**LELAND TOWNSHIP BOARD**

**SPECIAL MEETING**

**Thursday, February 25, 2021– 10:00 a.m.**

(Leland Township will be holding all meetings remotely under the COVID19 Executive order issued to limit person to person transmission of the virus until such order is lifted. Directions to participate in the meeting via Zoom were included in the posting of the agenda.)

**MINUTES**

**PRESENT:** Supervisor Susan Och, Clerk Lisa Brookfield, Treasurer Shirley Garthe, Trustee Clint Mitchell, Trustee Mariann Kirch, Robert Parker, Brad Wierda.

**ABSENT:**

**GUESTS:** 1

**CALL TO ORDER:** Ms. Och called the meeting to order at 10:02 a.m. with the Pledge of Allegiance.

**APPROVAL OF AGENDA**:

Additions/Corrections: Discussion of the sludge pumping will be done at the end of the meeting. The consent agenda should read that the minutes of the Budget Workshop of the Parks and Recreation Commission should have a date of February 9, 2021, not February 10, 2021.

**ACTION:** Ms. Kirch moved to approve the agenda as presented and amended; supported by Ms. Garthe.

VOICE ROLL CALL: (not necessarily in the order called at the meeting)

Supervisor Susan Och: Yes

Clerk Lisa Brookfield: Yes

Treasurer Shirley Garthe: Yes

Trustee Mariann Kirch: Yes

Trustee Clint Mitchell: Yes

Motion carried. 5 in favor, 0 opposed

**DECLARATION OF CONFLICT OF INTERESTS –** None

**PUBLIC COMMENT** - None

**CONSENT AGENDA**

Minutes

1. February 9, 2021 Budget Workshop Parks & Recreation
2. February 12, 2021 Budget Workshop Fire & Rescue
3. February 16, 2021 Budget Workshop Harbor
4. February 19, 2021 Budget Workshop Sewer

**ACTION:** Ms. Brookfield moved to approve the minutes of the budget meetings of February 9, 2021, February 12, 2021, February 16, 2021, and February 19, 2021 as presented and amended on the consent agenda; supported by Ms. Garthe.

VOICE ROLL CALL: (not necessarily in the order called at the meeting)

Supervisor Susan Och: Yes

Clerk Lisa Brookfield: Yes

Treasurer Shirley Garthe: Yes

Trustee Mariann Kirch: Yes

Trustee Clint Mitchell: Yes Motion carried. 5 in favor, 0 oppose

**ACTION ITEMS**

1. Update to the Board from attorney Brad Wierda concerning Janko/Joyes litigation.

There was discussion about going into closed session. The attorneys felt we could do it in open session.

Mr. Wierda summarized the Janko/Joyes litigation. A lawsuit was filed in federal court by 2 owners adjacent to the public beach area on Reynolds street. They were asking for money damages because of trespass, nuisance, nuisance damages and ownership of the property. Progress was not made in the mediation process. The case was dismissed and refiled in district court on two counts: ownership, and nuisance and trespass. This was allowed by the County and the Road Commission. The case was ordered back to mediation. A verbal agreement was reached in mediation: the Janko/Joyes would not have ownership of the property and the public could use the property with rules. It was agreed that there was no formal settlement of ownership. The settlement agreement was written up and sent on to the plaintiffs. It came back from the plaintiffs with changes and edits. The plaintiffs would agree to a settlement agreement with rules concerning pets, hours, campfires, etc. However, some of the stipulations were not discussed in the verbal agreement at mediation.

The details of the draft agreement were discussed. There were a lot of questions from the Board. Since it is a public access, can we bar people from the lake at a certain time of day? Also, can we regulate dogs on leashes on the private property north and south of the public property? Restrictions of the vehicles used for dredging was not discussed in the verbal agreement.

Mr. Wierda can go back and try to negotiate these details. If there is agreement, the settlement can be finalized. If not, the case can go back to the court to say that a written agreement could not be achieved. This would be an unusual situation and the judge may hold a hearing or rule that it has to go back to litigation.

The Board agreed that they would do their best to avoid the plaintiff’s property in dredging operations. They want to reserve the right to do the dredging as necessary. The Board felt that rules concerning leashed dogs should apply to the property in question, not private property. It was clarified that this property is unique and is not considered a road end which would follow rules by the Road Commission concerning road ends. It is not a road end because platting does not show the road going all the way to the water. There is no designated ownership of the property. Essentially, the property will continue to be used by the public as before with certain agreed upon restrictions. Mr. Mitchell noted that the width of the path should be wide enough for emergency vehicles to get through. However, the plaintiffs are concerned that any vehicle might use a wide pathway to get to the beach/water. Ms. Och felt that a 7-8 foot width would be ideal to accommodate walkers and those bringing kayaks to the lake. Mr. Mitchell also wanted the Board to have input into the observatory platforms the adjacent property owners intend to build on the property. Concrete or asphalt would be problematic in removal once it ages and deteriorates. Mr. Wierda has seen a schematic of the proposed platforms but it was not part of the written agreement. There was discussion about who would enforce the agreed upon restrictions. Parking was also a concern. The Board felt that was a subject for the Road Commission. It is not known at this time the Road Commission’s thoughts on the agreement.

The plaintiffs complained about the trash bin overflowing. The Board’s experience is that the more receptacles you put out, the more they get filled to overflowing. Generally, if trash is a problem at a park or beach, the Township will put out another receptacle.

The plaintiffs would also want to be able to approve all signage that is used on said property.

There was discussion about prioritizing the items of concern and the cost of the litigation thus far. Mr. Wierda spoke to negotiating the concerns and possible outcome.

4 concerns were identified for Mr. Wierda to discuss with the plaintiffs in the formation of the written agreement: restrictions on private property, plaintiff approval of signage, walkway widened to 8 feet, and Township approval of design and location of proposed platforms built by the plaintiffs.

At this point, Mr. Wierda and Mr. Parker left the meeting.

1. Sludge pumping from Bio-Tech Argonomics

**ACTION:** Ms. Brookfield moved to approve and authorize the Supervisor to sign the proposal from Bio-Tech Argonomics for the dredging and pumping of the lagoon; supported by Ms. Garthe.

VOICE ROLL CALL: (not necessarily in the order called at the meeting)

Supervisor Susan Och: Yes

Clerk Lisa Brookfield: Yes

Treasurer Shirley Garthe: Yes

Trustee Mariann Kirch: Yes

Trustee Clint Mitchell: Yes

Motion carried. 5 in favor, 0 opposed

**OTHER/OLD BUSINESS** none

**BOARD COMMENT**

**Clint Mitchell** – Mr. Mitchell asked for an update on the land use permit for the proposed recycling center on Popp Road. It is in the County’s hands at this point. The bins that are in the Manitou Transit parking lot at this time will be removed at the end of May. The property has been droned studied by engineers. The school bus fleet also uses the property. Documents concerning this subject will be distributed to the Board.

**PUBLIC COMMENT** - None

**ADJOURNMENT**

**ACTION:** Mr. Mitchell moved to adjourn the meeting at 11:34 p.m.; supported by Ms. Kirch.

VOICE ROLL CALL: (not necessarily in the order called at the meeting)

Supervisor Susan Och: Yes

Clerk Lisa Brookfield: Yes

Treasurer Shirley Garthe: Yes

Trustee Mariann Kirch: Yes

Trustee Clint Mitchell: Yes

Motion carried. 5 in favor, 0 opposed

Respectfully Submitted,

Cindy Kacin, Recording Secretary Date Approved: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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Susan Och, Leland Township Supervisor Lisa Brookfield, Township Clerk