

Work Session of the Board of County Road Commissioners for the County of St. Joseph, State of Michigan, was held in the Board Room at the St. Joseph County Road Commission, 20914 M-86, Centreville, Michigan with Vice Chairman Chupp calling the meeting to order at 5:00 pm.

Present: Chairman Eric Shafer, Vice Chairman Rodney Chupp, Commissioner Vince Mifsud, Commissioner Jack Coleman, Commissioner David Miars, Clerk Julie Mayuiers, Manager John Lindsey

Guests present: Garrett Myland Engineer/Assistant Manager  
Don Preston Director of Operations  
Robert Tomlinson, Three Rivers Commercial  
Luis Rosada, White Pigeon  
Rebecca Shank, 3855 S. Washington St., Constantine  
TJ Reed, 827 W. Chicago Rd., Sturgis  
Phyllis Bishop, 68050 Klinger Lake Road  
Ray & Gloria Martin, 68053 Klinger Lake Road  
Al Zona, 68025 Klinger Lake Road  
Karin Zona, 68920 Benham Beach Road  
Phil Hartman, 68028 Klinger Lake Road

Citizens Comments: Phil Hartman purchased the property at 68028 Klinger Lake Road two years ago and have now been here for the last 2 months and probably 16 months of the last 2 years. The property borders Brighton Road where it ends at Klinger Lake. I'm the person that filed the complaint against Mr. Martin and I'm sure you have a copy of that or information about that. Long before I knew about the laws regarding use of dead-end roads, I explained my concerns on several occasions to Mr. Martin, but he had no interest in cooperating. I did a little research and found out that the use of county road ends where they end at the lake was unlawful. So therefore, I did file my formal complaint with the county. The complaint was filed as a result of PA 56 of 2012, the Natural Resource Environmental Protection Act. Part 301. This law outlaws' private docks, piers, boat hoists and similar structures on county road ends. Mr. Martin may tell you that he's been here 25-30 years and his docks been on the lake for that long and he may also tell you this has not been a problem in the neighborhood when in fact minimum 4 complaints have been filed against Mr. Martin with the county and several unofficial complaints filed at the township where people did not make official complaints because people did not want to use their name. In addition to those 4 complaints there has also been a court order to remove Mr. Martin's boats and piers from Marathon Road end which is a road end 800-1000' to where he is presently docking his boats on Brighton Road. Mr. Martin may also tell you that this is a community dock, when in fact over the past 2 years that I have lived here other than Mr. Martin, it was family and friends that used the dock. The only other people I've seen on that dock twice was Mr. Zona and I would have never believed that filing this complaint would have an effect on Mr. Zona because he has his own dock and boat about 60' from this dock. So, I don't understand what Mr. Zona's concern about Mr. Martin's dock.

I would close by saying that when Mr. Martin loses his dock, he has every opportunity to enjoy all the opportunities on the lake he is presently enjoying. There is a nice public boat ramp with a dock that many people use. There is a marina where many people who do not live on the lake keep their boat and jet skis and whatever else they use, and you can rent space to do that. In addition to that, that road end is still open, and people come down and take a nightly bath or swim or whatever they do. Thank you for your time.

Motion by Commissioner Mifsud seconded by Commissioner Miars to approve the Agenda as amended and Consent Agenda as of the January 4, 2023, Board Meeting Agenda. Motion carried.

Motion by Commissioner Coleman seconded by Commissioner Mifsud to approve the December Payroll vouchers in the amount of \$195,808.72.

Roll Call Vote taken: Ayes: Mifsud, Coleman, Miars, Chupp, Shafer                      Nays: None  
Absent: None                      Abstained: None                      Motion carried.

Motion by Commissioner Mifsud seconded by Commissioner Coleman to approve the December A/P vouchers in the amount of \$683,546.08.

Roll Call Vote taken: Ayes: Miars, Mifsud, Coleman, Chupp, Shafer                      Nays: None  
Absent:                      Abstained: None                      Motion carried.

New Business: Ray Martin of 68053 Klinger Lake Road, wife Gloria. Thank you for allowing us time to explain our side of the story. We have a long history of this lake access and dock. My parents bought a small cottage back in the 40's and since then they've made it a year-round home. There has been a dock in that spot at that access for close to 80 years. Now because a new neighbor moves in and he hasn't even been there 2 years and complains in writing in a letter I have here to the road commission saying you got to remove the dock. Mr. Hartman knew when he bought his house about the access and dock, and I feel that's a little like moving out by the airport and complaining about the noise. We have never abused the privilege of this access, the dock space, it's a small space dock 50' with a ladder on the end of it and that's the only way to enter the lake. We have 2 kayaks hooked to the dock all within the access. There would be no access to the lake without the dock and the ladder. The seawall is too high, too slippery, too slimy, too dangerous for adults, kids, or grandkids. We maintain the dock; we install and remove it, and anybody can use the dock not just us at Brighton. We never leave any pontoon boats, wave runners, tubes, kayaks, any items within the access or on the docks. We try to be good conscious neighbors. Now, on the other hand, Mr. Hartman has done just the opposite. It's evil, he has parked cars, fishing boats, sailboats, wave runner, trailer, planted a tree and not just over night, he had a van sitting there almost a month last summer. He moved his mailbox from his private property into the access. We had to walk around all this stuff through the neighbor's yard to reach our dock. I never called John or complained to the road commission. I never complained to the authorities neither did Al Zona. For almost 30 years I've mowed, raked leaves out of the access. Now Mr. Hartman does that which is fine with me but that doesn't make it his property. I feel he is being unneighborly, unfriendly and unreasonable. All the owners of that house have known about the access and the dock when they buy it, why now one complaint to remove the dock. All these years we've made this work out with 5 different owners in that house. We've never told anybody or kicked anybody off the dock, said it was private, anybody can use it, any families, anybody that wants access to the lake can use that dock and access. Another effect of this decision besides safety of getting in and out of the water, if we decided to try and sell our houses, we could use the lake or enter the lake that is going to certainly hurt the value of our house and Al Zona's. Just in closing I hope you will reconsider this decision and allow this dock to stay where it's been for almost 80 years.

I am Gloria Martin, Ray's wife. I would like to thank the Commission and all board members for this opportunity and for listening to our side of the story. We have all come here today to help inform you about the reality of this dock and easement situation.

When we received the letter from the County Road Commission stating that we needed to remove the dock which has been in the easement for 78 years we were literally stunned. The complaint that was made by the Hartman's which has caused this judgment is simply not true or valid -- Its sole intent was self-serving.

Back in 1945 Ray's mom and dad purchased their cottage where Ray and I currently reside and have for the past 45 years of our marriage. Our home is adjacent to Brighton Road across from Klinger Lake Rd and we have been using this easement and dock this entire time. Ray's father, Dr Martin, and his longtime friend Dr Parish (both from Sturgis) decided to buy property at Klinger Lake. They both wanted to have access to Klinger Lake through their respective easements where they both had their fishing

boats and docks. They spent many years fishing, swimming, and having family friends and even the church choir out most Sundays to enjoy the lake.

In 1945 Ray was born and is seen in this photo at about one or two years old enjoying the same dock that is in the same place as it is today. This is the dock where Ray and his brother, seen in this photo, learned how to swim. Ray's love of swimming led him to his lifetime career of teaching and coaching thousands of kids at the Sturgis Community Pool

Ray and I have two adult, successful daughters who are both heroes. Our oldest is an intensive care nurse and our youngest is on active duty in the USAF. Both of our daughters grew up having picnics, fishing and learning how to swim off of this dock. Now when our grandkids come to visit, they do the same. Our family has four generations of memories being made off the same dock in this easement which has been such a blessing!

Through the years we have happily mowed, raked and maintained this easement. We have always acquired proper permits through the county along with securing a \$1,000,000 liability insurance policy at our own expense. We have always complied with what the county has asked of us so that the community could use and enjoy this dock. This dock and easement have never been neglected, abused, caused any hardship. If anything, it has done the opposite of this easement has never been one that has been excessively used.

Unlike other road end easements this one has a sea wall at the water's edge that is approximately 4 feet high. It angles outward and has a very slick and slippery surface. If the dock is to be removed the seawall is too high for any of us, including our grandchildren to be able to jump into the lake or exit without injury. The dock was put in place back in 1945 with a ladder at the end which has provided a way for the public to access the lake. For the past 78 years this is how everyone has always been able to access the lake safely. Without this dock and ladder all who use this easement have no way of safely using the lake.

I feel that the Zona family and the rest of the community were never considered in this judgement. This dock does not pose a "hardship" on anyone and never has. Nothing has changed in the 78 years it has been in place. The true hardship is for ALL who use this easement and dock.

Lastly, we too could have made formal complaints regarding The Harman's personal use of the easement, but we chose to be neighborly. With all the obstructing equipment, vehicles, mailboxes, that they have moved to the middle of the easement we have had to walk on the other neighbor's property to access the lake. That has been the true hardship. The dock is not a hardship for the Hartman's. The dock and ladder provide us, the few that use it, access to the water just like it has the past 78 years - nothing has changed the county has been allowing this for 78 years. Why are we handed this hardship now - nothing has changed.

Thank you for your time.

Al Zona, thank you for letting me be here. In 1981 I bought the house and walked out to the access by the person selling the real estate. She wanted me to see the dock. She said this is the dock you use to get out of the lake. I said, that would be really, really good. If I had known that you guys would take down the dock and everything like that I'd have moved on and find something else. But the people that we are, I bought it and you improved my house and I own the property next door at 68031, I tore the house down that was a mess, and I improved the neighborhood. So anyway, there has been across the way there at Mr. Hartman's house I believe there are about 5 previous owners, all seemed to be very nice and got along with everybody. I was looking at Mr. Hartman's been there 2 years he's been systematically taking over the access by putting a tree in right in the middle of the thing. I asked him, I don't think you should do that, but he told me he could do that because the road commission said as long as I take care of it, I can put it in. As time went on, he put a lot of stuff in the access, and we

couldn't get through to get to the lake. I asked him a couple of times could you leave the access open so we can get to the lake. I got no response. So, with that I figured well, what's the use we can't do it. I didn't write you guys a letter I guess I could have but I'm through writing letters, I guess. As time went on, I realized that you guys want to take the dock out and the seawall is very, very unsafe. I've noticed that and said without that there is no way to enter the water. Basically, I think that's where it's at. I think that's all I got. But anyway, I really wish you guys would consider having that dock as a public dock that we could all use safe and get in and out of the water. I know my late wife used it all the time. I don't know if I have to like maybe tell Mr. Hartman every time, I use it so he could chalk times I go out, it's been more than 2 times so if you want to take those, I'll put a chalk board up, I'll mark my name on it. Thank you.

Hello, my name is Karin Zona and am Mark Zona's wife and Al Zena's daughter-in-law. I have been coming to Klinger Lake since the age of 12 and actually met Mark on the lake in 1994. We have been married and living in Sturgis for the past 25 years where we have raised our family and become active members in the community. I am here today to request that you please reconsider your decision to revoke the right to have a dock in this easement.

I would like to share with you what this easement's use and history has looked like from our perspective which will hopefully give you a larger more well- rounded representation of the situation. I honestly feel that the current judgement was based on the standpoint of a few biased, self-serving and self-entitled people.

From memories of my first date with Mark to starting our own family this dock has been filled with laughs, love and happiness. We have twin boys who learned how to swim in Klinger Lake and caught their first bluegill with their father using this easement and dock. Our family would spend endless summer days at my in-laws home enjoying Klinger Lake.... Sitting at the end of the dock at sunset with my mother-in-law Bonnie Zona, who has since passed, is one of my favorite memories that I hold tight. We have always been so grateful to have the use of this easement and dock to make memories especially when our out-of-town grand parents, siblings, nieces and nephews would come to visit.

You need to know that this easement is one that has never been overused, misused, or abused. Since the Hartman's have owned their home the Martin family have been the ones who most utilize the easement which has apparently caused the Hartman's to assume that Ray and Gloria feel that it is their own personal access. This perception is FAR from the truth. Ray and Gloria have always been the "care takers of the easement and dock but never acted as if it was "the dock/easement. On the contrary, we have always been grateful that they took on the task to keep this area clean along with making sure that the dock was always safe and inviting for everyone to use.

Ray has taken on the role of making sure that individuals do not abuse this easement, which has happened on occasion but is rare. This too has been something to which we have been appreciative of. We have never felt that he has acted as a "gatekeeper" who scolds individuals without due cause. If particular situations of this nature have been brought to your attention in the past it was more than likely done out of personal spite or again, self-serving intentions.

On that topic, I am fully aware of past letters that have been sent to your board along with the current complaint submitted by the Hartman's. I would like you all to take into account the true intentions and motives behind all of these complaints. If you lived and used this easement for the past 40-78 years like our families have, you would know that the most recent two adjacent homeowners have both lacked the ability to find contentment and joy within their own 40-foot boundary lines. They have both outwardly stated their intent to close the access by any means possible. Instead of finding joy and gratitude in all that Klinger Lake has to offer these individuals have only seen the thorns in their field of roses.... Which is truly sad.

If anyone in this situation has violated Act 451 sec 324.3011b it would be The Hartman's.

- (c) Any activity that obstructs ingress to or egress from the Inland Lake or stream.
- Planted a tree in the middle of the easement
  - Moved their mailbox (along with the neighbors without permission) into the middle of the easement right away.
  - Uses the easement for their own personal guest parking/trailer parking/hired worker parking/jet ski parking/boat lift storage.

Whereas I believe that we have complied with this act and have always secured the proper permits when needed and have abided by the regulation to have a "single seasonal public dock".

A public road end shall not be used for the construction, installation, maintenance, or use of a dock or wharf other than a single seasonal public dock or wharf that is authorized by the local unit of government, subject to any permit required under this part.

*She also had a video from Mark that the Board had viewed previously.*

Thank you for your time, Karin Zona

TJ Reed appreciates the time here and listening to this and also thank Superintendent Mr. Lindsey for all his time on this. He spent about 45 minutes on the phone with me going over the issues. He didn't create the situation, nobody in this room created the situation. This Plat was created in 1914 by way of dedication and a way accepted by the road commission authority which is important because that's what creates waterways, inlands via lakes and streams via permits via public dedicated alley. I know they call it Brighton Road per the Plat, but it is not even listed as Brighton Road, but referred to as an alley. There are 2 alleys in that subdivision, one of which is Marathon and the second they call Brighton. So, this is the one that I'll refer to Brighton. In that Plat it does state that all roads and alleys listed are dedicated to public use. Reason that is important is that public use has been defined throughout the State of Michigan since the early 1900's as a right to ingress and egress the water for swimming, fishing and boating meaning launching, mooring boats. They had allowed for seasonal docks be placed so long as they did not impede the egress and ingress for the public which does make sense because if you put a dock in the middle of it you could not launch your boat, but they would allow from time to time depending on the situation where it's located. Reason I believe that is important is because the seawall that is in place referred to as Marathon, which is still an alley, but Marathon shows as an approach from Klinger Lake Road as you see two tracks going down. The second one going down is actually to water's edge where you can place boats and back trailers in. The third one is a sign that I believe local residents put there which indicates it is a public access, boat launch, no overnight mooring which is also a part of the law.

Fast forward, I'm taking Mr. Martin's word that his family has been there since 1945, I don't know. I wasn't around so I have no clue as whether they were there or not. He has old photographs showing them there. However, they used that access for well before 1981 when the initial ordinance or I guess Policy that Mr. Lindsey included with the letter, I assume you all have that letter he sent, that you can't have that contrary to what the law said because the law said you could put a dock in. You continue to put a dock there and it was still there in 1986 Bruce Jones passed a Resolution that your predecessors had that allowed the dock and giving consent essentially in 1986 to put the dock with certain requirements, bonding, other information that was required, essentially undid the 1981 Policy, but not really it just allowed for the Resolution to allow for that area, it revoked the previous Policy and replaced with the Resolution but the Resolution did not have a Policy number on it so I'm not really sure how that's treated by the commission, either way it's their for historical. Also told to me and I presented Mr. Lindsey a letter dated in 1986 that Bruce Jones sent to Bonnie Zona along with that Resolution. As the Resolution of 1986 and this letter says to Mr. Zona, 1986 enclosed please find a copy of the Resolution that the Board of County Road Commissioners passed at their meeting on May 1, 1986. I believe it is self-explanatory. In addition to this the Board July 9, 1981, Resolution is enclosed for your information. We would expect that the Certificate of Insurance be in the hands of the road commission prior to any

pier being placed in the following right of way. I might point out as well that we still control the number of piers, however the Resolution does not address the boat situation. I believe that is talking about mooring boats, tied up to the dock which I do believe per the Case Law throughout there says that you can only limited periods of time you can moor a boat, and not generally during daytime hours as long as that boat does not impede others use of that access. If it does you must move it out deeper out into the water, again for the purpose of putting the boat in the water.

Again, you could moor the boat right at the access site, tie it up to the dock. If the number of boats anchored on a more or less permanent basis becomes a problem, these may have to be limited also. My favorite line from Bruce is hope we all have a relaxing summer. Sounds exactly like Bruce. Again, they would tell me that later on, a year or so later, Bruce came out and said, alright boys we have 4 docks down on this easement and this isn't working. Only one and you guys figure out which one who is going to have it. At that point they said Ray has been here the longest and Al said he didn't want to put the dock in and out any longer so better Ray than I. So that's kind of the history of the occurrence. So fast forward, I'm not trying to overlook the DNR, many distinctions can be drawn from this as to the standard DNR access. There's a 3' cement barrier blocking the water's edge.

Shafer – what's the definition of ingress and egress? Is that the ability to put a boat in or the ability to access water.

TJ – Case Law defines it as 424.282 talks about what ingress and egress definition for public use. There are two definitions. One is dedicated to public use. Obviously if the platter says dedicated to public use for full riparian use to the lake. That says backlot owners and everyone in public has right to put a dock in. All the dedication language I could find back to 1905 use the same language. It says for public use. Public use is defined as putting a boat in...boating. So that's where I think we use these ingress/egress terms. That is not truly what the law talks about. That is one of the issues the court has grappled with.

Who put the seawall in? We can't determine, only that it's 50 plus years old. Mr. Hartman and I discussed this the other day.

Gloria - The small seawall in picture in 1945 the neighbors went together and made a big seawall, but who ever did it, did not do it right.

TJ - Every piece of real estate is unique. That's the reason when somebody backs out of the sale of a house or property, this is one of the times the court has the right to step in. So, the reason you have all these cases over the last 100 years because each property is unique, and courts understand that. The reason for the photographs of Marathon is, that is what I believe the type of road end Act 324 contemplated when it was passed. That's what the court of appeals was deciding in all of these other cases in court. I've fished up north before and you see around here that people have camped or backed their vehicles down there or unloaded their vehicles, tubes or whatever. If you look at public use as defined by Mr. Shafer's question it's in this situation the dock is the only way to publicly use of water, unless you stand on that seawall and cast into the water. I don't believe Act 324 applies because of that seawall and all the other access points Jackson, Marathon those are all similar. Isn't Spring St. actually a walking path? A walking path is different, than an access to the water. I think Mr. Martin based on the fact that based a lot of money and Mr. Zona did too, they have nice houses, they've upgraded, they've added on, Mr. Zona tore down a bad house on the corner of Brighton Road. So the values of properties right now would be essentially if you apply 324, which I believe this is out of 324 so nobody is not bound by it, so what happens is we know you spent all this money to improve your property so we are taking value away from you because the only way you can use this property is to jump off the seawall, that water there fluctuates a little and that area is the shallow end of Klinger Lake. A 50' dock would get you now even to your knee deep in the water because of where it's at. So, when we look at the totality, and I would Mr. Hartman if you apply 324, 324 what it does not prohibit,

picnicking, parking or any of that right now. Also, if you apply 324 that means the county is going to have to go in and rip that seawall out to allow for the public access in which the county is holding in trust that road for the public. So rip the seawall out and then you are stuck with 324 which will allow people to utilize that easement any way they want or find that it doesn't apply, which this Board can do because they don't believe its there or allow the dock, a single dock and it still is a single dock and then you go back to the common law version which does not allow picnicking, sunbathing, it just allows the idea that you can utilize a single dock for public use.

I know I took a little more time Mr. Shafer. And I'll end it when you guys have been put in a tough spot, there is a lot of emotion obviously that you can hear from Mr. Martin and Mr. Zona. Mr. Zona came and found me, and I said I'd be more than happy to come and talk and advice about the law. I know Ray talked about the kayaks and that I believe that there would probably be a restriction that this county can say that you can have the docks but can't anchor kayaks because that could be considered mooring the boats. But that would be what the county would do, and I understand the county does not want to get into the business of licensing, not licensing these docks, I don't believe the county has to do anything if they say 324 doesn't apply the docks can go in and they can say they don't want a lot of them. You do have governmental immunity, so the liability issue is less, because of Immunity ACT 88.

Eric: So, let's back up a little bit. Do we really know exactly where it started. So, I'm going to have some questions and make some comments. The first one is we are not an insurance agency and anything that I or we say is not going to be a legal opinion. We do have attorney's that are going to be helping us with this, so one of the things that you will not get out of us tonight is a decision.

TJ – we did not anticipate that action.

Eric – That's just not going to happen. We've had a lot of discussion about this, by the way it's not just this location. WE have a lot of locations around the county that are similar, some are completely different. Everything is different and we have been for a long time, as long as everybody was okay with all this going on, so were we. Now not just because of this one, but because of several others we have got to start setting Policy. So, we've got some attorneys to help us with this. I don't know where this is going to end up. One of the comments that Mr. Martin has made is that they have been providing insurance. I asked that question, and I don't think we have seen insurance.

Mr. Martin – we did away with that. Bruce Jones came up with that.

Eric – The permit, talk to me about this.

Mr. Martin – that came up before

We are talking about 324 whether it applies or doesn't. But if we decide for whatever reason that 324 applies then we start looking at governmental authority. If I read this government authority is not us, governmental authority is municipality and township.

TJ – that is one of them, I don't believe that it does invest exclusive jurisdiction. Again, this is my opinion.

Eric – I am not an attorney; I want underlined and bold that I am not an attorney. I don't want to be quoted as such. Having said all of this, I also did a little bit of digging and I saw an article that was written by Clifford Bloom, (TJ – I read that article also) who does include a road commission as a legal governmental authority for this. That's a question that we've got to get answered. Number one does 324 apply and quite honestly, I didn't think about that before you brought that up. Clearly a 4' seawall does not fit the definition. Again, in this non-attorney position, there is an attorney that has the understanding, does not meet the definition of ingress and egress. What does that mean, we are going to find out. Ingress, egress does the road commission even count as a governmental authority, we are going to find out and we need to have that question answered. If the road commission does, as I read this you should be getting a permit from EGLE and the township. When this was written it was EGLE,

not DNR, the name has changed. It was DEQ and now it's EGLE. So, the insurance certificate disappeared when the permit process disappeared. Then we have the Court Order, the Bash decision. How do you address that?

TJ – Very easily, Bash says what the Case Law says that you can have a dock, but you can't moor a boat. Because Bash says you must remove the dock at this location? No, it did not.

Eric – We have photos that show there are boats, and kayaks and there is an end to the dock that goes out to the right-hand side. There are chairs on the dock that from this person's perspective, it does not look like a public dock, it makes it look like that somebody that's out there using it as a private dock.

TJ – absolutely and that is why I included that photo from I call it Marathon that I think is a good idea that at any of these locations to notify the public.

Eric – Again, this is nothing that we are going to come to a conclusion with tonight. Where we go from here? Is it likely that we are going to end up with a dock of some kind, I don't know. It is still up for discussion.

Dave – Do we have Riparian rights? Is the area all surveyed and has markers? Do we have the right to put up fence dividing the area?

Eric - There's another question for the attorney...Riparian rights. But are we a Riparian owner? Anybody that's a property owner is likely to have the same rights at the water's edge then they are Riparian owners.

Dave - Do we as controllers of that area have the authority at the expense to us a fence, a snow fence down there dividing it out, this is the access, here's a fence, here's a fence.

Eric – There's another question.

Dave – That would define the area people can access. A snow fence would be the cheapest way down into the water.

TJ – To answer your question, WP Township does not have a dock permit at all. They just don't have the process.

Rod – So in this spot where I read that you have the rights to have a dock, but not moor a boat between midnight and 6 am, unless there's a local government body that restricts that. You are saying that township doesn't have that?

Rod- Did the road commission okay planting a tree there?

John - No. Mr. Hartman has removed the tree.

Rod - Are the mailboxes in our ROW still?

John - Yes, definitely blocking the easement.

TJ – They don't have a dock restriction, or ordinance on the book. I spoke with Mr. Gloy for 45 minutes and he said we do not issue dock permits. That's why 324 says if a permit is applicable, it doesn't say you have to have one. Kind of like the road commission, we don't issue dock permits.

John – I'd just like to address the board. I met with Ray, Mr. Zona and Mr. Hartman that Brighton Road is 16'. As the manager of St. Joseph County Road Commission, we receive hundreds of issues of docks. This is one of the few that has risen to board. I do recognize that any decision is going to pick



winners and losers and we have several of these issues around the county. ACT 51 Section 324 was amended again several times, 2012, 2014 PA 56 and it does list the township as the governing body. But I will accept what you said, and our insurance says the same and we can act as a government authority take authority. I had somebody send me an ordinance today to address the issue where the township as a governing body does have the authority to address this issue. I wish we could do that in St. Joseph with all our townships. The township basically has deferred its authority to the road commission to be the governing body in this issue so whatever you guys decide they will follow.

TJ – I didn't ask them that, but it was kind of the impression they did not want anything to do with this, they were open and back over to you.

Eric – That's been my understanding.

John – To the rest of the crowd, to say there has never been issues at the end of Brighton Road is wrong. This problem does go back to 1988, with the dock situation. The rulings, the judgements and things that Bruce Jones did. The point is the laws in 2012 and 2014 where the legislature makes different rulings. It is my account that the four years that I have been here the first issue with Michael Bailey and a situation during COVID. I did talk to Ray, and he said, yep, it's open to the public and they can use it. Mr. Hartman was not the first one to make a formal complaint to be filed. I do have a formal complaint from Mr. Workinger. I talked to Mr. Workinger and said listen here's the situation the dock is already in the water. I just want you all to know that if you think this has never been a problem at the end of Brighton Road, it's been a problem for four managers. I sent my letter to Ray following Policy #39, which I stated that Policy is outdated, and we need to fix some policies and put some boundaries or redo some things and that's where it came from on my end. The Resolution amending Policy #39, of 1986 that you spoke to, that is real and true but that doesn't fit the Laws of 2012 or 2014. I'm just saying that you can't put it under that umbrella where Bruce was. He also acknowledged that the time Bruce was addressing that four people were also trying to put separate docks in. I'm just stating that this is not a new issue, but an ongoing issue. I would like to acknowledge he did say no docks, no mooring, no overnight, it did allow latitude in there for the board to allow a dock, Bruce allowed one dock. It comes down to some approaching issues and surveying issues. If it's just a dock straight out, you don't get into the issues of encroachments or arguing over a line. The point is we don't want to be responsible for docks. I've talked with MCRCSIP, our self-insurance pool, doesn't want road commissions dealing with docks, they want no liabilities. I'm not saying that's the end all, but that's their position on it. I feel that the opinion of my management team of Don and Garrett, if you need to chime in, is that we just don't want to be in the dock business, we don't want to pick the losers and winners in these situations. What we want to see is as close as we can to the law have some room for one person latitude. We've discussed in house whether the Parks Department can take over some of these issues, if we can get all the Townships thinking from the same mind, what that would look like. We do need to update our Policy; I don't know about the issue bringing up again the seawall. I will ask our lawyer, I didn't put it in, we didn't put the seawall in, you guys are more familiar with the seawall than we are. Being fair with Mr. Hartman, fair with Mr. Zona, fair with Mr. Martin and fair with you to say we are going to have to sort this out and I don't know what it will look like as the laws apply today verse what they were when Bruce Jones was here.

Rebeca Shank – Coming from a family which has occupied properties on Corey Lake, and Klinger Lake I've got filing cabinets full of all this stuff in my basement. I have a couple of questions from the beginning. Is it an easement or is it a road end.

Garrett-Platted Road end.

Rebecca – so it was part of the subdivision when it was created. So, it's now been given to the county for maintenance, is that right?

Rod – Although Mr. Reed regard to you that it isn't a road end because of the 4' wall there you can't get to the end of the road.

Rebecca – that was one of my questions. The seawall wasn't original, why is it there and why can't it be removed if it's keeping people from the intended purpose.

Eric – Trust me we are going to figure that one out.

John – Don Preston has handled most of our dock issues between Crooked Creek and other situations, I've asked Don to be here tonight, and I've asked Garrett to be here as our engineer. If they have anything they want to add to the situation.

Don – I don't know what really to add other than it really is a summertime job of going to Klinger Lake and keeping the peace. My opinion of the road commission is that we want people to be able to access and road end or unfortunately every deeded property that we have on the water. If it would mean me every Thursday driving around the lakes telling people to mind their P's and Q's and asking Sheriff Lillywhite to please help, we are not an enforcement agency unless the judgement goes through and then we have clear direction on what we can tell the public what they can and cannot do there. And there are quite a few of those down there, but it is a job going around and trying to keep the peace so they can keep their access.

Garrett – Regards to the seawall, when we do our certifications for roads, we certify them whether there is a seawall there or not. Every single year we send our mileage to Michigan, this is part of that, and this is a certified public road and, in my opinion, whether there is a seawall there or not. I know that there was some concern or hesitation about that area, it is law that we cannot ever abandon that easement. I just wanted to make that clear that there is no way that we can take area in that Plat and split it between the two parcels next to it, it is ours and going to be ours forever. I just wanted to make that clear to all properties owners there that we cannot abandon it, cannot sell it because it is law that we have to keep it for public use because it ends at public water.

Eric – We've been at this for an hour and 15 minutes, and I think where we are is that there is more to come. Thank you for coming and we will get back to you.

Rodney – Thank you for all coming and Mrs. Martin you've several times said what has changed and I just want to point out laws have changed several times and we are obligated to follow the laws. I don't know if that is going to come down in your favor or somebody else's but that has changed but there are things that have changed. One of my most fond memories as a kid is sitting on my dad's lap on the way home from church steering the car. I don't get to do that with my kids or grandkids. I'm not saying that lightly, I'm just saying that sometimes things change that are out of our control. I do find it interesting; I spent a lot of time reading through this stuff a couple of times and last night I took one last crack at it between 10 pm and 12:30 and a couple of things occurred to me, and I read that judgement deal. There was the judgment about kayaks and all that stuff, and you did still put them there. It would appear to be kind of knowing in violation of what said. That kind of hit me last night. At about 12:25 last night sitting there reading that and I thought, oh my word, if we apply this, they should rip the seawall out because that is clearly impeding the public from being able to put a boat in. We can argue about ingress and egress and all that but the whole point of all the laws is people being able to put their boat in and go fishing. I thought about it, and those pictures show it very well, it seems obvious that some neighbors got together, and they said we can pour our seawall to here but then we are going to have this top run over and be a mess, this would be better if we just put a seawall here and put a dock up to it. It appears to be a community effort. I didn't know that but know I've kind of confirmed that. It was in my opinion I don't know if it was within the law when it was done, but it certainly doesn't look like it is now. I can understand why they came to that conclusion then, but I don't know about now. I can see why they didn't want boats backing in and out. My commitment, so I was just re-appointed so Friday I went to the bank in front of the Notary, I took the oath to uphold the law.

Vince – No sense giving my personal opinion until we know what the law says

Jack – I just have one question, are there any other road commissions that issue dock permits?

Don - short answer is yes

Rebecca – What does their deed say at the time that this dedication?

TJ – It's a platted subdivision.

Rebecca – so the access to these road ends or easements is only intended for people in subdivision.

TJ – No, once, the road commission accepts the dedication it becomes public to everybody.

Rebecca – and you don't want the whole public to know that? Which is what I see at Corey Lake. We have several road ends that one part of AL Jones Road at Schaffer Brothers Road at Corey Lake that there is a property owner there which has put up a big dock and everything there which they hesitate and challenge because that would put it in the public eye that this is a road end and there are two more down the way and they don't want everybody coming to use them.

Gloria – I just wanted to comment to Mr. Chupp as far as the dock going in on the easement.

Regarding the boat situation, that was we had a hoist and boat and that was needing to be removed that's what Mr. Bash got removed because it encroached a little bit over on his side. That was removed, but the kayaks weren't an issue at all as they hang on the dock not in the water. I just wanted to make that clear.

Eric – Thank you again everyone.

### **MOTION**

Motion by Commissioner Mifsud seconded by Commissioner Miars that the Board approve the current list of financial institutions and brokerage firms used for investment purposes by the St. Joseph County Treasurer:

#### **LIST OF CURRENT DEPOSITORIES**

As of January 1, 2023

Century Bank and Trust

Michigan Class

Huntington / Investments

Southern Michigan Bank and Trust

Sturgis Bank and Trust

Submitted By: Kathy Humphreys, Treasurer

Roll Call Vote taken: Ayes: Coleman, Miars, Mifsud, Chupp, Shafer  
Absent: None      Abstained: None      Motion carried.

Nays: None

I, Julie A. Mayuiers, Clerk of the Board of County Road Commissioners of the County of St. Joseph, State of Michigan, hereby certify that the above is a true and correct copy as recorded in the minutes of the meeting of January 18, 2023.

*Julie A. Mayuiers*

Julie A. Mayuiers  
Clerk of the Board

### **MOTION**

Motion by Commissioner Miars seconded by Commissioner Mifsud to vote for John Hunt (Huron CRC) to fill the three-year seat on the CRA Board of Directors term running April 1, 2023, through March 30, 2026. Motion carried.

2022 Fourth Quarter Safety Drawing winners: Corey VanDam, Jon Roggelien, Rich Ultz, Don Preston

Motion by Commissioner Miars seconded by Commissioner Mifsud to sign the revised Managers Contract dated 1.18.2023.

Roll Call Vote taken: Ayes: Coleman, Miars, Mifsud, Chupp, Shafer Nays: None  
Absent: None Abstained: None Motion carried.

I, Julie A. Mayuiers, Clerk of the Board of County Road Commissioners of the County of St. Joseph, State of Michigan, hereby certify that the above is a true and correct copy as recorded in the minutes of the meeting of January 18, 2023.

*Julie A. Mayuiers*

Julie A. Mayuiers  
Clerk of the Board

### **MOTION**

Motion by Mifsud seconded by Commissioner Miars to rescind Policy #11.7 and #29 Interest Penalty to Townships previously adopted on December 6, 1979, and March 8, 1973, by the St. Joseph County Road Commission and replace with the new Interest Penalty to Townships for Past Due Local Road Construction Bills Policy of the St. Joseph County Road Commission dated January 18, 2023.

## **BOARD OF COUNTY ROAD COMMISSIONERS**

### **OF THE**

### **COUNTY OF ST. JOSEPH**

### **POLICY**

Interest Penalty to Townships for Past Due Local Road Construction Bills

In an effort to provide equitable Local Road Construction procedures for all Townships, the Board established a policy to impose the following:

1. All Local Road Construction Bills shall be due as presented within 90 days.
2. After 120 days, invoices for Local Road Construction will be considered past due. The board reserves the right to establish an interest rate as deemed appropriate and in accordance with state statute.

All previous policies regarding interest on past due accounts shall be rescinded and replaced by this policy.

Adopted: March 8, 1973  
Amended: December 6, 1979  
Reviewed: January 18, 2023

A roll call vote was taken: Aye votes cast: Coleman, Chupp, Miars, Mifsud, Shafer  
Nay votes cast: None            Abstained: None            Absent: None            Motion carried.

I, Julie A. Mayuiers, Clerk of the Board of County Road Commission of the County of St. Joseph, State of Michigan, hereby certify that the above is a true and correct copy as recorded in the minutes of the meeting of January 18, 2023.

*Julie A. Mayuiers*

Julie A. Mayuiers  
Clerk of the Board

**Citizens Comments:**

Rebecca – Is the road commission in charge of the bridge over Fawn River in Constantine? There are trees hung up on the power lines and if they fall, they will knock out power to a lot of residents.

Garrett Myland replied that is under the jurisdiction of the Village of Constantine.

Rebecca – Just a little history on lake things in the area. In the 1800's when people were coming from Chicago to stay at the lakes the front lots towards the lake were where the houses were and back lots toward the roads were where the outhouses were. One subdivision on Corey Lake none of the houses in that subdivision had Riparian Rights on the east shore.

Clear Lake in Fabius Township has an ordinance that no building can cover more than 25% of the lot. When Klinger Lake in White Pigeon Township went to a sewer system it was amazing how many great big houses went up because of the sewer system. Road ends and easement will change from lake to lake.

Phil Hartman – Appreciates the boards time tonight.

**Commissioner Comments:**

Miars – Good meeting, we have lots on our plates and we need to get some issues ironed out and move forward.

Coleman – Glad to see Phil Hartman here tonight and got to hear both sides of the story and what needs to be done.

Chupp – Good to see Robert Tomlinson here and have the paper here covering our meeting. There are times when you may move a motion to fail it. Compliment of seconding a motion not supporting a motion.

Shafer – Thank the Board for putting up with the Board discussions tonight. Would like to continue these discussions at the 5:00 pm meetings. Would like to see the names of the meetings switch back to Board Meetings at 5:00 pm and Work Sessions at 8:00. Requested a motion to be placed on next agenda to vote on.

One additional comment from Rebecca Shank – she attended a Cass County Commissioners meeting and was shocked that they all sat on the same level and all visitors have to stand and introduce themselves and they can raise their hands to speak and make comments.

Meeting adjourned at 7:46 pm.

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Eric B. Shafer, Chairman

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Julie A. Mayuiers, Clerk of the Board