

Water Lines

A publication of the Higgins Lake Property Owners' Association

Winter, 2003

President's Message



by Ken Dennings
HLPOA President

Road End Legislation

On December 3, 2002, Representative Mike Kowall was instrumental in the introduction of HB 6548 which mirrors the Jacob's court ruling and would finally establish a state law with regard to access at public roads

that terminate at the water's edge of inland lakes and streams within Michigan.

Unfortunately, the 2002 legislative session drew to a close before we could succeed in gaining a public hearing before the Conservation and Outdoor Recreation Committee in the House. However, supportive correspondence from HLPOA members, along with the many letters and e-mails from other concerned lake association members throughout Michigan, proved truly beneficial in focusing on "public road end access" as a state-wide issue, thus creating the momentum to reintroduce this legislation as soon as possible in the 2003 session.

A meeting has already been held in Lansing with our lobbying firm to quickly initiate such effort once the new legislature convenes. Again, it may be necessary to mount another letter writing campaign following introduction because of the significant number of newly elected House and Senate members taking office this session.

For your information, the road end legislation (as introduced in the Michigan House last December) is reprinted in this issue of *Water Lines* for future reference.

Eurasian Water Milfoil (EWM)

Following a joint meeting with the Department of Natural Resources Fisheries Division personnel and Huron Pines RC & D staff, the Michigan Department of Environ-

mental Quality (DEQ) gave formal approval to the HLPOA to allow installation of benthic (bottom) barrier in four separate locations in Higgins Lake on a pilot basis to control the spread of EWM.

(Continued on page 2)

News Alert

APPELLATE COURT DECISION January 17, 2003

Jacobs' Ruling Upheld in Nine Subdivisions!

Results:

1. HLPOA Standing confirmed in published Decision.
2. Jacobs' ruling upheld and applicable to all nine subdivisions.
3. Injunctive Relief available if future violations occur.
4. Claim for Adverse Possession at roadends denied.

The full text of the January 17, 2003 decision is available on the internet at the Michigan Court of Appeals home page by entering: **Michigan Court of Appeals**, click on **Resources**, click on **Court Opinion**, click on **Docket #**, enter **225419**, then click on **Search**.

President's Message

(Continued from page 1)

The meeting, which took place last October to resolve concerns and establish a specific project plan for control/eradication of EWM in Higgins Lake, was a coordinated effort on the part of all parties involved. However, it caused sufficient delay to prevent installation of the benthic barrier this fall (as we had hoped) because the water temperature had cooled such that it would make installation intolerable for our volunteers. As I write this column, Higgins has "iced over" for 2003. Plans are now underway to target installation this year at the four sites in late May or early June, depending on how quickly the lake warms following "ice out" this spring.

HLPOA Approves Political Action Committee (PAC)

The HLPOA has always been on the "cutting edge" of issues relating to the protection and preservation of Higgins Lake water quality and riparian rights. Our association is recognized state-wide by other lake associations as having assumed a leadership role through the utilization of available judicial and legislative processes to address lake issues and concerns whether it be invasive exotic species, marine safety, riparian rights or public access. Historically, the HLPOA has taken a strong position (admittedly, not always politically popular) to protect and preserve for future generations the quality of our watershed.

It's become very apparent in recent years to the HLPOA Board of Directors that very often issues and or disputes could have been resolved via the political process rather than through costly litigation. However, without direct involvement in framing and enforcement of local ordinances, or the drafting and passage of state and federal legislation, the judicial process has, in many cases, remained the only available avenue for resolve. When corrective action is within the confines of the political arena, very often a Political Action Committee (PAC) provides the opportunity for meaningful involvement.

The creation of a PAC as a voluntary, non-profit organization without political party affiliation, under applicable state and federal laws, will offer the means of providing financial support involving issues of vital concern as well as to candidates seeking local, state and federal elective office.

To my knowledge no other lake association in this state has formally established a PAC. So, again the HLPOA (founded in 1935) will accept that leadership role, and I'm convinced other lake associations will follow.

I anticipate by the time of our annual association meeting on July 12th the PAC Board of Directors will have been appointed, officers elected, bylaws adopted and organizational forms filed with the Bureau of Elections, Michigan Secretary of State and the Internal Revenue

Service. In short, we are preparing to play a more active political role in protecting and preserving our watershed through the formal establishment of a Political Action Committee in the coming months.

Obviously, I'll be counting on support and encouragement from our membership to make this effort a success. Full details on how you can participate will be forthcoming at our annual meeting.

Michigan Groundwater Stewardship Program

As a riparian owner, you may have asked yourself occasionally, "What are some things I can do to assure the water quality of my lake?" Well, there will be a new face popping in and out of the Crawford/Roscommon Conservation District throughout the upcoming year that would be more than happy to help you answer that question! Michelle Hill has joined the team as an AmeriCorps National Service Member working with the Michigan Groundwater Stewardship Program. Covering a four county area, which includes Roscommon, Missaukee, Osceola and Wexford, Michelle will be housed at the Missaukee Conservation District in Lake City.

You may be wondering, "What exactly is an AmeriCorps National Service Member anyway?" AmeriCorps is a network of national service programs that engage more than 50,000 Americans each year in intensive service to meet critical needs in education, public safety, health and the environment. The mission of the AmeriCorps program has four components: getting things done, strengthening communities, encouraging responsibility, and expanding opportunity. Members serve full- or part-time over a 10 to 12 month period. Full-time members receive an education award to pay for college, graduate school or to pay back student loans. A living stipend is also received along with health insurance, training and student loan deferment (to learn more see www.americorps.org).

A second question you may have might be, "What is the Michigan Groundwater Stewardship Program (MGSP)?" The MGSP is a cooperative effort between the Michigan Department of Agriculture, Michigan State University Extension, USDA Natural Resources Conservation Service, Michigan's Conservation Districts and AmeriCorps designed to help individuals reduce the risks of groundwater contamination associated with pesticide and fertilizer use including those containing phosphates which lead to the promotion of weed and algae growth in our lakes. Farm assessments and home assessments are available free of charge to property owners, and technical assistance, cost share items and educational demonstrations are provided by either the Groundwater Technician or AmeriCorps Member in the district.

Michelle comes to us with a background in biology and natural resources and nearly eight years of experience in environmental education, which will prove extremely beneficial in spreading the home assessment message for the MGSP. The Home Assessment System, or Home*A*Syst, consists of a booklet covering topics that every home owner or resident should understand including managing household trash, hazardous household products, stormwater management, septic systems, yard and garden care, drinking well water management and management of liquid fuels. Each chapter contains key points along with tables or worksheets of assessment questions to help you understand which risks apply to you and ways to reduce those risks.

Riparian owners have a special responsibility to prevent pollutants from entering the water. Since many activities on or around your property can affect water quality, you can significantly improve what happens along the shore of your property. The MGSP has also developed a Lake*A*Syst which is a supplement to the Home*A*Syst module listing some special water quality concerns for shoreline property owners and actions you can take to avoid contaminating surface and groundwater.

The MGSP is a non-regulatory program and the Home*A*Syst is completely confidential staying in your home once completed. If you are interested in a personal assessment of your home, a group presentation or simply more information in the form of brochures, please contact Michelle either by phone at 231-839-7193 or by email at michelle-hill@mi.nacdn.org.

Recording Secretary Needed

(This is a great opportunity to support your HLPOA)

The HLPOA is accepting applications for a part-time Recording Secretary. Duties include the recording & transcription of monthly board minutes, preparation & distribution of meeting materials, and performance of clerical support activities within the HLPOA.

A home internet connection and computer skills are essential for this position. Hours and compensation are negotiable.

If interested, please send your resume to
P.O. Box 173, Higgins Lake, MI 48627
or call
(989) 821-8880 for additional information.

Are you helping to protect your lake?

*by William Case,
HLPOA Executive Director*

2003 Membership Drive

The responsibility of protecting and improving the pristine beauty and pureness of Higgins Lake rests solely on the membership of the Higgins Lake Property Owners' Association. Without the finances generated by our membership dues and the environmental contributions through membership participation, the HLPOA would not be able to maintain a constant vigilance in order to address the many problems that surface in a lake as popular as ours.

Higgins Lake presently has some 1100 riparian properties bordering the lake's edge. This does not include the several hundred cottages that are located in various associations all having riparian rights. When totaled, there would be some 1400 to 1500 properties having legal use of the lake for mooring privileges. Of this number, nearly 800 families pay dues on a yearly basis, and approximately 250-300 of these families include extra funds beyond their dues to further help the HLPOA in response to environmental and legal concerns.

Unfortunately, in the past the remaining riparian property owners have chosen not to become members. And yet, fully one-third of the yearly 200 to 300 phone calls coming into the HLPOA office come from non-members wanting to know what action is taking place or is contemplated by the HLPOA for controlling this or that problem or emergency. We're extremely happy that they are concerned to the point that they will contact us with their concerns. We only wish that they were concerned enough to want to help rather than expect someone else to "carry the load."

We cannot say enough in praising those members who have given so much of their time, energy, and finances over the years to protect our beautiful lake. This is a love affair between nature and mankind, second to none. Almost everyone you ask who has property on Higgins Lake will tell you how much they love being here.

If that is true, perhaps it's time - if you haven't already - to show that love by taking a step in a positive direction and becoming a member of the Higgins Lake Property Owners' Association. You will find a green HLPOA dues envelope inside this 2003 winter newsletter. Please take time immediately to write your check, fill out the dues envelope information, add a little extra contribution (if you are so inclined) and mail your dues to become a member of one of the oldest, most prestigious, on the cutting-edge lake associations in the state of Michigan and the Midwest, the HLPOA.

Welcome aboard!

Aquatic Nuisance Control Update *(Representative Sheltroun gives a helping hand)*

In an effort to control the spread of aquatic nuisance species from the Great Lakes into Higgins Lake, the HLPOA, following the suggestion and recommendation of board member Pat Springstead and President Ken Dennings, sent letters to both Director Russell J. Harding, Michigan Department of Environmental Quality (MDEQ) and David K. Ladd, Director - Office of The Great Lakes, as well as K.L. Cool, Director of the Department of Natural Resources, recommending the establishment of a boat-washing pilot project at two of the public boat launch sites on Higgins Lake.

Representative Dale Sheltroun (D), representing the new 103rd legislative district which includes Roscommon County, also contacted Director Cool giving us his full backing for what he considered was an excellent means to slow the spread of invasive exotic species.

Following is a copy of the reply from Mr. David Ladd to President Dennings. Although the answer is not what was sought, we are hopeful that some type of action may be in the offing. We sincerely appreciate Rep. Sheltroun's positive involvement and formal support.

State Of Michigan
John Engler, Governor

Office Of The Great Lakes
David K. Ladd, Director

December 16, 2002

Mr. Ken Dennings, President
Higgins Lake Property Owners Association
P.O. Box 173
Higgins Lake, MI 48627-0173

Dear Mr. Dennings:

Thank you for your recent letters to Director Russell J. Harding, Michigan Department of Environmental Quality (MDEQ), and me regarding aquatic nuisance species. Director Harding has referred your letter to the Office of the Great Lakes (OGL) for a response.

Aquatic nuisance species (ANS) are the single greatest biological threat to the integrity of the Great Lakes ecosystem. Of course, this includes inland lakes and streams. In light of this, the OGL began the process of updating Michigan's ANS Management Plan (Plan). The Plan consists of several options and opportunities for Michigan to fight the introduction and spread of ANS. A copy of the Plan is attached for your review.

One of the leading recommendations of the new management plan is the creation of the Michigan Aquatic Nuisance Species Coordinating Council (Council). This fall, Governor Engler created the Council by Executive Order. The Council will be comprised of staff from state government agencies which deal with ANS issues - Environmental Quality, Natural Resources, Agriculture, and Transportation - and include four appointments from the general public. The purpose of the Council is to assist the OGL in implementing the Plan. Attached is a copy of the Executive Order.

Finally, your suggestion to conduct a boat-washing pilot project at the two public boat launch sites on Higgins Lake is excellent. Unfortunately, we do not have the financial resources to conduct an effective pilot project at this time. However, we are confident the newly created Council will make the spread of ANS to inland lakes and streams a top priority.

Thank you for your interest in this issue.

David K. Ladd
Director
517-335-4056

Attachments

cc: Mr. Russell J. Harding, Director, MDEQ
Mr. Thomas Hickson, Legislative Liaison, MDEQ

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HLPOA LEGAL UPDATE

*By William L. Carey
Counsel to HLPOA*

Legal matters concerning lake access to Higgins Lake continue to progress through the courts. Following is a summary of the pending litigation.

GERRISH TOWNSHIP LITIGATION

Shadyview

Litigation in this case concluded in the Roscommon County Circuit Court with Judge Michael J. Baumgartner ruling that certain activities of 20 families who had purchased a single lakefront lot should be permanently enjoined. Judge Baumgartner ruled that (at most) the owners of the private lakeside funnel could moor five boats at the site. An appeal of Judge Baumgartner's decision is pending in the Court of Appeals. All briefs have been filed and oral argument was heard by the Court of Appeals on January 14, 2003.

Consolidated Cases

A series of cases involving various lakefront lot subdivisions in Gerrish Township have been decided at the trial court level. The cases include subdivisions in Lyon Manor, Shoppenagons Lodge, Almeda Beach, Triangle Park, Old Point Comfort, Chicago Beach, Woodlawn, Almeda, Whittington, Sovereign Park, Honolulu Beach, Sylvan Beach, and Highland Park. In all of the cases the trial court has determined that the original developers of the plats did not intend for the road ends to be used as parks and mini-marinas.

The trial court has entered court orders which determine that road-end use does not include the right to moor boats, maintain hoists or wet anchors, sunbathe, picnic, or lounge. In the cases assigned to Judge Ronald Bergeron, the Court has declined to order the offending parties to remove their boats. Judge Bergeron has been quoted as stating that he believes the public will respect his order without the need for an injunction. Judge Bergeron's rulings are being appealed to the Court of Appeals. The decisions before Judge Michael Baumgartner have resulted in an injunction being issued against the offending parties.

Oral argument before the Michigan Court of Appeals was completed on August 6, 2002. At the time of compiling this update an opinion from the Court of Appeals had not yet been released. Every expectation is that an opinion will be released by the Court of Appeals before the commencement of the 2003 boating season.

Woodlawn

On December 21, 2001, Judge Ronald Bergeron heard testimony and arguments regarding the plat of Woodlawn Subdivision. HLPOA initiated the action. The objective in the Woodlawn case was to have the Court determine that the scope of the dedication of the plat did not include the mooring of boats at roadends or the use of the roadends for park-like purposes. A transcript of the trial court proceeding was received by all counsel of record on January 22, 2002. Closing arguments were submitted at the end of January. Judge Bergeron issued a written opinion in February, 2002. Judge Bergeron ruled consistent with his earlier decisions as reported on above. The matter is now on appeal. A hearing date before the Court of Appeals has not yet been set by that Court.

Michigan Central Park 1st Edition

Three separate cases involving Michigan Central Park Boulevard, Kelly Beach and roadends within Michigan Central Park 1st Addition have now been heard by Judge Bergeron. The testimony was lengthy and sometimes contentious. Judge Bergeron ordered all parties to submit written closing arguments by February 1, 2002. Closing arguments were timely submitted.

Judge Bergeron has ruled as follows: 1) The roads in the subdivision will not be used for boat mooring, sunbathing, lounging or picnics; 2) Michigan Central Park Boulevard is a public road under the jurisdiction of the road commission. No portion of the Boulevard will be vacated. The Boulevard may only be used as a road and not as a public beach. This includes the area of the Boulevard commonly referred to as "Kelly Beach"; 3) The lots adjacent to Michigan Central Park Boulevard are exclusively riparian; 4) All personal property previously stored on Michigan Central Park Boulevard must be removed by 6/15/02, but most permanent structures will be tolerated. The decision is now on appeal. A hearing date before the Court of Appeals has not yet been set by that Court.

LYON TOWNSHIP LITIGATION

Evergreen Park Subdivision

Like the consolidated cases reported on above, the uses to which the roadends within Evergreen Park Subdivision can be put by members of the general public is under review by the Michigan Court of Appeals. HLPOA seeks a Court of Appeals decision directing the issuance of an injunction against parties who seasonally moor their boats at roadends or use the roadends for park-like purposes.

(Continued on page 6)

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Paulsen v Lyon Township

In a case filed in late 2001, land owners within Struble's Addition to Michigan Central Park have filed a lawsuit seeking, among other things, to have the Court determine that the roadends within the subdivision may not be used for mini-marinas and recreational parks. This matter, in which the HLPOA is not a direct participant, was settled by consent judgment. Lyon Township and the Roscommon County Road Commission agreed to a judgment which precluded the roadends within Struble's Addition from being used in a manner inconsistent with the scope of the dedication. The roads within the subdivision may therefore, by Court order, not be used for sunbathing, picnicking, lounging, boat mooring and hoist maintenance.

Dixon/HLPOA v Lyon Township

In a new case filed by a private landowner and HLPOA, the Circuit Court is being asked to enjoin the inappropriate uses to which roadends have been put in Michigan Central Park 3rd Addition. In this particular case the lawsuit was filed after a non-lakefront property owners' association was organized and erected a 300 foot dock suitable for mooring 30 boats. Dock memberships were sold upon a promise that the shareholders could secure a private spot at the public dock. This case is expected to be heard by the Roscommon County Circuit Court on February 13, 2003.

Sunseekers

HLPOA and private land owners within Shoppenagons Lodge Subdivision have filed a suit in Circuit Court seeking to prevent the owners of a small lakefront lot from using it as a multi-family marina operation. The lot in question has 25 feet of lake frontage and is owned by eight families in a cooperative setting. The lot is zoned for single family use. This case is expected to be heard by the Roscommon County Circuit Court on February 4, 2003.

CONCLUSION:

Many of the cases that HLPOA has actively been involved in, or has otherwise monitored, appear to be coming to a conclusion in the 2003 court year. The finalization of these cases will bring HLPOA closer to satisfying its objective of protecting both its riparian membership and the environmental quality of Higgins Lake.

Respectfully submitted by:
William L. Carey
Legal Counsel for HLPOA

Higgins Lake Watershed Management Plan, HLPOA Leadership Responsibilities

September of 2002 brought about the culmination of the Higgins Lake Watershed Management Plan in print as accepted by the Michigan Department of Environmental Quality (MDEQ). During the last two to three years, a significant number of personnel within our lake community have spent considerable time attending meetings to discuss, define, write and rewrite goals and time-lines in order to bring about Non-point Source Pollution Reduction in the Higgins Lake watershed.

This considerable effort would not have been possible if it were not for the efforts of the chairperson of the Higgins Lake Advisory Committee, Trustee of the Higgins Lake Foundation and HLPOA member, Liz Wade. Ms. Wade got the ball rolling after attending a meeting in Gaylord back in the fall of 1999. Thanks to her efforts and the staff she put together, we now have a viable plan for controlling Non-point Source Pollution.

Of the thirty-five major goals and objectives established, the HLPOA has accepted the responsibility of taking the leadership role in five as well as assisting with another ten.

Following is a list of the goals and objectives within the Higgins Lake Watershed Management Plan that the HLPOA is responsible for and the association member who has accepted the leadership role, along with their home phone number. We encourage anyone wishing to volunteer assistance in the coming months to contact these chairmen directly at the phone number provided:

Goal 1. Reduce the amount of nutrients and contaminants from sources within the critical areas of the watershed.
Chairman Brad Gibson - 734-426-6163.

Goal 2. Initiate Eurasian Water milfoil management program.
Chairman Ken Dennings - 989-821-6711.

Goal 3. Work with riparian property owners to conduct yearly monitoring programs of aquatic nuisance species as needed (i.e. Zebra mussels, etc.).
Chairman Ed Trautz - 989-821-8117.

Goal 4. Update shoreline inventory as needed.
Chairman Rick Meeks - 989-821-7154.

Goal 5. Establish a boat-carrying capacity standard for Higgins Lake.
Chairman Bill Case - 989-821-8880

Remember: Our lake, our responsibility!

HOUSE BILL No. 6548

December 3, 2002, Introduced by Reps. Kowall, Bishop, Gosselin, Koetje, Pappageorge and Cassis and referred to the Committee on Conservation and Outdoor Recreation.

A bill to amend 1994 PA 451, entitled "Natural Resources and Environmental Protection Act," (MCL 324.101 to 324.90106) by adding section 30111a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:
SEC. 30111A.

(1) A PERSON SHALL NOT USE A DEDICATED PUBLIC ACCESS SITE EXCEPT AS PROVIDED IN THIS SECTION. UNLESS THE DEDICATION RECORDED WITH THE REGISTER OF DEEDS SPECIFICALLY PROVIDES FOR OTHER USES, A DEDICATION FOR PUBLIC ACCESS INCLUDES ONLY THE RIGHT OF INGRESS AND EGRESS AND DOES NOT INCLUDE USE OF THE PUBLIC ACCESS FOR ANY OF THE FOLLOWING:

(A) BOAT HOISTS.

(B) CONSTRUCTION OF DOCKS UNLESS THE PURPOSE OF THE DOCK IS TO AID IN THE PUBLIC ACCESS AND THE CONSTRUCTION OF THE DOCK IS AUTHORIZED BY THE OWNER OF THE RIPARIAN LAND ON WHICH THE PUBLIC ACCESS SITE IS LOCATED.

(C) PICNICKING, SUNBATHING, OR LOUNGING.

(2) IF A DOCK IS LOCATED AT A DEDICATED PUBLIC ACCESS SITE, THE OWNER OF THE RIPARIAN LAND ON WHICH THE PUBLIC ACCESS SITE IS LOCATED SHALL PLACE A SIGN AT THE DEDICATED PUBLIC ACCESS SITE THAT DESCRIBES THE ALLOWABLE USES OF THE PUBLIC ACCESS SITE AND DESCRIBES THE ACTIVITIES THAT ARE PROHIBITED AT THE PUBLIC ACCESS SITE.

(3) A PERSON SHALL NOT MOOR A VESSEL OVERNIGHT ON BOTTOMLAND DIRECTLY OFFSHORE FROM A DEDICATED PUBLIC ACCESS SITE.

(4) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR PUNISHABLE BY A FINE OF NOT MORE THAN \$500.00 FOR EACH DAY OF VIOLATION. A PEACE OFFICER MAY ISSUE AN APPEARANCE TICKET AS DESCRIBED AND AUTHORIZED BY SECTIONS 9C TO 9G OF CHAPTER IV OF THE CODE OF CRIMINAL PROCEDURE, 1927 PA 175, MCL 764.9C TO 764.9G, TO A PERSON WHO IS IN VIOLATION OF THIS SECTION.

(5) AS USED IN THIS SECTION, "DEDICATED PUBLIC ACCESS" MEANS PUBLIC ACCESS TO AN INLAND LAKE OR STREAM DEDICATED FOR USE BY THE PUBLIC BY A WRITTEN INSTRUMENT RECORDED WITH THE REGISTER OF DEEDS.

Use Of A Road End

In a recent letter to the editor of the *Houghton Lake Resorter*, Mr. Ed Trautz, Secretary of the HLPOA Board of Directors and Chairman of its Legal and Legislative Committee, went to great lengths to explain why the use of a road end culminating at an inland waterbody cannot be used for any purpose other than passage to the surface of that waterbody. Following is the entire content of Mr. Trautz's letter. In our opinion, it thoroughly explains in detail the letter of the law.

Editor:

In your 12/26/02 editorial critiquing Rep. Kowall's road-end bill you agree roadends should not be used for permanent mooring, and then you recommend the bill should be changed to allow roadends to be used as public parks for lounging, picnicking and sunbathing.

The reason Kowall's bill bans lounging, picnicking, sunbathing and permanent mooring is because, under Michigan law, once land is dedicated as a public road (including roads that terminate at inland navigable waters), no one, including the state legislature, has the power to use the land for any other purpose. This is explained in the following appellate court decisions:

"Except as appears below, if a dedication is made for a specific or defined purpose (for example, a public road) neither the legislature, a municipality or its successor, nor the general public has any power to use the property for any other purpose than the one designated, whether such use be public or private, and whether the dedication is a common law or statutory dedication; and this rule is not affected by the fact that the changed use may be advantageous to the public. This can only be done under the right of eminent domain." *Baldwin Manor, Inc. v Birmingham*, 430 Mich 430-1 (1954)

"Lands dedicated to the public as a highway are, by law, subject only to the use of the public as such. The fee (ownership of the land) remains in the owner of the adjacent property of which it was a part, subject to the public easement." *Kalkaska v Shell Oil Co.* 157 Mich App 233 (1986)

Briefly, these two decisions stand for the proposition that, if the state, county or a municipality wants to use roads terminating at inland navigable waters as public parks and/or as public marinas, the land over which the roads run must be condemned under the right of eminent domain and the adjacent property owners compensated its fair market value. *Peterman v DNR*, 446 Mich 177 (1994)

This is why Kowall's bill used *Jacobs v Lyon Township* as its model. The Jacobs court ruled that, unless the dedication of a public road terminating at inland navigable waters provides for other uses, the purpose of the road is to

provide access to the surface of the water and a nonexclusive dock may be installed at the end of the road to aid in access.

If enacted during the next session of the legislature, Kowall's bill will put an end to costly and time-consuming roadend litigation and end the threat of recall of township officials.

Edward A. Trautz

Letter writing tips:

Communicating with your legislators

- Make certain that your letter is timely — write when the legislation is pending in the legislature or before committee.
- Write your own legislators.
- Keep your letter short, clear and concise.
- Always ask for their position in a reply letter or phone call - no maybes - get yes or no.
- If possible, identify bills by title and number.
- Avoid threats. Be reasonable and constructive. State only the facts, not hear-say.
- State the reason for your position. Tell how the issue will affect you or its effect upon your community, state or general property.
- Use your own words on your own stationery.
- If you are pleased with your legislator's vote, write and tell him or her so.
- Send your HLPOA newsletters to legislators - let them know your positions through your membership communication.
- Send copies of your letters to Scofes, Kindsvatter & Associates, 416 W. Ionia, Lansing, MI 48933, so that we will have the benefit of your views.
- Use the proper form of address:

The Honorable John/Jane Doe
Michigan State Senate
State Capitol, P.O. Box 30036
Lansing, MI 48909

The Honorable John/Jane Doe
Michigan House of Representatives
State Capitol, P.O. Box 30014
Lansing, MI 48909

(Dear Senator Doe:)

(Dear Representative Doe:)

Addresses for Letters to the Editors:

Roscommon County Herald News
905 Lake St.
P.O.Box 8
Roscommon, MI 48653

Houghton Lake Resorter
4049 W. Houghton Lake Dr.
P.O. Box 248
Houghton Lake, MI 48629

HLPOA Responsibilities and Achievements

Beginning in the mid-1990's, the number of HLPOA responsibilities took a dramatic leap forward. Listed below are a portion of activities that your HLPOA Board of Directors are involved in. Space constraints limit listing total responsibilities:

1. Attending all Lyon and Gerrish Township Board meetings.
2. Attending all County Commissioners' meetings.
3. Attending all County Road Commission meetings.
4. Monthly HLPOA Board of Director meetings.
5. Attendance and membership - Michigan Lakes and Streams Association.
6. Charter member of NOLA (Network of Lakes Associations). Attendance at monthly meetings at Torch Lake from April through October.
7. Member of "Tip-of-The Mitt" Association.



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.*

Higgins Lake Property Owners' Association Board of Directors

| | |
|---------------------|--|
| President | Ken Dennings |
| Vice President | Brad Gibson |
| Secretary | Ed Trautz |
| Treasurer | Stan Cooke |
| Exec. Director | William Case |
| Recording Secretary | Elaine Naysmith |
| Legal Counsel | William Carey |
| Members | Kathryn Bangs Robert Frye Wayne Hall Anne Louise Meeks Robert Morley Pat Springstead Eileen Starks |

8. Maintaining a lobbying firm in Lansing.
9. Maintaining legal representation.
10. Attendance and contributions in local Circuit Court hearings and State and Appellate Court and Supreme Court hearings pertaining to our lake and water rights.
11. Working to control exotic species' invasion.
12. Leading the effort for statewide boat noise control.
13. Publishing the *Water Lines* newsletter three times yearly.
14. Financial support for the United States Geological Survey (USGS) in locating and controlling pollutants while attempting to improve fish habitat.
15. Financial help to County Sheriff's Department for purchase of a patrol boat to be used exclusively on our lake.
16. Development of a "Lake A-Syst Manual."
17. Swimmer's itch control and hotline.
18. Helping to maintain legal water level.
19. Contribution to county fire safety and burn prevention educational program.
20. Annual boat count and lake-carrying capacity efforts.
21. Active role (three HLPOA board members on the six-person Michigan Waterfront Alliance Board)
22. Maintain full-time office and respond to problems.

***It's time to renew
your HLPOA annual membership!***

***Form and envelope provided
in this newsletter.***

***Thank you for your
continued support!***



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Higgins Lake Sunrise

by Michael Balger, August 2001

On dock at Higgins Lake home, 6:15 a.m. . . . the sun is beginning its ascent, and the sky is alive with color. This is one of the best places in the world to see the sun rise, at least from all that I've seen of the world. The water is glassy and a reflection of what is above. There are still two stars in the sky shining brightly. The sky to the west is a murky gray, its clouds dirty looking, perhaps the last of a storm; everything is very wet.

The quiet here is beautiful; the only sounds are cars on a distant highway and jumping fish re-entering the liquid sky. An entire half of the horizon is a color spectrum - red, orange, yellow, a hidden hint of green, blue, indigo, violet that then fades to a deep purple-gray.

Fish jump sporadically and often, their perfectly circular ripples the only disturbance of the flat, flat water. Perhaps disturbance is the wrong word - the only awaited interruption of serenity.

Purple seems the dominant color of all morning skies. You can watch the sky get brighter by the second, one cloud hotter pink and hotter yet. Many birds are flying but do not yet sing, waiting to voice their glory with the appearance of their god.

A haziness has set in on the horizon creating a thick expanse of crimson, purple, vermilion atmosphere, a buffer to inevitable burning yellow sphere so much smaller but more powerful than any resistance atmosphere can offer; still, those attempts are breathtaking.

Streaks of fluorescent pink clouds scream for the sun to rise, thinning and wisping away. A leftover storm cloud in the middle of the sky is a violent black brushstroke-mishap in the beautiful artistry of a northern Michigan morning. The pink streaks are now orange, the black intruder a softening gray-purple with pink edges. The skies to the east and west are so different from one another it is scary to look back and forth, more comforting and reassuring to the east, ominous and foreboding to the west. I empathize with your present weather, Idaho.

The black cloud has finally seceded to the morning glory and separates slowly, all parts attaining sunrise vibrancy. The patches of cloudless sky above the horizon are a midday blue, causing wonder as to when the sun is finally going to make its appearance. It must be any moment now, for the birds have begun their morning songs; if I knew more about them, I would relay every beautiful melodic musician.

In the water directly below me swims a school of minnows, a large crawfish ambles across the sandy bottom. Writing somewhat distracts me from this amazing daily spectacle. A glance to the west shows the steadfast gray clouds have finally succumbed and now give fluffs of cream and light violet. The sun has finally broken the horizon and rises faster than one imagines, a bright red-orange-yellow sphere shooting light in every direction . . . dawn.