

**ROSS TOWNSHIP BOARD OF TRUSTEES
REGULAR MEETING
MAY 17, 2022**

The Regular Meeting of the Ross Township Board of Trustees was called to order at 6:00 p.m. by Supervisor Hutchings.

The Pledge of Allegiance was recited.

The following were present: Michael Bekes, Cynthia Genung, Lynn Harmon, Christina Hutchings, Diana Langshaw, Mike Sulka

The following were absent: Carin Louis

Also present were approximately 12 interested persons. Attorney Thall was present on Zoom.

AGENDA APPROVAL

Supervisor Hutchings asked for an addition of the possible purchase of a Patrol Boat for the proposed Police Department. This item is #3 under Old Business.

Langshaw then moved, seconded by Harmon to approve the agenda as amended. Motion carried.

CONSENT AGENDA

Treasurer Genung noted that the report distributed at the meeting was for March 2022, and that the final reports for 2022 should be available for the next meeting, as the audit is being done right now.

Harmon then moved the following Consent Agenda, seconded by Genung:

- A. DRAFT Board Minutes: April 19
- B. Treasurer's Report
- C. Clerk's Report
- D. Ross Township Policing Stats
- E. Ross-Augusta Fire Department Update
- F. AGS MTD Invoice & Enforcement Services Updates
- G. House Hold Waste Report – 1st Quarter

Motion carried unanimously.

CITIZEN COMMENT

- Phoebe Moreo encouraged the Board to deny the request for an easement for a pathway from The Bluffs. She submitted petitions signed by 40 residents. Concerns were traffic and pedestrian safety, trespassers, no public swimming area, no public restrooms, no parking, no sidewalks, overall congested environment being expected to accommodate additional strains.
- Julie Jensen, candidate for 9th Circuit Court introduced herself.
- John Brown suggested that adequate fencing be placed between The Bluffs and existing residences to restrict trespassing.
- Robert Dahmer noted that The Bluffs is adjacent to his property. He said that the alley proposed to be used by The Bluffs through an easement was intended to be an access for the back lots to access the lake.

- Michael Sullivan noted that there are already safety issues on D Avenue in the Bay area. Congestion would be increased if a path from The Bluffs was used. He added that residents of the area would be disenfranchised if the easement was approved.
- Mary Sullivan described her experience with a near miss accident last summer due to the congestion in the Bay area, and voiced her concern that there would be a potential for more accidents in the area if the path is approved.
- Andrew Smith, representing Thomas Allen, candidate for District Court Judge, talked about Mr. Allen's candidacy.
- John Brown spoke again, noting that there are already speeding issues in the area.

ROSS AUGUSTA FIRE CHIEF / LIFE CARE COMMENTS

The Fire Chief was not present, a written report was submitted.

PLANNING COMMISSION UPDATE

Bekes noted that two meetings were recently held, on April 28 and May 4 and that the minutes have been distributed to the Board.

SUPERVISOR UPDATE

Supervisor Hutchings said that she has appointed a committee of Trustees Harmon and Sulka, along with herself to review the applications for Police Chief and make recommendation for hiring decision to the Board.

Various comments from Trustees and Attorney Thall were received. Discussion regarding public interviews of candidates who are currently employed at other agencies.

Bekes then moved, seconded by Langshaw to authorize the committee to make the selection, and move candidate to a Special Meeting with the Township Board for final considerations according to the Open Meetings Act.

Motion carried unanimously.

The Supervisor noted that the DNR Public Hearing was held on May 13 and that she was the only person present in the audience. It is hoped that buoys could be refloated by June 1.

The Supervisor shared her concerns about the delay in adopting the Township Master Plan. She recommended a training session with Attorney Catherine Kauffman from Baukham, Sparks (the Township's legal firm) who is also a licensed planner. All members of the Township Board, Planning Commission and Zoning Board of Appeals are mandated to attend the 2.5 to 3 hour training dedicated to Ross Township's Master Plan. The date proposed by Attorney Kauffman is Wednesday, June 15. The usual cost of this training is \$1,000, but as Baukham, Sparks is the Township's legal firm, a reduction to \$800 is available.

After additional discussion, Sulka moved, seconded by Harmon to approve the Master Plan training session with Catherine Kauffman for Township Board, Planning Commission and Zoning Board of Appeals on Wednesday, June 15 at 6:00 p.m. at a cost of \$800. Motion carried.

Harmon then moved, seconded by Sulka to delay any discussion on the Master Plan until after the training just approved is held. Motion carried.

OLD BUSINESS

NO PARKING ORDINANCE IN SOUTH BAY

This ordinance is still in development.

ROSS TOWNSHIP MASTER PLAN

No discussion

PATROL BOAT

Supervisor Hutchings presented information about a patrol boat to be used by Ross Township Police Department and that the boat was located by Jim DeKruyter, who came to the podium to discuss the boat with the Board.

Mr. DeKruyter explained that the boat is a 2001 "Boston Whaler" and that it was located in Port Huron. The trailer is from 2015 and the motor is from 2017. The boat includes a tower, canopy and platform. A \$16,000 donation from various neighbors on Gull Lake has been held by the Township to be put toward a boat. On May 16, the Gull Lake Ministries Board approved a \$10,000 donation toward the boat and also offered a location to store it.

Dan VanderMeulen from Gull Lake Ministries Board was present and explained that they wanted to participate in this project and to give back to the community.

The total cost of the boat and accessories would be \$51,000. There is \$25,000 budgeted by the Township PD, \$16,000 of the previous donation of neighbors and \$10,000 gifted from Gull Lake Ministries and \$5,000 budgeted for boat accessories.

Harmon then moved, seconded by Bekes to approve the purchase of the Patrol Boat as described for up to \$51,000 and to use ARPA Funds as an offset. The other funds would be dedicated for police labor costs.

Attorney Thall indicated that comparable pricing or bids should be available if ARPA funds are used. Mr. DeKruyter indicated that comparables and the price of a new boat could be pulled together. It was noted that the current owner would like a \$2,000 gift in kind statement. The Attorney said that the Township could provide the information, but would not be involved in any tax issues for the current owner. Mr. DeKruyter said that the sale needs to be completed quickly and that the minutes would need to be done by Thursday so a check can be cut on Thursday as well.

Harmon amended her motion for the patrol boat to be paid with \$25,000 ARPA funds, \$16,000 sandbar donations, and \$10,000 gift from Gull Lake Ministries after Dr. Dan VanderMuelen, Board Member, Gull Lake Ministries, indicated their donation is intended to help for the patrol boat purchase. Jim DeKruyter agreed their donation of \$16,000 was also intended for assisting in the purchase of the patrol boat. Attorney Thall indicated this was acceptable and it was also acceptable to use ARPA funds to support operational labor costs for the police department in the future.

On a voice vote, the motion carried unanimously.

NEW BUSINESS

THE BLUFFS – EASEMENT UPDATE

Attorney Thall noted that the existing plats have been reviewed, but that the documents are very old, and that the status of the properties is difficult to determine. He suggested that a title search could be done to know for sure who owns the various properties. It was suggested that Engineer Tom Wheat at Prein & Neuhof be contacted to do a title search by the next meeting.

Langshaw then moved, seconded by Sulka to approve a title search for a reasonable cost be conducted on the properties in question. Motion carried.

THE BLUFFS – INDEMNIFICATION AGREEMENT

Attorney Thall explained that The Bluffs is requesting an indemnification agreement from the Township in order to continue with development of the project prior to receiving EGLE approval for the private water system to service the development. They want to be able to begin placing foundations on the property.

Paul Schram from Wightman, designer of The Bluffs, was present. He noted that there is a gas main on the property that needs to be lowered by Consumers Power in order to continue construction. The agreement could help with the project moving ahead by 3-4 weeks.

Several trustees voiced concerns about foundations being left should the project fail. Mr. Schram said that there are no basements in the apartment buildings, that they are planned to be built on a slab on grade.

The Attorney indicated that this type of agreement is not uncommon, and that is entirely the developer's risk and helps them with rising costs. Questions were raised about having a bond or escrow account, as well as the correctness of the legal description. Attorney Thall said that the Engineer could determine an appropriate amount of escrow funds.

Two motions were made but failed for lack of a second.

Genung moved, seconded by Harmon to delay any local agreements until the EGLE permits have been received.

On a roll call vote, the following voted "Aye": Genung, Hutchings

The following voted "Nay": Bekes, Harmon, Langshaw, Sulka

Motion was defeated 2 – 4.

After additional discussion, Bekes moved, seconded by Harmon to authorize the Supervisor to sign the Indemnification Agreement subject to the creation of an Escrow Account in an amount determined by the Township Engineer and that the Escrow would be released upon the issuance of a final building permit. The Township's Engineer would also be charged with verifying the legal property description contained in the Indemnification Agreement prior to Township approval.

On a roll call vote, the following voted "Aye" Harmon, Langshaw, Sulka, Bekes

The following voted "Nay": Genung, Hutchings

Motion carried 4 – 2.

A copy of the signed Indemnification Agreement is attached to these minutes.

TRUSTEE UPDATES

Genung indicated that her no vote was due to her feeling that it was not fair to give special treatment to a developer that a private individual could not get.

Hutchings agreed with Genung, noting that this would appear as bending the rules for certain individuals, when it is Township requirement that all builders obtain necessary approvals and permits prior to any work taking place on building or property.

Harmon said that the Township should check into getting a new podium with better speakers.

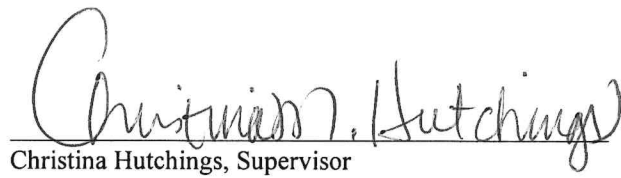
Harmon moved, seconded by Sulka to approve the purchase of a new podium in an amount not to exceed \$500. ARPA funds to be used for this purpose. Motion carried.

Harmon indicated that she would not be at the July meeting.

Sulka then moved, seconded by Harmon to adjourn the meeting. Motion carried.

Meeting was adjourned at 7:34 p.m.


Timothy A. Snow, Acting Clerk


Christina Hutchings, Supervisor

INDEMNIFICATION AGREEMENT

THIS INDEMNIFICATION AGREEMENT (the "**Agreement**") is made as of June 7th, 2022, between The Bluffs at Gull Lake LLC, a Michigan limited liability company, of 628 W. Milham, Portage, Michigan 49024 ("**The Bluffs**") and Ross Township, a Michigan township, of 12086 M89, Richland Michigan 49083 ("**Township**"). The Bluffs and Township are sometimes collectively referred to herein as the "**Parties**" or individually as a "**Party**."

A. The Bluffs is the owner of an approximately 24 acre parcel of property (the "**Property**") located in Ross Township at the Southwest end of Gull Lake and more particularly described on the attached **Exhibit A**.

B. The Bluffs proposes to develop the Property with an apartment complex and has received site plan approval from the Township and a building permit has also been issued for the project.

C. Public water is not available at this location in Ross Township and The Bluffs propose to use a type 1 water system consisting of two wells and a well house, which will serve as the location of the equipment (the "**Water System**").

D. The Water System will require a permit from the Michigan Department of Environmental Great Lakes and Energy ("**EGLE**").

E. Township has agreed The Bluffs can proceed with foundation construction and will issue such building permit to The Bluffs given the agreement by The Bluffs to indemnify the Township as set forth in this Agreement.

Agreement

Now, therefore, in consideration of the mutual promises herein set forth and subject to the terms and conditions hereof, the Parties agree as follows:

1. **Agreement.** The Bluffs hereby indemnifies and agrees to defend and hold Township harmless from and against any and all liability, damages, expenses, fees, penalties, causes of action, suits, costs, and reasonable attorney fees (collectively "**Damages**") sustained by Township because of any claims or judgments against Township for the Township's issuance of a building permit to the Bluffs for the project described in this Agreement before the permit is issued for the Water System by EGLE.

2. **Notification; Duration.** Township agrees to notify the Bluffs, in writing, of the occurrence of an event triggering the indemnification and defense obligations under this Agreement. This Agreement shall automatically expire upon issuance of the permit for the Water System by EGLE.

3. **Governing Law; Jurisdiction.** This Agreement will be governed by the laws of the State of Michigan, without regard to conflicts of laws principles. Any action or proceeding seeking to enforce any provision of, or based on any right arising out of, this Agreement shall be brought against any of the Parties in the courts in Kalamazoo County, State of Michigan, or, if it has or can acquire jurisdiction, in the United States District Court for Michigan for the Western District of Michigan, and each of the Parties consents to the jurisdiction of such courts (and of the appropriate appellate courts) in any such action or proceeding and waives any objection to venue laid therein.

4. **Counterparts.** This Agreement may be executed in one or more counterparts by fax, scanned pdf, or e-mail, each of which will be deemed to be an original copy of this Agreement and all of which, when taken together, will be deemed to constitute one and the same agreement.

5. **Entire Agreement.** This Agreement contains the entire agreement between the Parties with respect to the subject matter of this Agreement and supersedes all prior written and oral agreements and understandings between the Parties with respect to the subject matter of this Agreement. This Agreement may not be amended except by a written agreement executed by the Party to be charged with the amendment.

The Parties have executed and delivered Agreement as of the date written in the first paragraph above.

THE BLUFFS AT GULL LAKE LLC,
a Michigan limited liability company,

By _____

Its Managing Member

ROSS TOWNSHIP,
a Michigan township,

By _____

Its Township Supervisor

EXHIBIT A

Legal Description of the Property

Land situated in the Township of Ross, Kalamazoo County, Michigan:

PARCEL 1: Beginning on the West line of Section 20, Town 1 South, Range 9 West, at a point 786 feet North of the West 1/4 post of said Section; thence North on the West line of said Section to the center of a county highway now known as "D" Avenue and which was formerly known as M-89; thence Southeasterly along said center line 510 feet to a point 360.15 feet Northwesterly from the angle of this highway and the same highway running South 12 degrees 21 minutes East; thence South 13 degrees 46 minutes West 235 feet; thence South 59 degrees 06 minutes East 100 feet; thence South 13 degrees 46 minutes West 145.99 feet; thence South 84 degrees 59 minutes East 166.39 feet; thence North 78 degrees 44 minutes East 198.29 feet to the center of said county highway; thence South 12 degrees 21 minutes East 28.8 feet; thence South 76 degrees 48 minutes West 207.6 feet; thence North 83 degrees 39 minutes West 100.54 feet; thence South 12 degrees 21 minutes East 150 feet; thence North 66 degrees 53 minutes East 101.78 feet; thence North 76 degrees 48 minutes East 207.6 feet to the center of said county road; thence South 12 degrees 21 minutes East 5 feet; thence South 76 degrees 48 minutes West 207.6 feet; thence South 12 degrees 21 minutes East 75 feet; thence North 66 degrees 53 minutes East 68 feet; thence South 12 degrees 21 minutes East 100 feet; thence South 25 degrees 47 minutes East 200 feet; thence North 74 degrees 30 minutes East 65 feet; thence South 14 degrees 37 minutes East 460 feet; thence East 297 feet to the East line of the West 1/2 of the Northwest 1/4 of said Section 20; thence South on this 1/8 line 300 feet to the North line of the Michigan Railway Engineering Company property (as described in deed recorded in Liber 178 of Deeds on Page 162, Kalamazoo County Records); thence Northwesterly along the Northerly line of the property as described in said deed 1,350 feet to the Place of Beginning.

EXCEPTING THEREFROM: Commencing at the West 1/4 post of Section 20, Town 1 South, Range 9 West; thence Easterly along the East and West 1/4 line, 1,335.31 feet to the Southeast corner of the West 1/2 of the Northwest fractional 1/4; thence Northerly along the West 1/8 line, 941.1 feet to the Southerly line of "D" Avenue; thence North 52 degrees 20 minutes 00 seconds West along said Southerly line, 437.51 feet; thence continuing along said Southerly line, North 33 degrees 40 minutes 00 seconds West, 215.38 feet; thence continuing along said Southerly line, North 12 degrees 21 minutes 00 seconds West, 163.89 feet for the place of beginning of the land hereinafter described; thence North 76 degrees 48 minutes 00 seconds East, 33.0 feet to the center line of said Avenue; thence North 12 degrees 21 minutes 00 seconds West thereon, 5.0 feet; thence South 76 degrees 48 minutes 00 seconds West, 207.6 feet; thence South 66 degrees 53 minutes 00 seconds West, 186.87 feet; thence South 23 degrees 07 minutes 00 seconds East, 180.0 feet; thence North 66 degrees 05 minutes 17 seconds East, 228.27 feet; thence North 12 degrees 21 minutes 00 seconds West, 100.0 feet; thence South 66 degrees 53 minutes 00 seconds West, 75.0 feet, thence North 12 degrees 21 minutes 00 seconds West, 75.0 feet; thence North 76 degrees 48 minutes 00 seconds East, 174.6 feet to the Place of Beginning.

ALSO EXCEPTING THEREFROM: Commencing at the intersection of the Southerly line of "D" Avenue (formerly M-89) with the East line of the West 1/2 of the Northwest 1/4 of Section 20, Town 1 South, Range 9 West; and running thence North 52 degrees 20 minutes West along the Southerly line of said Avenue 437.51 feet; thence North 33 degrees 40 minutes West 215.38 feet; thence North 12 degrees 21 minutes West 168.89 feet for the place of beginning of the land hereinafter described; thence South 76 degrees 48 minutes West 174.60 feet; thence South 66 degrees 53 minutes West 101.78 feet; thence North 12 degrees 21 minutes West 50.00 feet; thence North 70 degrees 49 minutes East 100.70 feet; thence North 76 degrees 48 minutes East 207.60 feet to the center line of "D" Avenue; thence South 12 degrees 21 minutes East 43.00 feet; thence South 76 degrees 48 minutes West 33.00 feet to the Point of Beginning.

ALSO EXCEPT: Commencing at the intersection of the Southerly line of "D" Avenue (formerly M-89) with the East line of the West 1/2 of the Northwest 1/4 of Section 20, Town 1 South, Range 9 West; and running thence North 52 degrees 20 minutes West along the Southerly line of said Avenue 437.51 feet; thence North 33 degrees 40 minutes West 215.38 feet; thence North 12 degrees 21 minutes West 211.89 feet for the place of beginning of the land hereinafter described; thence South 76 degrees 48 minutes West 174.60 feet; thence South 70 degrees 49 minutes West 100.70 feet; thence North 12 degrees 21 minutes West 100.00 feet; thence North 83 degrees 39 minutes East 100.54 feet; thence North 76 degrees 48 minutes East 207.60 feet to the center line of "D" Avenue; thence South 12 degrees 21 minutes East 77.50 feet; thence South 76 degrees 48 minutes West 33.00 feet to the Point of Beginning.

ALSO EXCEPT: Commencing at the West 1/4 corner of said Section 20; thence North 00 degrees 57 minutes 14 seconds West along the West line of said Section, 2,257.22 feet to the centerline of Gull Lake Drive (also called D Avenue) and the true place of beginning; thence Southeasterly 69.84 feet along the centerline of Gull Lake Drive and the arc of a curve to the right whose chord bears South 76 degrees 47 minutes 31 seconds East 69.81 feet and whose radius is 723.00 feet; thence South 74 degrees 01 minutes 29 seconds East along a centerline, 130.16 feet; thence South 06 degrees 28 minutes 08 seconds West 370.59 feet; thence South 04 degrees 43 minutes 58 seconds West 145.95 feet; thence South 89 degrees 02 minutes 46 seconds West 129.88 feet to the West line of Section 20; thence North 00 degrees 57 minutes 14 seconds West along said West line, 567.70 feet to the place of beginning.

ALSO EXCEPT: Commencing at the West 1/4 corner of said Section 20; thence North 00 degrees 57 minutes 14 seconds West along the West line of said Section, 2,257.22 feet to the centerline of Gull Lake Drive (also called D Avenue); thence Southeasterly 69.84 feet along the centerline of Gull Lake Drive and the arc of a curve to the right whose chord bears South 76 degrees 47 minutes 31 seconds East 69.81 feet and whose radius is 723.00 feet; thence South 74 degrees 01 minutes 29 seconds East along a centerline, 130.16 feet to the place of beginning; thence South 72 degrees 45 minutes 15 seconds East along said centerline, 200.40 feet; thence South 16 degrees 10 minutes 05 seconds West, 319.08 feet; thence South 33 degrees 58 minutes 00 seconds East, 173.14 feet; thence South 89 degrees 02 minutes 46 seconds West, 253.10 feet; thence North 04 degrees 43 minutes 58 seconds East, 145.95 feet; thence North 06 degrees 28 minutes 08 seconds East, 370.59 feet to the place of beginning.

Also described by Wightman Survey Job No. 214042 dated April 29, 2021 as:

That part of the Northwest quarter of Section 20, Township 1 South, Range 9 West, described as: Beginning at a point on the West line of said Section 20 that is 785.05 feet (record 786 feet) North 00 degrees 06 minutes 48 seconds East of the West quarter corner of said Section 20;

thence North 00 degrees 06 minutes 48 seconds East on said West section line 909.83 feet to the South line of the parcel of land conveyed in Document number 2012-031606, Kalamazoo County Records; thence South 89 degrees 45 minutes 13 seconds East (record North 89 degrees 02 minutes 46 seconds East) on said South line and on the South line of the parcel of land conveyed in Document number 2014-016424, a distance of 381.13 feet to the Southeast corner of said parcel; thence North 32 degrees 45 minutes 59 seconds West (record North 33 degrees 58 minutes 00 seconds West) on the East line of said parcel 173.14 feet; thence North 17 degrees 20 minutes 57 seconds East (record North 16 degrees 10 minutes 05 seconds East) on said East line 319.08 feet to the centerline of East D Avenue; thence South 69 degrees 26 minutes 02 seconds East on said centerline 142.80 feet to the Northwest corner of the parcel of land conveyed in Document number 2001-000992; thence South 14 degrees 53 minutes 35 seconds West on the West line of said parcel 230.07 feet (record South 13 degrees 46 minutes West 235 feet) to the South line of said parcel; thence South 57 degrees 59 minutes 57 seconds East (record South 59 degrees 06 minutes East) on said South line 100.00 feet; thence South 14 degrees 40 minutes 06 seconds West 145.29 feet (record South 13 degrees 46 minutes West 145.99 feet); thence South 83 degrees 29 minutes 59 seconds East 165.94 feet (record South 84 degrees 59 minutes East 166.39 feet); thence North 79 degrees 41 minutes 51 seconds East (record North 78 degrees 44 minutes East) 198.29 feet to the centerline of East D Avenue; thence South 10 degrees 27 minutes 54 seconds East on said centerline 29.06 feet (record South 12 degrees 21 minutes East 28.8 feet); thence South 78 degrees 01 minutes 56 seconds West (record South 76 degrees 48 minutes West) 207.60 feet; thence South 84 degrees 52 minutes 05 seconds West (record North 83 degrees 39 minutes West) 100.54 feet; thence South 11 degrees 08 minutes 30 seconds East 150.35 feet (record South 12 degrees 21 minutes East 150 feet); thence South 68 degrees 17 minutes 08 seconds West (record South 66 degrees 53 minutes 00 seconds West) 84.89 feet; thence South 21 degrees 51 minutes 41 seconds East (record South 23 degrees 07 minutes 00 seconds East) 180.00 feet; thence North 67 degrees 13 minutes 52 seconds East (record North 66 degrees 05 minutes 17 seconds East) 228.52 feet; thence South 24 degrees 34 minutes 04 seconds East (record South 25 degrees 47 minutes East) 200.00 feet; thence North 76 degrees 04 minutes 30 seconds East 65.31 feet (record North 74 degrees 30 minutes East 65 feet); thence South 13 degrees 25 minutes 59 seconds East 466.53 feet (record South 14 degrees 37 minutes East 460 feet); thence South 88 degrees 48 minutes 59 seconds East 280.99 feet (record East 297 feet) to the East line of the West half of the Northwest quarter of said Section 20; thence South 00 degrees 00 minutes 07 seconds East on said East line 253.88 feet to the North line of the South three quarters of the South half of the Southwest quarter of the Northwest quarter of said Section 20; thence North 89 degrees 06 minutes 48 seconds West on said North line 175.19 feet to the North line of former Michigan Railway Engineering Company property (as recorded in Liber 178 of Deeds on page 162, Kalamazoo County records); thence North 75 degrees 11 minutes 18 seconds West on said North line 1197.38 feet to the point of beginning.

The property address and tax parcel number listed below are provided solely for informational purposes, without warranty as to accuracy or completeness. If the information listed below is inconsistent in any way with the legal description listed above, the legal description listed above shall control.

Property Address: Vacant Land (on M-89), Richland, Michigan
Tax Parcel No.: 39-04-20-155-012