

APPROVED  
BEAR LAKE TOWNSHIP  
MINUTES OF SPECIAL MEETING/PUBLIC HEARING  
FOR BEAR LAKE SPECIAL ASSESSMENT DISTRICT (SAD)  
SEPTEMBER 10, 2016

Present: Banker, Havens, Allen

Absent: Majeski, Rosenberg

Others: Bryan Graham (Young, Graham, Elsenheimer & Wendling PC), Casey Shoaff (PLM Lake & Land Management Corp.), Sherry Hoyt (Deputy Clerk), Twelve other Township residents.

Meeting called to order at 10:39, upon achieving quorum of board members

Pledge of Allegiance

Approval of Agenda: Motion by Allen; Second by Havens. Unanimous.

Opening of Public Hearing: The following people submitted a form for speaking at this meeting; their comments/questions/statements and responses are listed below.

1. Marge Knable, 1580 Pine Springs NE. Q – How is the surplus funding in the SAD appropriated? Will it apply toward next year? A – Yes. SAD can be approved for five years, specifying to use the surplus first. Township Board will review annually and determine if/how much to collect that year. Q – Can the Board initiate a SAD without a petition? A – Yes, but it can be stopped by a 20% petition of people who oppose it, until a 50% petition is achieved. Q – Which figures are used in the collection of revenues? A – The figures are already outlined in a range in the Public Act. Q – Does the Board have the authority within the five year period to increase the assessment amount? A – Yes. Marge stated opposition to a one year contract and additional legal fees.
2. Steve Koch, 1165 Sunset Shores Drive NE. Q – Can there be a wording change in the SAD? Concern about algae, zebra mussels, etc. Main concern is to protect the lake. Concerned about prevention of problems and having the funds to treat new problems that may arise. A – Yes. Bryan summarized proposed language changes in the resolution. The statute allows for aquatic weed control. He would like to research or see case law regarding the intent of “eradication or control.” Q – Will other providers be used to assess the lake for other species? We should use sources other than PLM. A – The SAD is a Township improvement. Other projects are initiated by the lake Association. This SAD can be stopped and another one begun, based on a new estimate and plans that are within statutory requirements. Steve stated that no one had intended this to be limited to just “aquatic weed control.” At every meeting, the intention was a broader scope. Bud responded that the Township can now proceed according to everyone’s wishes, based on today’s discussion.
3. Marty May – 1441 Sunset Shores NE. Q – Can PLM modify language in the contract to include other things like algae, etc? A – There has been no estimate provided for these other items. Bryan is willing to modify to the extent possible. He suggests we use current funding in the SAD to pay for 2017 treatments. Meanwhile, he will do legal research and there could be a new

Public Hearing next spring/summer to include new estimates for other services. Resulting changes would be reflected on the Winter 2017 tax bills.

4. Gerald McKee, 11409 Hillcrest. Q – If we get a boat washing station installed, who would have liability for any injuries or damages at the site? A – There must be an ordinance to enforce these matters. DNR approval would be needed. If the Association sets up a boat wash station, the Association would ultimately have liability.
5. Jo Rahaim, 1246 W. Bear Lake Road. Q – Is it possible to state the SAD can maintain a certain balance of funds in order to address any immediate needs identified by PLM? A – Statute allows 5% of estimated annual treatment costs to be maintained. As initially set forth in the Special Assessment, the Township will pay costs and then approach the SAD to reimburse if necessary. Q – If cost of treating the lake exceeds the estimate, how is that handled? A – The Township Board can impose an additional assessment by way of a Public Hearing. Q – If we sign a five year contract with PLM and PLM goes out of business, what happens? A – The SAD remains in effect and the Township would seek out a new contractor. Jo stated the Association was depending on the Township Board to guide them and provide good counsel in the past (about the language of the resolution). Bud responded that there were different members on the Board when the plan was implemented, and that this plan has served well so far. He agreed that we want to move forward now and get appropriate legal counsel to avoid future issues.
6. Sam Rahaim, 1246 W. Bear Lake Road. Q – During a five year SAD, can issues be discussed at a regular Township Board meeting and then implemented? A – Yes. Q – Can wording of a new resolution generalize the improvement part of the statement? A – No. The PLM contract specifies “aquatic weed control.” Sam stated we have eight or nine months (before the next treatment period) to work out new SAD language. We have funds in the SAD currently to cover next year. Q – Are there Board fees for special meetings? A – The Board officers are salaried and receive no additional compensation for special meetings, per Township procedure.
7. Bud Banker, Township Supervisor, stated the Township has acted thus far based on concerns and issues brought up by property owners. Q – Can we continue with the current resolution until new concerns can be written into the language? Do we need a petition? A – PLM can provide a one year contract, then a broader five year plan with a new SAD for five years. No petition needed. Q – Can legal fees for research of broader scope be taken from existing SAD funds? A – Yes. Q – The five year contract needs to be addressed. Can PLM cover all the broader concerns, or do other providers need to be brought in? A – The next service will be provided around May or June 2017. Bryan recommends a one year PLM contract for the next service period (approximately May to September 2017). During that time, a new SAD and contract can be developed. If the scope of service increases, the cost will also increase, which may result in a higher assessment to each property owner. Statute requires a cost estimate.
8. Bryan Graham, Attorney. Q – Does PLM’s current contract cover the expanded scope being discussed? A – (Casey) Some (algecides). Treatment for zebra mussels is not currently approved anywhere. PLM is involved in testing for zebra mussels in other states, but nothing is approved yet.
9. Shirley Havens, Treasurer. Q – In the PLM contract, are there extra costs for “optional” items? A – Yes.

An informal poll of Township residents (the public) was taken for the options of 1 – Keeping the contract as is; or 2 – Changing/broadening the scope of the contract. The response was evenly split, with six people voting for each option.

Closing of Public Hearing: Motion by Allen; Second by Havens. Unanimous.

The following five-part Motion was made by Banker; Second by Havens.

1. We will not proceed with the current SAD.
2. We will request a one year PLM contract for Spring thru Fall of 2017
3. The cost of treatment services for 2017 will be paid out of the existing SAD fund.
4. The attorney will be directed to perform limited legal research to maximize the scope of a new SAD intended to be implemented in 2017.
5. The attorney will be directed to work with PLM and the lake Association to develop a new five year plan to begin in 2018, to cover services PLM can provide directly or via a subcontractor, to maximize services authorized by the statute.

Roll Call Vote: Banker – yes; Havens – yes; Allen – no. Motion carried.

Public Comment: None.

Adjournment: Motion by Allen; Second by Havens. Unanimous.

Respectfully submitted, Sherry Hoyt, Deputy Township Clerk

September 12, 2016

Bear Lake Township Board Members  
198 E. Bear Lake Road  
Kalkaska, Michigan, 49646

Re: Bear Lake Special Assessment District No. 2- BEAR LAKE SAD 2011

Dear Board Members,

I have read the draft minutes of the public hearing held last Saturday, Sept. 10 regarding the Bear Lake Special Assessment District (SAD). It is most unfortunate that the township is proceeding down a path that is both costing the lake property owners unnecessary money, and is lessening the SAD's ability to manage our lake.

First, let's look at the existing SAD and see how it is functioning:

- 1) After a qualified petition and the requisite public hearings, the Township Board established on October 20, 2011 the special assessment district for "an annual assessment of \$50 per unit due yearly". The township attorney has suggested the SAD may expire after 5 years as that time constraint was on the qualified petition. This is clearly not the case as the resolution reflects the desires expressed at the public hearings that the assessments be yearly with no expiration date. This meets the requirement of PA 188 of 1954, 41.725 (1) (d) for the "term" of the SAD. There is no expiration date on the adopted resolution.
- 2) There is no requirement (although suggested during the public hearings and notices) that an annual meeting is held unless the SAD estimate increases by 10% or more. The adopted resolution deleted the need for this hearing unless the 10% statute condition is exceeded.
- 3) There have been no complaints on the expenditures of the SAD and the management procedures recommended by the lake association board. Putting it succinctly, it is running effectively without any hitches and should not be messed with.
- 4) Section 41.732 Sec. 12 of the Act provides that if there is a surplus of greater than 5% each year, then that surplus can be applied to the following year's assessment, essentially paying back each property owner. This is not a difficult procedure and only requires that the Township Board approve such action. This can easily be done with the current surplus to satisfy the statute.

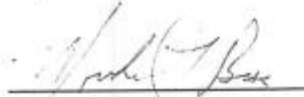
The bottom line is that the township is trying to fix something that is not broken and is thereby costing the lakefront owners thousands of dollars that we thought was going to the maintenance and improvement of our lake.

I respectfully ask the township board to stop any further expenditures for legal fees, for notices and publications and for any special meeting costs and to leave Special Assessment District No. 2 - BEAR LAKE SAD 2011 alone. You can agree to credit the excess accumulated amount on our next assessment and all requirements of PA 188 of 1954 will have been met, you will be in full compliance, and we will all be the better for it. Our ability to manage all aspects of the lake's health will not be diminished or restricted as it would if you follow the procedure and language the attorney suggests.

We have an excellent track record with extremely cooperative owners and it seems that after 5 years, we have demonstrated there is no need to get hyper-vigilant and caught up in legalese.

Thank you for your attention to this matter and if the board would find it fitting, would you please take action at your September 13, 2016 meeting to stop this before it gets too far and uses up our dollars intended to go to our lake's betterment. Unfortunately, Sue and I will be out of town tomorrow but would appreciate your action to help all lake owners and the lake as a whole. If you have any questions of me, you can e-mail me or call me on my cell (517 375-0945) and I will respond to them before the meeting.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael T. Boss", is written over a horizontal line.

Michael T. Boss  
1588 Pinesprings NE  
Kalkaska, Michigan 49646

cc: Bear Lake Association