we placed some panels at sites that contained a large patch of milfoil. At the end of '04 we moved those panels to an adjacent spot in the same patch. This summer when we visited the sites to move the panels, it was obvious that the portions of the patch first treated in '04 had not re-infested.

We are pleased and encouraged by the results with the panels. We will have a meeting in the spring to organize divers, boat captains and deck hands for the '06 season. If you would like to participate in this project, e-mail ROMeeks@hotmail.com and we will see that you are made aware of the time and place of the meeting.

Get involved in your association

by Kathryn Bangs, Recording Secretary

Do you have the desire to get involved in the protection of Higgins Lake? Do you want to get involved in your lake association? Are you willing to share your skills and expertise? We may have the answer for you. As part of our strategic planning and restructuring process, the HLPOA Board carefully considered a number of activities that will be carried out by formal committees of the HLPOA.

The Association's by-laws require that we continue to have an Audit Committee, and the Executive Committee, made up of board officers, will have the authority to make decisions in between regular board meetings. The board officers now have an expanded role in assisting the President in carrying out the mission and activities of the Association.

Our Legislative Committee has been active in working with our lobbyists and legislators in support of HB 4576. Other committees include By-laws, Finance, Legal and Nominating.

Two committees, Environmental and Public Relations, encompass a wide variety of activities. The Environmental Committee is chaired by Rick Meeks. He coordinates activities such as invasive species control, water quality, water/boating safety and noise, lake level, and pollution prevention and control. One of this committee's major activities is placement and maintenance of benthic barriers used to control the growth of Eurasian water milfoil. A number of member volunteers are certified scuba divers; others are needed to operate watercraft and perform other functions.

The Public Relations Committee, headed up by Laurie Smith Tudor, also is involved in a wide array of functions and activities. Laurie currently serves as the Association's webmaster, responsible for developing and maintaining the HLPOA website, www.hlpoa.org. Membership, Newsletter, Member Directory and Friend of Higgins Lake are all sub-committees of the PR Committee. We are always interested in better ways to keep our membership informed and to recruit new members; this newsletter, *WaterLines*, is published at least three times a year, and the Friend of Higgins Lake award is presented every year at the annual membership meeting. In the past, the Member Directory has been published every three years. Our goal is to publish this information every year.

We believe we can successfully do this once we establish a professional office with staff to develop a complete database of our members.

HLPOA would like to get more members involved in the work of these committees. We believe that there are many of you who have a wealth of skills to assist us. It's a great way to get to know your board and other members

and be involved in your lake association. Your help would be appreciated any time of the year. If interested in serving on any of the above committees, or on the Board of Directors in the future, please contact Kathryn Bangs at 989-821-9700. I will put you in touch with the appropriate board member or committee chair.

Memorial

The HLPOA gratefully acknowledges the following memorial contribution:

*In memory of James Sotiroff
by George and Evelyn Dinu*



Established
July 15, 1935

Water Lines is published by the
Higgins Lake Property Owners Association
P.O. Box 173, Higgins Lake, MI 48627.
*Dedicated to preserving the quality
and beauty of Higgins Lake.*

Visit HLPOA online at
www.hlpoa.org

Higgins Lake Property Owners' Association Board of Directors

President	Pat Springstead
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Treasurer	Stan Cooke
Exec. Director	William Case
Legal Counsel	William Carey
Members	Sue Balger
	Marvin Bolton
	Rick Meeks
	George Scofes
	Laurie Smith Tudor
	Ed Trautz
	Herb Weatherly

Higgins Lake Political Action Committee

by Brad Gibson, Chair

We, the Higgins Lake Political Action Committee (HLPAC), are beginning our plans to make a major impact in the upcoming election cycle. Looking back, we are proud of our accomplishments in our very brief history.

In the two years since the HLPOA was the first lake association in the state to form a PAC, the PAC organized its Board of Directors, filed all necessary paperwork with the state, created a PAC brochure, solicited donations, created and sent a list of questions to candidates, interviewed candidates, met and endorsed candidates, made donations to certain candidate committees, informed the membership of endorsements, helped get several of our endorsed candidates elected to office, and - according to our lobbyists - made HLPOA the recognized leader on riparian issues in the state.

Although it won't be until the summer of 2006 when we have the next set of primary elections, the HLPAC is continuing our work. We are utilizing our increased political capital with public officials at both the local and state level to encourage them to form public policies that match our interests. We are regularly communicating with office holders and working closely with our lobbyist to develop effective political strategies.

Specifically, we are spending a great deal of time working on making House Bill 4576 statutory law. At the local level, we are regularly meeting with township and county officials as the voice of the residents on Higgins Lake.

We are now gearing up for 2006. One of our tasks is the recruitment of candidates to run for office who are supportive of our positions. In addition, you will soon receive a request for financial donations to the HLPAC. Like it or not, the reality is that money is the life-blood of a political action committee. Even with our initial successes, we believe we are only scratching the surface of our political influence.

Therefore, when we solicit funds for the PAC, please consider making a generous donation. As members of the HLPOA you have always come through. Please help us advance our causes and help make the HLPAC an even more formidable political group.

We see the development of our PAC as a major tool in meeting the long-term mission of maintaining the health and beauty of our precious resource, Higgins Lake. With your continued support, our influence will continue to grow.

A Place of Our Own

by Laurie Smith Tudor

When the Higgins Lake Property Owners' Association formed in 1935, the population of Roscommon County was 2,861. According to the U.S. Census Bureau, by 2000 that number had grown to 25,469. Roscommon County is the 4th fastest growing county in Michigan, and the press of this rapid growth in population continues to underscore the importance of preserving the beauty and quality of Higgins Lake for future generations. No other organization has evidenced such a steadfast concern for the well-being of Higgins Lake with its relentless campaign on all fronts for the good of the Lake. The HLPOA stands alone.

With the rise in the number of people entering this area, the work of the HLPOA has increased drastically. During our strategic planning session, held last January, the need for an office space became very evident.

Our board is a volunteer board, and its members have not only contributed thousands upon thousands of hours of time and effort, but have also dedicated a rather large portion of their own personal residences to store HLPOA files and equipment, as well as meeting space to conduct HLPOA business. Since January, the Board has conducted research and visited other Lake Associations to see how they operate. Numerous meetings and discussions were held to consider all options and costs, and the decision was finally made to move forward and look for a location.

A central office space will improve communications, enhance the HLPOA's public image and accessibility as well as offer opportunities for increased education of Lake issues, both environmental and political. Board meetings currently held in members' private residences will now be held in a real Board room, with materials and equipment readily available. The files and papers currently scattered in various board members' homes will be brought to a central location. A library will showcase historical information, newsletters, minutes, etc. An administrative assistant will be available to answer phone calls and greet visitors, maintain database records and manage the office. Board members will be able to meet in private with members, private citizens, government officials, politicians, potential donors, etc.

As the HLPOA enters its 71st year, we are proud to announce a building has been located that is ideal for our purposes, and an "angel" has stepped forward to purchase the building and lease it back to the HLPOA.

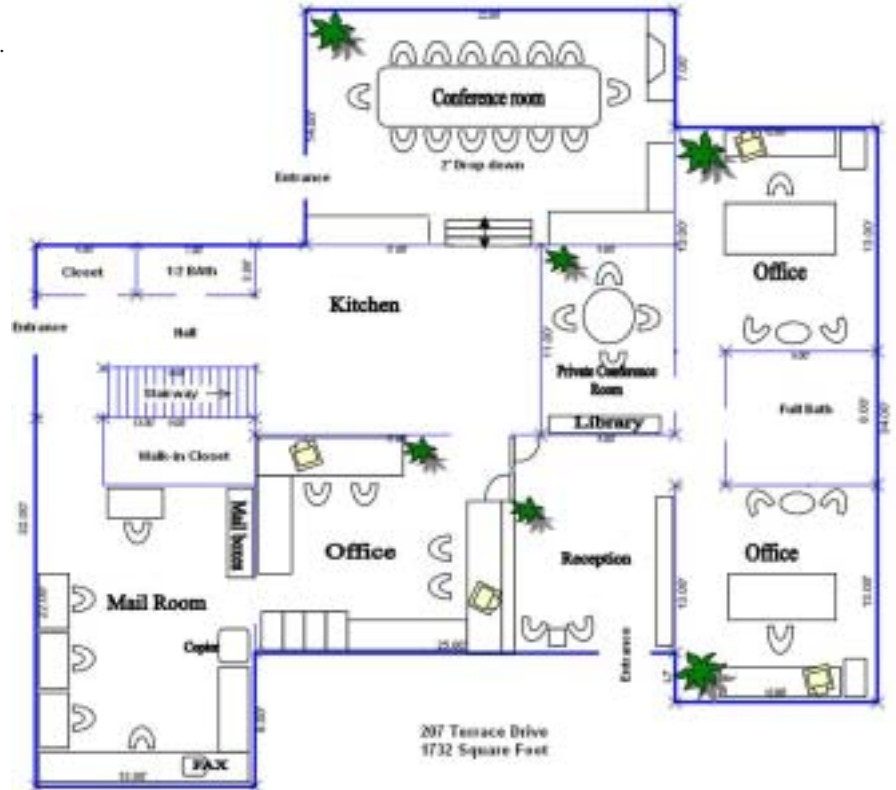
Our new office will be located at 207 Terrace Drive in Roscommon, across from the Post Office between M-18 and Terrace Drive. Although currently being used as a residence, this building previously contained office space. The building will be available for occupancy in November, and we will begin the task of moving into the new space and getting it organized in December. A letter was sent to

the members asking for support in the form of office furniture, equipment and financial contributions. The response has been terrific, and we would like to thank everyone who has so generously supported the new office fund. If you haven't made a contribution yet and would like to do so, please send it to the HLPOA, Box 173, Higgins Lake, MI 48627, and make a notation that it is for the "Office Fund."

In addition to the ad for an office assistant that appeared in the letter, we also placed ads in the *Roscommon Herald News* and *Houghton Lake Resorter*. The response to these ads was amazing, and several potential candidates were identified. A second round of interviews will take place in October, and selection will be made shortly thereafter. We look forward to your continued support as we move forward and will keep you posted on the opening of our new office space. Thank you.



Above: HLPOA's new office headquarters.



At right: A proposed office floor plan.



HLPOA Legal Update

by William L. Carey & Richard J. Jaskowski
Counsel to HLPOA

The HLPOA has been active in legal matters affecting the use of Higgins Lake and the riparian interests of its members. This legal report will summarize the legal activities of HLPOA during the 3rd quarter of 2005.

Lyon Township Ordinance 53

In 2004, the Lyon Township Board of Trustees enacted Ordinance 53. The ordinance, in pertinent part, allowed seasonal boat mooring at roadends if certain conditions were met.

Lyon Township filed a lawsuit asking the Circuit Court to validate Ordinance 53. HLPOA was a named defendant in the lawsuit. After being sued, HLPOA filed an extensive motion before the court outlining all of the legal and factual reasons why Ordinance 53 should be invalidated. Additionally, HLPOA filed five separate motions for contempt of court against Lyon Township. Ordinance 53 was found to be illegal and was struck down.

The court also found that the Lyon Township lawsuit lacked legal merit. Accordingly, the court sanctioned Lyon Township for filing a frivolous lawsuit. The trial court held the Lyon Township Board of Trustees in contempt of court. An appeal regarding Ordinance 53 and the finding of contempt is pending. HLPOA will vigorously defend the appeal and seek further cost sanctions for having to defend a frivolous appeal.

Sunseekers Funnel

HLPOA has been involved in a proceeding which is commonly referred to as the Sunseekers funnel. In Lyon Township (Shoppenagon's Lodge Subdivision) eight families purchased a 25' lakefront lot for the purpose of maintaining a marina. At various times the Sunseekers group maintained a dock of almost 200' in length with eight mooring sites. Sunseekers were advised repeatedly that they were operating a marina illegally, but they refused to cease and desist their operation.

Because Sunseekers would not cease their illegal operations, HLPOA and the riparian owner who adjoined the illegal operation brought suit. HLPOA and the adjoining riparian owner argued that the Sunseekers activity was a nuisance because it violated State law (operating a marina without a DEQ Operating Permit) and because it violated the Lyon Township zoning ordinance.

The Sunseekers case was presented at trial in the Roscommon County Circuit Court. Roscommon County Circuit Court Judge Michael J. Baumgartner ruled in favor of the HLPOA position on all counts. Sunseekers' members were ordered to stop their illegal activities so that the nuisance they had created would be abated. The court

ruled that their activities constituted operating a marina.

The court also ruled that their activities violated the Lyon Township zoning ordinance. The Sunseekers decision is now under appeal with the Michigan Court of Appeals. The courts have now precluded private funneling in both Lyon and Gerrish Townships. Important legal precedence has been set by these two cases which can now be relied on to protect the interests of riparian owners on the entire lakeshore.

Jacobs Enforcement

Summary disposition (early judgment) was entered in favor of HLPOA in the last pending enforcement action by Judge Baumgartner on August 1, 2005. Once again, the Circuit Court ruled that the scope of the dedication set forth in *Jacobs v Lyon Township* applied to the road ends in the pending lawsuit. Subsequent to the court granting summary disposition, certain defendants sought a rehearing of the Court's ruling which is scheduled for October 3, 2005. The defendants are seeking reversal of the order of summary disposition, asserting that their attorney never received a copy of the Motion for Summary Disposition. (The counsel for HLPOA served defense counsel with all documents, and the Circuit Court file reflects the exact date that the motion was mailed to the defendants' attorney.) It is anticipated that the defendants' motion for rehearing/reconsideration will be denied.

Oral argument concerning the defendants' appeals to the enforcement judgment entered by Judge Terrence Thomas (of Newaygo County, sitting in Roscommon County) is scheduled to be heard on October 6, 2005. It is anticipated that the Court of Appeals will issue a decision concerning the appeals approximately 30-45 days from the date of oral argument.

As a pending appeal does not prevent enforcement of a Circuit Court's order, HLPOA, through its counsel, is pursuing findings of contempt against those defendants who have continued to violate the scope of the dedication of various road ends even after judgment has been issued against them. Contempt hearing dates of November 8, 2005 (Judge Thomas' case) and November 22, 2005 (Judge Baumgartner's case) have been provided to HLPOA's counsel by the Roscommon County Circuit Court Clerk. Counsel is currently in the process of filing the necessary motions and serving the defendants for the upcoming hearing dates.

Sovereign Park Plat Amendment

A lawsuit seeking to change the dedication language of the plat of Sovereign Park is currently pending before Judge Michael Baumgartner in the Roscommon County Circuit Court. The purpose of the lawsuit is to have the judge rewrite the plat dedication language so as to allow for uses of the roads within the plat for boat mooring,

sunbathing, picnicking and lounging. The lawsuit tacitly recognizes that the rule of *Jacobs* precludes using the roads within the plat for boat mooring, sunbathing, picnicking and lounging. Now the plaintiffs in that lawsuit are asking the judge to change the language so that *Jacobs* cannot apply.

The plaintiffs have challenged Judge Baumgartner's qualifications to consider this matter. They argue that he is biased in favor of the front lot owners. The Michigan Court of Appeals is considering this issue now. This case will not move forward until Judge Baumgartner's position is decided. The riparian residents of the plat have filed a uniformed defense to the plat amendment action. There are not any court dates currently set, and discovery in the case is ongoing.

The plaintiffs in the Sovereign Park case have argued that while their case is pending they should not be subjected to enforcement rules on roadend use. In essence they argued that their lawsuit immunizes them from complying with current court decisions. Judge Thomas has held to the contrary. In very straight forward terms, Judge Thomas has advised the plaintiffs in the Sovereign Park case that, if they do not comply with the terms of the current Court of Appeals decisions, they will be subjecting themselves to his contempt powers.

Almeda Beach/Don M. Boulevard

Recently, the Higgins Lake Civic Association has initiated a lawsuit against the lakefront property owners living adjacent to Don M. Boulevard, a lakeside boulevard located in the Plat of Almeda Beach Subdivision, located just easterly of the Higgins Lake South State Park. In that case, the Higgins Lake Civic Association claims that the rights of its members to use Don M. Boulevard have been infringed upon by the lakefront property owners.

The Civic Association claims various encroachments on the boulevard, along with the way the front lot owners are using the boulevard, preclude, or make difficult, easy access for the Civic Association members. The Civic Association, in its lawsuit, also claims that the front lot owners have, from time to time, harassed the Civic Association members for using Don M. Boulevard. Most importantly, the Civic Association, in its lawsuit, claims that the public has the right to picnic, lounge, sunbathe, and enter Higgins Lake from Don M. Boulevard.

The front lot owners sued in this litigation have answered the lawsuit. In that lawsuit, the front lot owners deny any acts of harassment or illegal encroachments. The front lot owners further note, in their defense of this lawsuit, that the boulevard is under the jurisdiction of the Roscommon County Road Commission. The Roscommon County Road Commission has not voiced any objection to the manner in which the front lot owners have used Don M. Boulevard. Finally, the front lot owners, collectively, deny

that the public has a right to picnic, sunbathe, and lounge on Don M. Boulevard. This matter is in the early stages of pretrial discovery. A trial date in this matter is anticipated some time in mid 2006.

Roscommon County Road Commission vs Steven Shy

In a recently filed action, the Roscommon County Road Commission has sued a front lot owner whose land is adjacent to Sam-O-Set Boulevard in Lyon Township. Sam-O-Set Boulevard is a developed roadway running along the lakeshore. Steven Shy, the lot owner who has been sued, is using the land between the developed roadway and the water's edge to maintain an historical lakeside deck and docking area. The Road Commission claims that it has the right to remove private structures all the way to the water's edge, despite the fact that it is not using that land to maintain Sam-O-Set Boulevard. The defendant, Steven Shy, claims a lawful right to use any portion of the boulevard which is not being maintained by the Road Commission as a public way. This matter is still in the very early stages of pretrial development. A trial date is anticipated in late 2006.

Townline Road Boat Ramp

Earlier legal reports have referenced this matter. In the Fall of 2004, Lyon Township installed a boat ramp on Townline Road. Townline Road separates Gerrish and Lyon Townships. The ramp is located on the south shore of Higgins Lake, in the area of Lyon Manor.

After the installation of the boat ramp, two separate lawsuits were initiated by HLPOA and the homeowners' associations of both subdivisions (Shoppenagon's Lodge and Huntington Shores) who are adjacent to the boat ramp. One lawsuit was filed as an administrative proceeding before the DEQ. The other lawsuit has been filed in the Roscommon County Circuit Court.

The proceeding before the DEQ sought to eliminate a proposed channel dredge from the foot of the ramp to the water. As a result of the contested case petition being filed, Lyon Township amended its permit request to eliminate any and all dredging to the lake bottom.

The Circuit Court case seeks to implement reasonable restrictions on the use of the ramp so that its use does not become a nuisance for the adjoining riparian property owners. Among other things, the lawsuit seeks to eliminate any boat mooring at that location. The lawsuit also seeks to implement reasonable hours of use and certain parking restrictions. It is anticipated that proceedings related to the Townline boat ramp will be concluded within the 2005 calendar year.

Kelly Beach Boat Ramp

Like the Townline boat ramp matter referred to above, a boat ramp has been installed at Kelly Beach in the

Michigan Central Park First Addition Subdivision. While HLPOA and the First Addition homeowners' association do not oppose the ramp, legal proceedings have been instituted by those groups to ensure reasonable controls on use. Action has also been commenced to ensure that no dredging will occur relative to ramp usage. Finally, HLPOA and the homeowners' association seek to eliminate all boat mooring at that site. A resolution of the Kelly Beach boat ramp matter is expected to be reached in 2006.

Conclusion

HLPOA and its homeowner association partners continue to work toward protection of the environmental quality of Higgins Lake. HLPOA and its subdivision partners also are working to ensure that all riparians on Higgins Lake enjoy their property and their associated riparian rights. HLPOA will be diligent and comprehensive in its efforts to protect the interest of Higgins Lake and its riparian members.

HIGGINS LAKE PROPERTY OWNERS' ASSOCIATION ANNUAL MEETING - JUNE 25, 2005 Roscommon High School

The 70th anniversary of the HLPOA was acknowledged with 145 registered attendees. The meeting was opened at 9:00 a.m. The officers and staff were introduced as follows: Pat Springstead, Brad Gibson, Stan Cooke, Ed Trautz, Ken Dennings, Kathryn Bangs, Eileen Starks, Rick Meeks, Stan Cooke, Laurie Tudor, Attorney Wm. Carey, Executive Director Wm. Case and Recording Secretary Jane Case.

A motion was made and carried to approve the minutes of the 2004 annual meeting. A motion was made and carried to accept the audit report.

Treasurer's Report - Stan Cooke: The income for 2004 was \$52,505 with a surplus of \$6,774. The budget for 2005 is the same except for two items: the lobbyist expense increased from \$5,000 to \$10,000 this year. The total budget will be \$51,865 for 2005. Motion made and carried to accept the Treasurer's report and approve the budget.

Dennings thanked the membership for their financial support of the signage at road ends and support for additional lobbyists and correspondence sent to our legislators to pass HB 4576.

Proposed By-laws Revision - Kathryn Bangs: The objectives in revising the by-laws were to get more participation and distribute the work among the board members and solicit help from the membership for different projects, looking at continuity in leadership on the board, and expanding the HLPOA membership. The executive committee members' role has been made more definitive in what they can and cannot do. This will allow them to act on short notice if needed. The membership will now include family members who can become dues-paying HLPOA members. The Mission Statement is now included. The

membership year of January through December has been better defined. Term limits for directors have been eliminated, but a removal clause has been added. Board powers have been defined, and officers will serve for three years. The budget is approved by the board in late fall.

With no questions coming from the floor, a motion to approve the by-law changes/amendments as proposed and distributed in the spring newsletter was made, seconded and carried.

Higgins Lake Green Belt Project - Darcia Little: Darcia works for the Huron Pines Resource Conservation & Development Council. A grant, which began last August and will end this summer, allows her to work on reducing pollutants into Higgins Lake. An EPA 319 program has funded this with additional funding from the Higgins Lake Foundation and the Roscommon County Community Foundation. The grant comes in three components as follows: Education program, updating the Watershed Management Plan, and implementing the recommendations within the plan. Applications were solicited for the Green Belt Project. Liz Wade and Vicki Springstead have organized a Naturalization Workshop for July 29.

Higgins Lake Foundation Report - Don Mick: The Foundation continues to help in the fight against Eurasian water milfoil and has funded two new grants recently. One is to assist the process of getting the Camp Curnalia water-treatment plant started. The million dollar federal grant is still there, but Lyon Twp. did not have money available to begin the process, but the Foundation board did vote to support that effort. The second one is a combination of volunteers and training to continue gathering data about water quality on Higgins Lake. No action has been taken on the eradication of zebra mussels, but their population is being monitored.

A resignation from Rob Morley has been received, and he was recognized for his many years of service.

Higgins Lake Awareness Day is August 6 and is the main event for fund raising.

Environmental Committee Report - Rick Meeks: HLPOA members have been involved with environmental-type projects for much of the organization's 70 year history. Lake water quality testing was being done in 1974 with Hugh Starks and his wife, Eileen, dropping a Secchi disk into Higgins Lake. Ned Wickes was also a pioneer in pursuit of a sewer system for Camp Curnalia in the American Legion area. Some current projects include maintaining legal water levels, establishing greenbelts, eradicating Eurasian-water milfoil and testing the water for E-coli bacteria. The following members were asked to stand in recognition of their help with these projects: Bob Anderson, Tony Barnard, Bob Blamer, Brian Carson, Don Correll, Greg Douglas, Wayne Hall, Jean Lawrence, Daniel O'Keefe, Cal Phillips, Paula Reusser, Art Schauer, Steve Shy, Cas Snabes, Vicki Springstead, Liz Wade, Eb and Ned Wickes, plus the active board members.

Recognition of Term-Limited Board Members - Ken Dennings: Eileen Starks became a member on the board in 1991. Rob Morley, who could not be present due to health reasons, has been on the board since 1984. Both received a plaque and a round of applause for their years of service to the HLPOA.

Nominating Committee - Brad Gibson: The Nominating Committee recommended Ed Trautz, Sue Balger, Herb Weatherly and George Scofes to fill the four vacant spots. As there were no additional nominations from the floor, the nominations were closed and a unanimous ballot cast for the nominees recommended.

Friend of Higgins Lake - Bill Case: The Friend of Higgins Lake award went to Kenneth T. Dennings. A plaque was presented to Ken for his years of work on the HLPOA board from 1998 to 2005. This met with a standing ovation and an acceptance speech from Ken. A summary of his lake life and its accomplishments was given by Bill Case. This, too, was met with a standing ovation.

PAC Report - Brad Gibson: The PAC was started under Ken's tenure in 2003 and action was taken in 2004. The membership's financial help is greatly appreciated.

Road End Legislation - Chris Kindsvatter: The Higgins Lake Civic Association has secured a large lobbying firm (GCSI) in Lansing to work against HB 4576-H3 (legislation to ban boats and hoists at public road ends). Representative Joel Sheltrown is opposing this bill. Right now the HLPOA is the enforcer of the *Jacobs* court decision making us file countless suits. If the state legislation goes through, then police would have to enforce that law. Kindsvatter stated that HLPOA's PAC Committee is recognized in Lansing.

Legal Report – William Carey: Wm. Carey praised the work Ken Dennings has done for the organization.

1) The first item of the legal report concerned the House bill and how the time spent enforcing the legal decisions that we obtained is an expensive and time-consuming proposition. If this work can be taken off of HLPOA's shoulders and put into the form of a state statute which would then be regulated by units of government, it would free up a lot of resources for this organization.

2) Lyon Twp., last fall, took it upon themselves to try to avoid the effects of the *Jacobs*' decisions by enacting a township ordinance #53 thinking they had some sort of constitutional right or authority to basically ignore the court's judgment. Earlier this year HLPOA challenged the ordinance in Circuit Court, and the Court was angered at the arrogance of the township in passing an ordinance that was directly contrary to what the courts had ruled and contrary to a court decision that the township itself had been involved in. The Circuit Court invalidated the ordinance and ordered the township to pay the legal fees HLPOA spent to have the ordinance stricken. In addition to that, the township was held in contempt for promulgating the ordinance.

3) In the Sovereign Park case, the plaintiffs want the judge to re-write the dedication language of the plat of Sovereign Park so that the use of the road ends can be expanded so that the non-riparian lot owners in Sovereign Park have rights to the road ends that are different and superior to the general public. This is another example of the creativity on the part of our opposition to try to avoid enforcement of the *Jacobs*' decision. It would be surprising if the court were to re-write the dedication. If the court were to do that, it would be changing the property rights of the parties who own lots in that subdivision, and the law is heavily against something like that occurring. There are strong feelings on the other side that rights have been taken away by the *Jacobs*' decision, and those parties are going to look to find ways to avoid enforcement of those decisions.

4) There was a question from the floor about Townline Road, a common boundary between Gerrish and Lyon Townships on the south side of Higgins Lake. It is a 66' wide roadway with the right-of-way being 33' respectively in each township. There was an application last year to place a boat ramp on the Lyon Twp. side. The scope of that process originally included the installation of a permanent cement pad at the end of the road but also a channel dredged 124' into the lake to accommodate boat launching at that site.

The HLPOA secured the services of an environmental expert who reported that the channel dredging would have a significant negative environmental impact on the lake. The channel dredging portion of the project was stricken and was not allowed by the DEQ. After the channel was

eliminated, the HLPOA has met with DEQ representatives and the petitioner of Lyon Twp. since November of last year trying to identify the other issues which are primarily use-related, letting the adjoining land owners have the quiet peace and enjoyment of their property. One of the conditions was that the marina dock on the Gerrish Twp. side of Townline Rd. be removed. It was removed last year at the request of Lyon Twp., but it reappeared again this spring, and we have made it clear that that marina dock must be removed. The DEQ has agreed to take the lead on enforcement on the removal of that dock and the hoists that are placed there now. Lyon Twp. and its legal counsel have agreed to work with Gerrish Twp. to seek the removal of that dock. So, in the end, what we will end up with at Townline Rd. will be the cement slab at the end of the road that will facilitate the launching of very small boats only. We have addressed other issues that protect the adjoining riparian owners which include parking, hours of use, and the delineation on the water itself of the areas of riparian interest.

5) A case pending for some time dealing with private funneling in Lyon Twp. is Sunseekers. Six owners of the 25' of frontage put up a 186' dock and six permanent mooring sites and two temporary mooring sites in that 25' space. The Sunseekers dock was similar to the Shady View dock which we successfully attacked and prevailed on last year and the year before. Earlier this spring the Sunseekers case did go to trial, and Judge Baumgartner did rule that the dock and marina were illegal. The judge did not allow for any of the members to moor boats at that site, and it was a bigger victory in that regard than we expected going in. I have been advised there is a claim of appeal to be filed in the Sunseekers case. We will continue to defend that appeal, but the Circuit Court has sent a very strong signal in both Gerrish and Lyon Twps. that not only is it going to pay close attention to funneling that occurs at road ends but on private property as well. The Circuit Court decision is bolstered by what happened in the Shady View case which was reviewed by the Court of Appeals and the Supreme Court.

6) In Higgins Lake Shores, a lakefront subdivision in Lyon Twp., litigation will be forthcoming to determine the scope of dedication. We will have had a clean sweep of all of the platted roads on Higgins Lake when that case is concluded.

A question and answer period followed Carey's report.

Signage at Road Ends - Richard Jaskowski: In 2003, two separate cases came down from the Michigan Court of Appeals in our favor. Those cases were titled *HLPOA vs. Gerrish*. Those cases basically affirmed the scope of the dedication which was found by the trial court in the 13 subdivisions surrounding Higgins Lake. Last year we used those cases in an enforcement action against numerous

individuals who continued to moor boats and conduct other activities at the road ends in violation of the scope of the dedication. In the early summer of 2004, motions were made by backlotter to disqualify Judge Baumgartner from that case. Judge Thomas was appointed to the case, and we filed a motion for summary disposition which was granted. In granting our motion he specifically directed questions to the townships and the road commission inquiring of them what they had done in the past to enforce the law of the land, whether they were willing to do anything in the future and, based on their responses, he granted our request to allow the posting of signs at various road ends around the lake indicating what the scope of the dedication was and indicating what the allowable uses were at those road ends.

Secondly, he made it clear that he would take violations of this order very seriously. That final order was entered in April. There were four separate claims of appeal to it, and those appeals are currently pending. However, appeals do not stay the ability to place signs at the road ends.

In other action, the Court of Appeals in the last year has revised its appellate procedure with respect to cases that are brought before them on the basis of a summary disposition motion. Now a summary disposition is granted on an expedited basis as opposed to the regular channel which can take two years or longer. So once these briefs are completed within the next four weeks, we hope that a decision will come down on a more expeditious basis. An appeal from the Roscommon County Road Commission contested our ability to place signs at road ends, and their counsel suggested in lieu of signs our organization might wish to publicize the ruling to the general public by other means such as public meetings or notices in the newspaper. In response to that I suggested that perhaps the Road Commission, in lieu of road signs, may wish to publish what the speed limit is or where to stop at road ways.

Basically, it has been a busy two years for us, and we have had good results lately. We are hopeful and confident that the Court of Appeals will affirm those decisions.

State of The Lake - HLPOA President Ken Dennings: As I conclude my fourth year as president and before I fade into the sunset, there are several HLPOA activities that warrant special attention.

Lake Environment: First and foremost is our lake environment. Extensive water-quality testing has been initiated this year through funding provided by the Higgins Lake Foundation.

Of equal importance to the lake environment are HLPOA's efforts to control the infestation of Eurasian water milfoil (EWM). Our "benthic barrier" eradication program is ongoing as we enter the third year of effort sanctioned by the DEQ. We've learned over the past two

years that the barrier must be down at least 45 days to destroy the EWM plants and then, because of the infestation of another invasive species, the Zebra Mussel, the barriers must be removed, dried and cleaned before reinstallation can occur.

I can't give enough praise to a small group of individual scuba divers and deck hands who have spent countless hours working on the benthic barrier project the past two summers. It is extremely labor intensive, and we currently have approximately 4,700 square feet of geo-textile fabric in place; that's 21 barriers, at three locations in the south basin. In the near future, we'll remove all the barriers for cleaning and relocation. So, if you're a certified scuba diver or could lend a hand above water with perhaps a pontoon available, we could use your help this season. Simply contact Rick Meeks or Bill Case and leave your name and phone number. We would be most grateful for the additional help.

Last summer a new weapon was added in our war against Eurasian water milfoil, the introduction of some 10,000 milfoil weevil eggs/larvae. Scuba divers planted milfoil weevil eggs/larvae in Eurasian water milfoil beds off B&B Marina in the north basin and directly off Flag Point in the northern portion of the south basin. The use of weevils is an expensive proposition, but with the help of the Higgins Lake Foundation, the Schroeder Foundation, the Roscommon County Community Foundation and matching funds from the Wege Foundation, we were able to raise the \$20,000 necessary to engage EnviroScience, Inc. from Stow, Ohio, and plant this biological control insect in Higgins Lake.

A November report prepared by EnviroScience staff from field observations last August and laboratory analysis of Eurasian water milfoil samples indicated a healthy population of weevils had been established and were beginning to control EWM at the two stocked sites. EnviroScience personnel are scheduled to return this August to assess the impact of the Ohio weevil transplants after some thirteen months residence in Michigan.

Unique Organization: You may not realize it, but the HLPOA is a unique organization due to the foresight of our predecessors to file as a 501C (4) non-profit organization instead of a 501C (3).

This simple distinction, a Section 4 instead of a Section 3 under IRS regulations, sets the HLPOA apart from the vast majority of lake associations in Michigan and allowed us, with approval of the membership, to create a Political Action Committee two years ago. We were successful in our political efforts last year.

Also HB 4576 was reported out of the House Committee on Urban and Local Government by an 8 to 3 vote. This is the direct result of the efforts by the HLPOA Board with cooperation of the Michigan Waterfront Alliance and the

Michigan Lakes & Streams Association and the tremendous support provided by the HLPOA membership when we've asked for help in contacting legislators to support HB 4576.

At this point, it's only appropriate to publicly recognize the extraordinary effort put forth by Pat Springstead, who is destined to become your next HLPOA President, and by our legal counsel William Carey. Pat spent countless hours and attended numerous meetings in Lansing with lobbyists and legislators pressing our position on HB 4576 prior to the committee vote.

William Carey appeared before the House Committee and presented in succinct, logical fashion, the historic legal principles under which he has successfully pursued road end litigation in the courts on behalf of riparians at Higgins Lake. It was through their efforts after more than four years that we were finally able to move this legislation out of committee.

Enforcement of Court Decisions: Earlier, legal counsel summarized the success we've had in recent circuit court decisions before incumbent Judge Michael Baumgartner and visiting Judge Terrence Thomas.

Lyon Township Ordinance #53 which would have allowed mooring of watercraft and placement of boat lifts at public road ends was declared invalid by Judge Baumgartner. The Lyon Township Board was also ordered to pay the legal expenses incurred by the HLPOA to defend against this flawed ordinance.

In another case, Judge Thomas ruled the HLPOA could erect signs providing Public Notice on conditions of use at all the road ends thus far adjudicated in the subdivisions surrounding Higgins Lake. The HLPOA has installed these non-intrusive 12" x 16" signs at nearly 70 road ends in the past couple of weeks. I might add this was in the absence of any cooperation from the Roscommon County Road Commission.

Unfortunately, there are still individuals who refuse to comply with the Public Notice and continue to violate the court rulings. They insist on mooring watercraft and placing hoists at selected public road ends in both Lyon and Gerrish Townships. The HLPOA is monitoring these sites on a weekly basis and will seek penalties against those who continue to ignore the law.

The Future: With the amendments to the by-laws approved, the election of new members to the Board of Directors and our Strategic Plan in place, we celebrate our 70th anniversary with confidence. The HLPOA will continue to "protect, preserve, and enhance the quality of Higgins Lake and its surrounding watershed" for future generations.

I'll conclude my remarks by taking this opportunity to personally thank the membership and the elected board of directors for your support. I especially want to express my sincere appreciation to Executive Director Bill Case,



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HLPOA Annual Meeting minutes, July 25, 2005 (Continued from page 11)

Recording Secretary Jane Case, and legal counsel William Carey and Richard Jaskowski for the tremendous service you've provided to the HLPOA organization during my term as president. It's been my pleasure to serve the riparians at Higgins Lake, and I will carry fond memories of my elective seven-year association with this organization.

I would remind everyone that the backbone of this volunteer organization is our membership, so please pick up a copy of our HLPOA brochure when you leave the meeting and give it to a neighbor, a relative or an acquaintance who is not currently a member of the HLPOA and encourage them to join.

Out-going President Ken Dennings received another standing ovation before the meeting was adjourned at 11:35 a.m.
Respectfully submitted: *Jane Case, Recording Secretary*

One-Stop Gift Shopping - a Membership in the HLPOA

This year solve the dilemma of holiday gift selection by giving a gift membership to the HLPOA. Our revised by-laws extend membership eligibility to members' extended family or any who share a financial interest in your Higgins Lake home. A gift membership is just \$50 and a great way to involve the next generation in our mission to "protect, enhance and preserve the quality of Higgins Lake." Return the form below with your check, and the recipient you have indicated will receive a special acknowledgment of your gift and their inclusion in one of the finest lake associations in the state.

Higgins Lake Property Owners' Association Gift Membership for 2006

Name(s) _____
(As to appear in Directory)

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Please check where you would like your Association mail sent:
 To Winter Address Year Around To Summer Address May 15 to Oct.15

Send with \$50 check made out to HLPOA to: **HLPOA • P.O. Box 173 • Higgins Lake, MI 48627-0173**