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**COLDSPRINGS TOWNSHIP**

**REGULAR BOARD MEETING MINUTES**

**COLDSPRINGS TOWNSHIP HALL-COUNTY ROAD 571**

**JULY 11, 2005**

**7:00 P.M.**

Supervisor Neubecker called the meeting to order at 7:00 p.m. Pledge of Allegiance was said by all. Board members present at roll call were Supervisor Neubecker, Clerk Hodges, Treasurer Casto, Trustee Bondy and Trustee Paladino. Approx. 35 guests were also present.

Adoption of the Agenda - Hodges asked to have the resolution to the State for a grant for the new voting equipment added to the agenda. M/Casto S/Bondy to adopt the agenda with the one addition. All in favor. Motion carried.

Establish any conflict of interest of items on the agenda. None were presented.

Approval of the Minutes - M/Casto S/Paladino to approve the minutes from the June 13, 2005 regular board meeting as presented. All in favor. Motion carried.

Correspondence was reviewed.

Committee Reports - Planning & Maintenance - Trustee Bondy reported that the 6 new grills that we ordered have been delivered and have been placed over at the park. She also reported that the buoys have been put in the water. Fire Board - The minutes from the July 6<sup>th</sup> Fire Board meeting were presented. Copy on file. Trustee Paladino didn't have much to report because he was on vacation. Although he did say that there still was no contract or paper work on Sunset Trail. He will be attending the next road commission meeting and hopefully he will find out something at that meeting regarding Sunset Trail. Liquor Enforcement - Nothing to report.

Treasurers Report - Treasurer Casto presented the monthly reconciliation report for the month of June 2005. The report showed that there was \$391,887.87 in the various bank accounts, \$566.99 in the tax account and \$100.00 in the petty cash account. Casto also said that the 2005 summer tax bills have been mailed out. M/Neubecker S/Hodges to accept the treasurers report as presented. All in favor. Motion carried. Copy of the report is on file.

Old Business - (A) Bids for Dean St. - A bid from McCullen Excavating was received in the amount of \$1,450.00. We also had a bid from SRW Contracting on the table, held over from last months meeting, in the amount of \$2,590.00. M/Paladino S/Bondy to accept the low bid for Dean St. from McCullen Excavating in the amount of \$1,450.00. Roll call vote. Casto yes, Hodges yes, Neubecker yes, Bondy yes and Paladino yes. All in favor. Motion carried. (B) Manistee Lake Association and Excelsior Township Board - Norm Groner called the Excelsior Township Board to order. Present were Norm Groner, Edith Whithead, Donald Darke and Daniel Prokup. Neubecker said that at this point it now becomes a joint meeting with the Excelsior Township Board. Neubecker said that our attorney would not be able to attend tonight's meeting due to him having to be in Flint for a court case. Janet Goulet, President of the Manistee Lake Association, presented the board with a Resolution signed by members of the Manistee Lake Association, advocating the creation of an improvement board for Manistee Lake. Manistee Lake Association also had a representative, Tony Groves, from Progressive A&E. Groves said that he works on lake improvement projects literally throughout the state. He said that his closest work to the Traverse City area recently has been on Houghton Lake, Higgins Lake, Lake Mitchell and Lake Misaukee. He said that the only one that does not have a Lake Board is Higgins Lake. He said that over his 21 years he has had the opportunity to work with various little groups who work with engineering consultants. He said that his company does not do the work on the lakes but they do guide them through the process. In this case the process would be trying to establish a lake improvement board, so that they could find a method of financing their project. Groves presented both boards with a copy of the Lake Board Act as amended and a map of Manistee Lake. He said that Manistee Lake is a relatively large lake but not an exceptionally deep lake, so that probably is what precipitated the desire to establish a lake improvement board. He said that he would like to entertain questions and in doing so hopefully give everyone a little bit of an idea of what is involved in establishing a lake board, and what the townships roll is, and how these projects actually work. He said that a lake improvement board has proven to be probably the most effective vehicle in organizing and financing lake problems. Groves said that this law has actually been around since 1966 and has a long history with the statue and works extremely well. He said that lakes that are in multiple jurisdictions such as Manistee Lake, they most commonly establish lake improvement boards when they want to get a project done. Groves said that he also wanted to point out that there are about 140 active lake boards throughout the state and he has worked with about 50 of them. He said that the townships are often tentative at this point because when you go ahead

with projects like this there is always some controversy with them and he would like to explain how we could minimize that. He said that lake boards are probably the best example of participatory government because anything the board does requires that they go through the public hearing process where they notify the property owners of what the lake board is proposing to do before any decision is made. These boards can also be established by petition, which sometimes is hard to do because you have such a seasonal population. He also said that either township could actually establish a lake board on its own motion, but as a township official you will get that criticism that you established something without the vote of the other township. Groves then took questions. Neubecker said that one of his first questions was, that Groves said, that either township could establish a lake board, and does that mean that if we establish a lake board in Coldsprings Township that it would automatically become a rider upon Excelsior Township because they have shared joint property or vice versa. Groves said that to be honest the statute is somewhat ambiguous on that. It does state that a township, in which any part of the lake is located, can upon a motion establish a lake improvement board. Groves said that what he generally recommends is that both townships pass a resolution to establish a board. Neubecker said that Groves mentioned that because of the transient population, snow birds, summer residents, etc., that the petition process may not be an effective way to establish a lake board, and Neubecker said that because we do have that summer population and we do have a Lake Association that has about 140 members and yet there are over 300 lakefront property owners, so not quite half of the lakefront property owners are encompassed in the association, and yet everyone knows that there is an issue with Manistee Lake, how does the other 52% of the people feel about a lake board. And by just stating that we recommend that the resolution be adopted, what about all those people? Is this something that we need to have a public hearing and how does this need to be addressed? Groves said that on your larger lakes where you have a seasonal population, it most often is not done by petition it is done by an action of the township board. And the Manistee Lake Association represents not everybody on the lake in fact not even a majority in this case. Groves said that how you get that silent majority in this case, he recommends that once the board is established, the first thing that you have to do is hire the engineers to do the lake improvement studies, to determine what is required on the lake and to find out what is recommended to improve the conditions on the lake, and who is going to be in the special assessment district to establish the financing of the project. He said that under the law after the study is done, and that is the 1<sup>st</sup> step, and before the board takes any action beyond accepting the study, they have to schedule a public hearing to receive public comment before they make any decision as to whether or not to proceed with the project. He said that he recommends that they publish the public hearing twice in the local newspapers and have a mailing to everyone with the findings of the recommendations so that when they come to the public hearing they know what is being proposed and what it is going to cost them if the project goes ahead. Also the hearings should be scheduled either on a Friday night or a Saturday to accommodate the people from out of town. And do it in the summer when everyone is going to be here. Groves said that the only thing that you have committed to, once you've established

the lake improvement board, the only costs that you're committing to would be the cost of the feasibility study, legal notices and the cost of the mailings to everyone to let them know what is going on, and your costs up to that point would be less than about \$20,000.00. Groves said that at the public hearing, the lake board would make a determination based on the input received at the hearing and input received in writing prior to the hearing as to whether to proceed with the project or not. And it is at that time, when you find out where people stand. Neubecker said that unlike an elected official though, a lake board are not elected officials, they are an entity on their own, appointed by local government and just because you have a public hearing, what they are hearing does not mean what they are going to take on board. Groves said that that is partially true, because it depends on the composition of the board. He said that you are going to have a county commissioner on the board, a representative from the county drain commissioners office, two local officials or their representatives and the only one not being an elected official would be the lake resident representative that the board would appoint at it's first meeting, so you do have that accountability. And he said that you do want that accountability and elected officials are accountable because they have their constituency. And the elected officials are not going to do anything that they conceive that a majority of the people do not want to do. Groves said that is why the public hearing is so important and why he always recommends that you take that added step to get the information out about that hearing to everybody that could potentially pay for the project, all the waterfront people and all the back lots with access that are generally included in a special assessment district even though they would pay less than waterfront property owners. Neubecker said that Groves stated that based on the size of Manistee Lake and the requirements of doing a feasibility study and everything wrapped in, the cost would be below \$20,000.00. Groves said that that is correct. Neubecker said that the Manistee Lake Association has opted to allow a \$20,000.00 loan to be paid back at a minor interest rate as a kick off if the resolution is adopted and the board is established, but what if they go through the public hearing process and had the feasibility study and at the public hearing process finds that the negatives are so high that the lake board decides not to set a special assessment district. Groves said, that at that point they would have to set a special assessment district but only to recoup the costs incurred to that point and the project would not go forward. Neubecker said that that is quite important because although our county commissioners support an endeavor like this, they do not financially support it. Kind of like our local government, we have a fairly finite revenue base that we deal out of for our yearly expenditure requirements and Excelsior Township has even less, so to have something like that fall back on the townships would be very devastating to our budgets. Groves said, no, that cost would be covered by the special assessment, which would be set up by the lake board to recoup the cost. Hodges said that she couldn't see why we can't do the same as we did for the Milfoil problem. The association found out what the cost was going to be to take care of the Milfoil, then they got a petition with 51% of the property owners who would be in the special assessment district, have our two public hearings and proceed from there. Casto agreed. Casto said that if we don't have a public hearing first, that some of the people are going to be

objectionable to this if we go out and get a study and then tell them that they are going to be assessed for the study when they didn't want that assessment to begin with. She said that she would feel more comfortable holding a public hearing first before proceeding with this lake board. Groves said, that what we would like then, would be to have the townships hold a public hearing first to see if there was enough support to establish a lake board. Casto said, absolutely, rather than proceed with his first step of establishing a board and then going for a study, which means spending money, and then if it bellies up, then we're going back to our constituents and tell them that they owe \$100.00. She said that she would rather have a public hearing first before moving forward with establishing a lake board and having a feasibility study done. Norm Groner said that he used to think that hearings were great until he got involved with the DNR and it just turned out to be a formality. They already had their decision made. Groves said that that is not the way a lake board works, because you have elected officials on the board and they care about what their constituents think, so they don't make a decision until after the hearing and have answered all the questions. Groner also asked who they have to pick to be on the lake board from each township. Do they have to be from the township, do they have to live on the lake or what? Groves said that the law is real general about that. It says that the board will be comprised of a representative from each local unit of government involved that touches the lake. He said that you can appoint someone from the township board or someone from the lake and in fact they don't even have to be from the township. Harvey Brow asked if the township board appointed someone to the lake board and then later found that they were not the right person to represent the township could they appoint someone else. Groves said yes, that the township board could reappoint someone else by a motion. Question was asked why there couldn't be at least three property owners on the lake board. Neubecker said that that does not fall in compliance with the state law. Another citizen who said that he has been a lakefront property owner for many years and does belong to the Manistee Lake Association and in fact had served on the water quality committee when it was first started up, said that he cannot understand the reason for a lake board. If there is an issue with the water quality and there is a need for a reevaluation of the water, because the Au Sable Institute has been monitoring the lake for many years, then why isn't the Manistee Lake Association working up something to pay for that. Neubecker said that the association has come before this board based on what they feel is a combination of water quality, which is not necessarily something that can be addressed by the establishment of a lake board because there are other issues here. He said that what they are looking at is weed growth, foreign weed growth and evasive INVASIVE species. The same citizen asked why the association does not use the \$20,000.00 to make the determination if they need to do something or not, and then at that point form the lake board if need be and go forward. Paladino said that he had a good point. The citizen said that they got a special assessment last time for the milfoil, why can't they do it the same way again. He said that if this is truly something that everyone in the lake association feels needs to be done that makes sense. He said why bring in this board that has this power over everyone, which he does not necessarily agree with, unless it is absolutely needed. Casto said that she

agreed. Neubecker said that what we are suffering from greatly within the two townships and the people that own property on the lake and even back lake property is the fact that there is a large lack of information regarding the whole evolution. He said that there are a few people that have the insight as to what direction a lake board can go and it is very confusing, frustrating and scary because if the lake board decides that they need an assessment to cover an X amount of dollars, it then goes through the public hearing process, but then the lake board could make a special assessment district without the public's say so. Bondy asked if they could do that without a lake board. Neubecker said we did for the Milfoil critters. He said that the Manistee Lake Association paid for the engineering studies and also paid for 50,000.00 critters and came to the township board with a petition from the property owners, that was more than 51% requesting that we establish a special assessment district to pay for further studies and on going placement of the milfoil beetles. And that was after the results and after the engineering studies were completed. Bondy said, that what Neubecker is saying, is that the lake board wouldn't need any input from us and that they could just go ahead and hire Groves. Neubecker said that they (MLA) could, but where they are coming from is the aspect that if they spend \$20,000.00 to have the engineering studies they would be broke, and then where do they go as far as money for further studies. One of the solutions, which has been granted by the State of Michigan, is to establish a lake board to do this, and the other option is to establish a special assessment district in lieu of a lake board to bring in the funds. Another citizen said that for the last 3 to 4 years all they've been saying is to get it done and here we are four years later and still nothing has been done. Neubecker said that bringing something before this board in April as an idea and expecting action to be taken within 60 or 90 days is not realistic. Hodges said that 5 years ago we worked on the milfoil project and we had no problem with that. Harvey Brow said that they did have a problem because they had a problem getting the 51%. Bob Pleasant asked if the township board had any idea or thought of where they're heading for as far as the lake. He said that he knows about the engineering study but after that. Neubecker said that neither he nor anyone sitting on the township board has any idea what constitutes lake improvements that are needed and that is where Groves and his company come in. Pleasant asked if we did not have an agenda. Neubecker said that it is strictly based on the recommendations that would come from Groves' company Progressive A&E. Janet Goulet asked if a special assessment could last up to five or six years. Neubecker said that a special assessment could last up to five years. She then asked who makes the decision as to what will be done to the lake. Neubecker said that when they had the problem with the milfoil, Manistee Lake Association came to the township and told the township board what they needed. The board told them that if they were going to need a special assessment district they were going to have to have an engineering survey done outlining specifically what needs to be done and what costs are involved in correcting the situation, which Manistee Lake Association did. MLA came back to the board and said that this is exactly what needs to be done and this is the cost involved. They got their petition, we had the two public hearings as required and then said that this is it, MLA had the support of the people in the area, it is a real issue and then moved

forward. Another question was what constitutes a back lot. Groves said that it is anyone who has a deeded or dedicated access to the lake. Groves said that special assessment districts typically only include those people who directly benefit and that would be waterfront properties and back lots that have been deeded or dedicated. Norm LaCroix spoke about the problems with the lake. He said that this is a complex and difficult issue and needs to be dealt with in a relatively short period of time. He feels that a lake improvement board is the way to get it done. Neubecker said that this is not a problem that happened overnight and he does not want to jump into a solution overnight. Norm Groner from Excelsior township said that it does concern him that a five member board has so much power and he wants to make sure that he feels comfortable with a lake board before he moves it on to 300 lakefront owners and a few back lot owners. He wants to make sure just how it is going to affect everyone. He said that he's been to all the meetings, asked a few questions and has listened to everything that has been said and he wants to be darn sure, before he personally makes a decision just how it is going to affect everyone. He said that the township elected him to do a job and he doesn't want to do something that is going to affect a small portion of people on the lake just to clear his hands of the situation and get it over with. He wants to make sure that what we do is right, and for the right purpose, for everybody involved. Neubecker asked Groves if he knows of any township that has held a public hearing regarding the establishing of a lake board. Groves said yes, that just recently Lake Misaukee held a public hearing. He said that they had representatives from the county, city and township, because they wanted to make sure that they had the support before they finalized the resolution. He said that the lake association did a mailing of about 900 letters to everyone around the lake and they also published it in the paper. Neubecker proposed that we hold a public hearing in two or three weeks time, and do a mailing to all of the lakefront property owners. There was another question about having only one property owner on the lake board. Neubecker said that there could be more than one property owner on the lake board, it would depend on whom the townships appoint to sit on the board. It could be a board member or they could appoint a property owner. Paladino said that he feels that a property owner would be more beneficial. He said that he would like to see the board go that way and he would also like to see a majority of the people be in agreement with what's going on, meaning the people that are going to be assessed. More discussion followed. M/Neubecker S/Casto to hold an informational meeting on Sunday July 24, 2005 at 9:00 a.m. at CETA Hall and have a mailing to all lakefront property owners and also have the meeting published in the Kalkaska Leader. Tony Groves will also be present. All in favor. Motion carried.

Excelsior Township Board adjourned at 8:47 P.M.

Meeting recessed at 8:50 for five minutes.

Meeting reconvened at 8:56 P.M. with all board members present.

New Business - (A) Cemetery - Hodges suggested that we look at changing the guidelines for the cemetery as far as memorials. She suggested that we possibly limit the memorials to no more than two flower arrangements per grave. Hodges said that some of the graves have so many memorials on the graves that they are actually infringing on the graves next to them. Also it is getting harder to cut the grass. No action was taken other than Neubecker asked Hodges to make a recommendation in writing. (B) Upgrade QuickBooks for Clerk - Hodges said that Quick Books will no longer support her 2003 QuickBooks program that she needs to upgrade to 2005. The cost would be about \$230.00. M/Neubecker S/Casto to authorize the clerk to upgrade her QuickBooks program to 2005 with a cost not to exceed \$250.00. All in favor. Motion carried. (C) Resolution from the State for a grant for new voting equipment. Neubecker read the resolution from the state. The foregoing resolution was offered by Neubecker and seconded by Casto. Upon roll call vote the following voted "aye" Bondy, Paladino, Hodges, Casto and Neubecker. There were no "nays". The Supervisor declared the resolution adopted.

Approval of Bills - M/Paladino S/Bondy to pay the bills as presented. Roll call vote. Casto yes, Hodges yes, Neubecker yes, Bondy yes and Paladino yes. All in favor. Motion carried. Checks #9783 thru #9826 in the amount of \$25,452.12 were issued for payment.

Citizens Comments - Charlie Fawcett said he had a question regarding Third Street over on Pickerel Lake Shores. He said that two months ago he asked what the board's pleasure was about vacating it and asked if the board had reached a decision. Neubecker said that it has not been on the agenda. Fawcett said that it has been two months. Neubecker said that we haven't had it on the agenda because he (Fawcett) did not let us know that we were going to have it as an actual item and the board has not voted on it because it has not been on the agenda. Neubecker asked Fawcett if he would like to ask the individual board members their ideas on it. Fawcett said that would be fine. Neubecker said that he would start with his ideas. He said that when he sees the court papers, filing suit to vacate that piece of property, we will take action on it at that time. Neubecker then corrected himself and said that I (Neubecker) will be willing to take action on it at that time. He said that he will not speak for the board. Fawcett then called on Paladino. Paladino said that he does not feel that we should just give it up on a pressure plate. PLAY. He said that he respects his views as a landowner, being adjacent. He said that if he was there he probably would do the same thing, but as a board we shouldn't feel threatened, that if we don't do something you're going to take it away. He thinks that it should be done properly. He said that he knows that lawyers cost a lot of money but he feels that it should be in proper format. Fawcett then called on Hodges. Hodges said that she agreed, that we shouldn't give it up without legal representation. As far as just giving it up, no, kind of like Mike said, wait and see. Fawcett said that he thinks that the precedent was set on First and Second Streets. He said that if it will help the board make up its' mind, Mr. Querfeld and he (Fawcett) will file suit if that's necessary, and of course if it does show a precedent was

set, we will be asking for our legal costs too. Fawcett said that he hates to do that to the taxpayers till, but he will because it's a winner. He said that the outcome is not in doubt really, because on First St. and Second St. the board pulled out of the suit. Neubecker said that his thoughts behind the situation is that when this plat was laid out, this plat was laid out with access either at the time or at some future time for the property owners that do not have lakefront property afforded to them. Neubecker said that his personal opinion not as a board but his personal opinion is nothing more than a greed move, and he does not accept that to the other property owners that own property that is not lakefront on that lake. That was signed DESIGNED and placed in there for a specific purpose and that purpose was not to split it between adjoining owners at some later date. Fawcett said that he wanted to ask Neubecker a question because he was one of the ones that voted to not proceed with the suit on First and Second Street. He said that you (Neubecker) were personally one of the ones that voted to give up the lawsuit. Neubecker said that that was a key word "Lawsuit". He said that he started out this conversation by saying that when he saw the papers from the court requesting you (Fawcett) filing suit against the township, to vacate that property, at that time we will look at taking action. Fawcett said that he wants to make it easy on the township. Neubecker said that if he (Fawcett) wanted to make it easy on the township he would say it's a nice piece of property, it's dedicated as an access and that he's not going to be greedy and that he will leave it alone. Neubecker told Fawcett that his choice is (and he does have that choice) is to file suit to split that property off and split it between him and the adjacent property. That is perfectly his right to do that by law. Paladino asked if his objective was to not have people go on that property. Fawcett said that nobody does now. Neubecker said that his objective is, is that he wants the additional piece of property. Fawcett said that he doesn't need it, he already has 2000 feet on the lake. Paladino said that we understand that, and then asked Fawcett what is his objective, why do you want to pursue it. Fawcett said because you lost First and Second Street. Neubecker told Fawcett that the bottom line is, is that he (Fawcett) wants the property and it does not have anything to do with any court decisions that were made previously. It's an adjacent piece of property to him (Fawcett), and he would like to have it. Fawcett said he does not deny that. Neubecker said that he had already told him and he had gotten a majority of the board who told you the same thing, that when you put forth the legal documents to sue the township, for that piece of property, it will go on the agenda and we will discuss it.

Mr. Helm asked about cleaning up the other half of First St. so that the property owners can use it. Neubecker said that he is working on that and that we going to have it resurveyed. Short discussion. M/Casto S/Bondy that Dream Services be contracted to clean up the site after the survey. All in favor. Motion carried.

More discussion on Third Street. Gerry Gancer said that he understands that the township lost Second St. and Third St.. Neubecker said that was not correct, we lost half of First St. and half ALL of Second St. on Pickerel Lake. Gancer then said, that the township is willing to

possibly absorb court costs to fight one that the township can't win. Neubecker said that he (Gancer) has every right to believe that the township will not win. Neubecker said that the boards comments are that the board is not going to give a piece of property to somebody that comes before this board and says that if you don't sign off on this piece of property, I am going to sue the township. Neubecker said that he personally feels that that is blackmail. Neubecker said that if he wants that piece of property, for whatever reason he wants it for, then it is up to him to go through the proper motions of filing suit in court, per law, to address before this board that he is suing for this piece of property. Neubecker said, that he looks at it as a fact, that we as the township board are here to protect the townships interest and when those plats were laid out they were laid out for a specific with road endings. Those road endings were for at the time or at some future point in time, to provide access to the lake for those who do not have lakefront property. That is our stance as a board and if somebody comes in and says I want that piece of property or I'm going to sue the township for it, then let them go ahead and sue us for it. We're not going to sign off for \$500.00, for a property owner to take 50ft. of waterfront property, on the north end of Pickerel Lake, and give it away. More discussion followed.

M/Paladino S/Casto to adjourn.

Meeting adjourned at 9:30 P.M.

Mary Hodges  
Coldsprings Township Clerk