



President's Message

by Pat Springstead, HLPOA President

The last year has been an extraordinary one for our organization; we have had an incredibly busy year by any standard, even during the winter months. I am happy to say that many of the goals identified in our strategic plan have been accomplished. We continue to work on other goals and set new ones as we move forward. One very important step forward has been the change in the structure of the HLPOA.

The transition from a strong president and executive secretary to increased individual board member participation and responsibility, more active committees and an "official" staffed office is going smoothly. We have welcomed Pam Mills on board as our Administrative Assistant, and our office is up and running. Laurie Smith Tudor and Kathryn Bangs have been working with Pam to outfit the office and set up the new organizational system. I cannot tell you how lucky we are to have these two dedicated and professional ladies on our board. We have a target date of May 1 to have our office ready for company. Please note our new address, phone number and email address elsewhere in this publication.

This past year has been the busiest and most expensive legal year in our seventy-year history. The good news is for the first time the courts have fined and sanctioned road-end violators. Our attorneys, Bill Carey and Rich Jaskowski, give you the details in their legal review. We also had the expense of lobbyists for House Bill 4576H3 and the setting up of our permanent office. Fortunately, through the generosity of our members, we did finish the year with a positive cash flow.

Stan Cooke, our treasurer, has done his usual fabulous job of controlling our finances and keeping us in the black. I am happy to report that we have been able to keep our financial reserves at their previous levels. Stan is a beacon of prudence in how we spend our members' money. I cannot imagine an organization having a more dedicated

treasurer than Stan. We are also proud to have the best and most supportive members of any lake association in the state. Our membership at the end of 2005 was 778, and this year we have already received many new memberships as well.

Our new board members were "thrown to the wolves" having joined us in the most active of times. Having said that, they have acclimated to our organization and are becoming very proactive. Sue Balger is taking over the new members' welcoming packet, which is our first opportunity to make a good impression. George Scofes has been invaluable with his knowledge and advice on the politics of Lansing. Marv Bolton recently wrote letters to the editors of both papers regarding healthcare and budget issues in Lyon Township and their elected officials. Marv's letters spawned an additional article in the *Houghton Lake Resorter* which shined a bright light on the problem. This makes it more difficult for elected officials to put their own self interests ahead of the taxpayers of Lyon Township. We are also fortunate to have Herb Weatherly, Bill Case and Ed Trautz on the board, each one brings wisdom and historical perspective to our decision-making processes.

I want to take a second to tell everyone about how extremely hard Rick Meeks has been working. Rick has not only headed up the environmental team, but also is very active on many other issues. He is the lead person in working with the Roscommon County Road Commission on the placement of the road end signs. Rick has been working hard on improving the communications and working relationship with the RCRC. He also has been our liaison person on the Gerrish Township Lake Access committee.

Regarding lake access, Gerrish Township is moving ahead with plans to build a marina at the Higgins Lake Boat Yard property. To insure the marina venture will be financially successful, we are encouraging the township to
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President's Message

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continue to move forward with regulation of the road ends in compliance with the *Jacobs* court ruling.

This is in stark contrast to the Lyon Township board where a faction on their board is not willing to address the issue of road end regulation by following legal precedence, but is representing the interests of a minority group who do not represent the opinions of all the people of Lyon Township. The Gerrish Board should be commended for their effort to legally resolve lake access problems.

Brad Gibson is the chairperson of our Political Action Committee. During this political year, Brad's committee will be interviewing and evaluating the candidates who are running for both local and state offices. After a thorough evaluation, the committee will recommend to our members the candidates who best represent your riparian interests and deserve your vote. Speaking of the legislature, we continue to press the House of Representatives in Lansing to pass House Bill 4576H3 which would codify the *Jacobs* ruling into a state statute.

We will continue this battle for both Higgins Lake and riparians around the state of Michigan until we are successful. I can tell you we are the most active, respected and tenacious lake association working in Lansing for riparian interests.

There will be articles in *WaterLines* that will address these and other subjects in greater detail. Please read these informative articles and work with your neighbors to be an advocate for our beautiful lake. I look forward to working with all of you this year. Our board and members are just beginning to realize the potential of our ability to do great things for Higgins Lake. Please join us.

Donations of quality wooden furniture for the HLPOA office - such as a desk, credenza or shelving unit - would be very much appreciated. If you have an item (or would like to purchase one), contact Pam in our office. Any furniture we accept will be marked with a plaque acknowledging the donor(s).

Also, if you have a green thumb and are interested in helping us spruce up the place with landscaping materials or landscape work, please contact Pam at (989) 275-9181 and let her know.

Office Central

by Pam Mills, Administrative Assistant

Before I give you an update on the office, let me introduce myself. My name is Pam Mills. I retired from the University of Michigan-Flint where I worked as executive secretary to the Provost and Vice Chancellor for Academic Affairs for 22+ years. My husband retired from GM in 2001, so I followed suit that September, and we moved to Roscommon permanently in October 2001. We live on Federal Hwy. in Gerrish Township which makes us a neighbor of the HLPOA. We have an adult son who lives in Flint. My family and I have been vacationing in the Roscommon County area for about 25 years, and we loved it enough to make it our full-time residence.

Retirement is wonderful, but I needed a bit more structure to my schedule, so I sought part-time employment and was fortunate to have found the HLPOA. The Board has been welcoming, encouraging and supportive from the very beginning. Working is actually fun! Enough about me, let's talk about the office.

As promised in the Fall newsletter, the HLPOA office is open and operational. The past few months have been spent gathering files and furniture from various locations, some as far as northern Ohio. Our goal is to have all of the internal office space in place this spring. Other more long-term goals will be to maintain a complete database for use in monitoring memberships and directory information, creating and maintaining records for the HLPOA board and its several committees, and providing a source of information for the HLPOA members.

The HLPOA office was created to help you. If you need us, here's how to contact us:

Mailling address: P. O. Box 55, Roscommon, MI 48653

Office Location: 207 Terrace Drive, Roscommon

Phone: (989) 275-9181 Fax: (989) 275-9182

Email: hlpoa@charter.net

Thank you for the generous support you provide to enable this office to exist.



HLPOA's office headquarters

HLPOA update

by Kathryn Bangs, Recording Secretary

Please pay dues by June 30, 2006

A dues envelope is enclosed in this newsletter. According to the by-laws, the membership year begins in January and ends each December. Your dues should be paid before the Annual Meeting, this year scheduled for Saturday, July 15, 2006. Please fill out the member application completely, even if you are a current member, and mail it to our office. We are asking for email addresses so that we may contact you more quickly about important issues. Please print your email address and all information clearly. HLPOA is updating the member database to be used for various mailings and the Directory, so accuracy is very important.

Notice of Annual Membership Meeting

The Annual Meeting of the HLPOA Membership will be held this year on Saturday, July 15, 2006 at 9:00 a.m. at Roscommon High School Auditorium. Coffee and donuts are served at 8:30 a.m. The date was changed so that there is no conflict with the Art Festival held in Roscommon on the second Saturday of July. Please feel free to bring with you prospective HLPOA members and other guests. At the meeting, official Association business is conducted and a thorough update of legal and other lake issues is presented.

Subscribe to The Michigan Riparian Magazine

The Michigan Riparian is the only magazine devoted exclusively to the protection, preservation and improvement of Michigan waters and to the rights of riparian owners to enjoy their waterfront property. *The Michigan Riparian* magazine is published quarterly and is mailed to subscribers during February, May, August and November. Individual subscriptions are \$10 a year. The Publishing Office address is 124-1/2 N. Main St., Three Rivers, MI 49093. Their website is www.mi-riparian.org.

Member Directory to be published this year

Our new Administrative Assistant, Pam Mills, is currently compiling a database of member information which will be used to compile our revised HLPOA Directory, which should be complete by early summer. Our last Directory was published in 2003. Business sponsors are needed. If you know of a business, large or small, that may be interested in advertising in the Directory, please contact Pam at the office: (989) 275-9181.

Memorials

The HLPOA gratefully acknowledges the following memorial contributions:

*In memory of Mrs. Ethel Glore Farrel
by Bill & Jane Case*

*In memory of Mrs. Kathy McAhney
Anonymous*

*In memory of Richard Olivier
by Club Michigiggi, Inc.*

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



Established
July 15, 1935

Water Lines is published by the
Higgins Lake Property Owners' Association
P.O. Box 55, Roscommon, MI 48653.
*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 |
| Vice President | Brad Gibson |
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| Treasurer | Stan Cooke |
| Admin. Assistant | Pam Mills |
| Legal Counsel | William Carey |
| Members | Sue Balger Marvin Bolton William Case Rick Meeks George Scofes Laurie Smith Tudor Ed Trautz Herb Weatherly |

Environmental Committee

by Rick Meeks, Chair

CLMP report

HLPOA's involvement with the Cooperative Lakes Monitoring Program (CLMP) dates back to 1974. The CLMP is a cooperative effort between the Michigan Lakes & Streams Association (MLSA) and the Department of Environmental Quality (DEQ) to jointly recruit and train volunteers to take lake samples to determine water quality. All samples are sent to DEQ labs for analysis and, at least once a year, DEQ professionals visit each lake and join the local samplers for side-by-side testing to verify the accuracy of the testing procedures of the volunteers. The 2005 CLMP Annual Report has been released. The test results showed Higgins lake maintaining its pristine levels.

Of the 199 lakes participating in the Secchi disk transparency measurements, only one exceeded the clarity levels of Higgins Lake. All of the total phosphorus and chlorophyll readings for Higgins Lake were exceedingly low, with several even too low for quantification by the lab's testing equipment.

A copy of the report is available for review at the HLPOA office. Our thanks to all the volunteers for their time and the use of their boats during the many hours of testing this past summer. And our thanks to all our members for their efforts at keeping the lake clean so we can continue to get these type of readings.

Conservation Expo

The HLPOA joined more than 30 other organizations with our booth at the first Conservation Expo at the CRAF Center on March 25, 2006. It was an opportunity to inform the public of our continuing efforts to preserve, protect and enhance the lake. In addition to displaying some of our testing equipment, we had an interesting Power Point presentation showing the volunteers working on the water testing and Eurasian Milfoil eradication projects.

Summer 2006 season

We have already signed up for the water quality testing program for this summer and will also be moving our anti-Milfoil panels to new locations as soon as the water temperature permits. We will be contacting all of our past volunteers and are always looking for new additions to the list. If you have some time and interest in either of these projects, please leave your name and how you can be reached with Pam at the HLPOA office (989-275-9181).



HLPOA president Pat Springstead at the Conservation Expo held March 25 in Roscommon's CRAF Center

Higgins Lake Political Action Committee

by Brad Gibson, Chair

Your response to our first PAC donation request has been overwhelming. As of this writing the HLPAC has received over \$5,000 in donations. To those who have sent your check I say "thank you." To individuals who have not yet mailed your donation, know it is not too late. With your donation, please include the form from the pamphlet sent in the mail. The more funds we receive, the greater our influence among elected officials.

Our development of the PAC has enhanced our political voice throughout the state. We have much greater access to government officials now that we have established ourselves as the leading voice in riparian matters. Politicians now return our messages, have meetings with us, and even invite us to important functions. Politics is about relationships, and relationships are often created with donations.

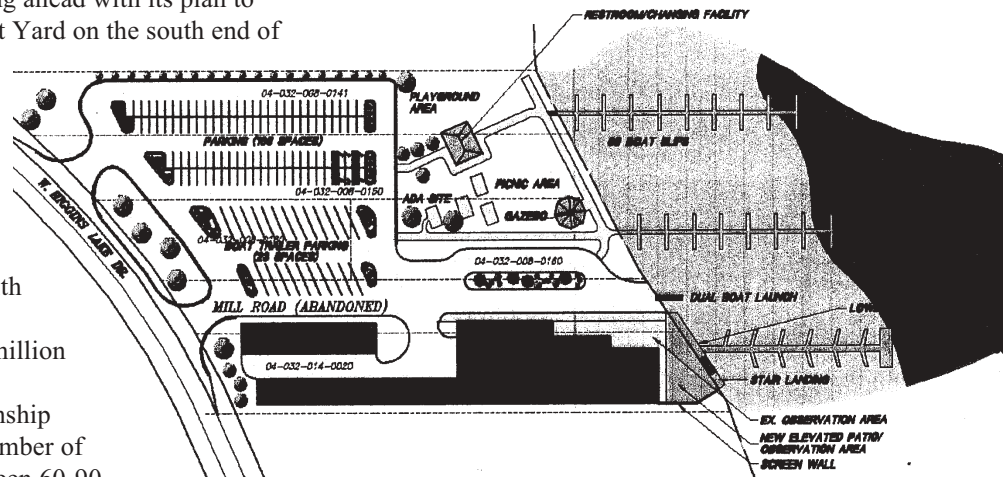
This year the HLPAC's focus is elections for the state legislature. These are the policy makers whose decisions will affect the quality of Higgins Lake for generations to come. In the coming months we will be busy screening and endorsing candidates for the state offices.

We will let you know of our recommendations prior to the primaries this summer and again before the general elections held in November. Once more, thank you for your continued support of the HLPAC. With your help, our political influence will only grow.

Township marina would provide more legal lake access

Gerrish Township is moving ahead with its plan to purchase the Higgins Lake Boat Yard on the south end of the lake for use as a township marina. The township board held a public hearing February 13 as a step in the process of applying for a Michigan Department of Natural Resources Waterways Trust Fund grant. The grant (with a 30-percent match from the township) would cover the \$4 million cost of the property.

According to Gerrish Township Supervisor Greg Gaylor, the number of permanent slips would be between 60-90, depending on the number allowed by the Department of Environmental Quality, with 22 temporary mooring spaces. Additionally, the concept plan calls for 106 standard parking spots and 23 boat trailer parking spots. Summer rack storage of boats will also be available. "It's more designed for our residents," Gaylor said, "for drop-and-go launching" rather than people launching their boats and parking there. Gerrish Township residents will pay a lower fee for the launch facilities than non-residents, perhaps half as much.



If funds for land acquisition are obtained from the DNR, the township's share would be \$1.2 million. Rebecca Ragan, Township Treasurer, assured those present at the hearing that the township would seek a revenue bond rather than a millage or special assessment to cover the cost and that the bond would be paid off with income from the marina. Results of the grant application will be announced in December.

State gives nod to American Legion sewer project

Lyon Township Supervisor, Paul Tatro, who has been working hard over the past few years to make the sewer project in the American Legion area (Camp Curnalia) a reality, recently reported on significant progress with the state of Michigan. The state has agreed to donate the needed 60 acres of state land, located in Beaver Creek Township between Old 27 and U.S. 127, for the construction of a sewer plant. This occurred with the assistance of Senators Michelle McManus and Tony Stamas.

The proposed plan is for the state to turn over the deed for the Camp Curnalia property to Lyon Township. Then it is proposed that Lyon Township would hold the lease for a period of 20 years with the newly-formed Camp Curnalia homeowners' association.

After that time, the residents in the Camp would take ownership of the property. During the lease period the residents in the Camp would pay a special assessment and additional operational fees for the sewer project. Beaver Creek Township and Crawford County would also be parties in the agreement.

Supervisor Tatro has secured funding from the state American Legion organization to pay legal expenses for drawing up the new lease agreement and new homeowners' association agreement. Previously, he secured grant money from the Higgins Lake Foundation to fund the research and application process.

There are currently over 400 residences in the Legion area. Years ago, when the land was donated to the Legion by the state, there were no regulations for the placement of septic systems or wells. In 2004, at the request of the Higgins Lake Advisory Committee and the county commissioners, a study was done which confirmed that the current system was approaching overload and subsequent danger to Higgins Lake and the surrounding environment.

Through the cooperation of local and state government, the Camp Curnalia residents, and the American Legion, this project has become a reality. Construction is expected to begin in early 2007 with completion at the end of that year. This project is a huge example of how we can all work together to preserve, protect and enhance our precious Higgins Lake.



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 1st quarter of 2006.

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 the 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. Sunseekers 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.

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 end in the pending lawsuit. Subsequent to the court granting summary disposition, certain defendants sought rehearing of the Court's ruling. The Motion for Rehearing was heard in October, 2005. The motion for rehearing/reconsideration was denied.

Oral argument concerning the defendants' appeals to the enforcement judgment entered by Judge Terrence Thomas (of Newaygo County, sitting in Roscommon County), was heard in October. The Court of Appeals issued a decision reaffirming Judge Thomas.

HLPOA 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 in November, 2005 have resulted in a number of individuals being fined and otherwise punished.

Townline Road Boat Ramp

In the Fall of 2004, Lyon Township installed a boat ramp on Townline Road. Townline Road separates Gerrish and Lyon Township. 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), which 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. The township, DEQ, the subdivision association, and HLPOA have reached an agreement in this case which prohibits dredging, limits hours of use, and eliminates parking problems. HLPOA is pleased with the outcome.

Kelly Beach Boat Ramp

Like the Townline boat ramp matter referred to above, the DEQ has issued a permit and 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 installation of 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.

The following three cases are of interest to HLPOA and its membership, but HLPOA is not a legal party to any of them.

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 Supreme Court 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

The Higgins Lake Civic Association has initiated a

lawsuit against the lakefront property owners living adjacent to Don M. Boulevard. Don M. Boulevard is a lakeside boulevard located in the plat of Almeda Beach Subdivision. Almeda Beach Subdivision is 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 Co. 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 as a public way by the Road Commission.

This matter is still in the very early stages of pretrial development. A trial date is anticipated in late 2006.

Conclusion

HLPOA and its homeowner association partners



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Legal report (Continued from page 7)

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.

Marine Patrol funds reinstated

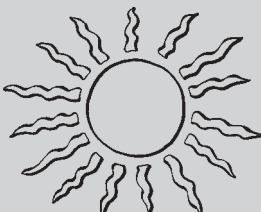
The HLPOA is pleased to inform you that funds for the Marine Safety Patrol have been reinstated into the Roscommon County Sheriff department's budget for this year. Thanks to all our members who contacted the county commissioners concerning this important matter, and thanks, too, to the sheriff department employees who agreed to a lesser pay rate for the patrol work.

Jacobs ruling to be enforced

The courts last fall have held people who violate the *Jacobs* ruling in contempt of court and fined and sanctioned them. If they would violate this year, they would probably go to jail. Riparians do not have to do anything besides reporting violators to our office, and the courts will take care of the rest.

Annual dues are overdue

If you haven't paid your HLPOA dues for 2006, please take the opportunity to return them in the envelope provided in this newsletter.





**HLPOA
Annual Membership Meeting**

**Saturday, July 15, 2006
9:00 a.m.**

**Roscommon High School
auditorium**

Coffee & donuts at 8:30 a.m.



Don't miss it!