

## 5/1/06 DLPSA BOARD MEETING MINUTES

**Mailing Address:** P. O. Box 344, Grawn, MI 49637

**Website:** <http://webpages.charter.net/dlpsa/index.htm>

The meeting was called to order at 7:38PM at Duane Lueck's house, with Duane Lueck, Rod Ross, Sara Cockrell, Scott Hackney, Camille Brand, and Jan Bachman present. Scott Hocking was not in attendance.

**Secretary's Minutes** for 3/6/06 Board Meeting were approved as is.

**Treasurer's Report** was presented by Scott Hackney, with income of \$65, and \$300 expense for the park survey, for balance of \$8,252.70. Sara had emailed the Board on 4/17 about the Ford Insurance bond for \$114.82, due 5/5. Sara turned in mail for another \$40 in dues, and the bill from Landscape Management for the park & boat launch debris cleanups for \$798. Duane also presented a bill from Menard's for the playstation for \$1,981.66, for materials only. Motion was made to pay all bills as presented. Duane mentioned that a Special Assessment District is being considered for lighting at all paved intersections on Duck Lake Peninsula. We will hear more about this in the future.

**Public Participation:** None was requested for this meeting.

### Committee Reports

**Hospitality:** Camille reported she had sent out Welcome Kits to new members.

#### **Maintenance:**

Duane reported that **Cherryland Electric** power will cost \$600 to move the pole from behind the gray house, and then underground to the pavilion. He has gotten one bid from an electrician for \$1,705 for the pedestal light, which will include 2-8ft fluorescent lights with plexiglass housing, and a couple of outlets. A New Construction Checklist was received from Cherryland, and will need to be completed.

Duane has already unloaded the **playground equipment** at the pavilion, & it is precut and predrilled. It will take 4-5 volunteers to install. Beeman's will need to level the playground beforehand. Sara suggested that we find a handyman to do this project instead.

The **Boat Launch dock repair** has been completed by Duane, and installed.

**Bids for lawn maintenance:** Sara reminded Duane that he had insisted on 11/9/04 that we get bids on our largest, annual expense, maintenance of our common areas. Sara offered to follow-up with 3 local, licensed & insured companies serving our area. A plat map showing the areas needed (park, 4 accesses, boat launch, canal, paths to park, and entry sign) will be provided to each, in addition to Landscape Management, for mowing and leaf removal. Tom Fabatz's company (DLPSA member) has done a great job, and has generously made donations of man hours over the past few years, but we need to be fiscally responsible to our membership.

The **tree branches** leaning on the tennis court fencing have been cleared by Landscape Management during their park cleanup.

Duane reported that **Beeman's** will drop the 2 trees next to the tennis court with a bulldozer, remove stumps, replace the volleyball & playground sand, regrade the playground, and also regrade the dirt adjacent to the pavilion, so lower than the concrete pad. They will also remove the well pit, although the sign will have to come out to remove the roots.

The **Property Survey at the Park** has been completed but permanent stakes are needed soon since some have already been removed by park visitors. Duane suggested using wolmanized versus cedar.

Duane reported that the **tennis court power washing** will be done through a partial payment/trade with Pyramid for the firewood, now that the leaves have been removed.

Sara reported that the **gate chain** is broken on the east side of tennis court.

**Liaison:** Jan had nothing to report.

**Newsletter:** Sara congratulated Rod on the fine job writing the newsletter, and suggested some corrections, clarifications, and additions. We can include up to 5 pages with a first class stamp. Scott Hackney was asked to provide an annual cost breakdown/pie chart of expenses from 5/1/05 for the newsletter, to show where your \$60

dues are spent. Sara will purchase the stamps, make the copies, then get Jan's help stapling, attaching stamps, affixing address labels, and taping close. The newsletters must be out 7 days in advance of the General Meeting. Rod stated that he had not heard back from John Stuart on his proposed Summer Activities in the Park (3/10 letter received), so would hold off on inclusion in the newsletter. More could be discussed at the General Meeting.

### **Old Business**

**Sign Installations** have been completed: 1) "Please Lock After Use" at the Boat Launch, and 2) replacement of the "No Docking" at Access #4, which was removed by someone last fall.

**Community garbage collection status:** Scott Hocking was not present to make a report.

**May 20<sup>th</sup> General Meeting:** Sara made a list, since she & Camille have previous commitments for that date.

1) Time for meeting, set at 9:30 for sign-in, 10:00 for meeting. 2) Agenda & copies (approx 20) for all in attendance. 3) Membership list of paid members for 6/1/05-5/31/06 will need to be provided by the Treasurer, since they are the only ones allowed to vote. 4) Sign-in sheet. 5) Voting cards, yes or no, one for each paid lot/member, with number of each for minutes. 6) Wording for by-laws change of Annual Meeting date to 2nd Sat in Sept. 7) Minutes taken by another board member (I will not be able to attend.) 8) Name tags & pens/pencils. 9) Blank copies of dues form for 6/1/06-5/31/07. 10) Sign-up sheet for park projects (copies of list for all, in addition to long-term projects, such as tennis court, boat launch, etc.) 11) Keys for sale & discussion on replacement policy. 12) Vacancies to be filled at Annual Meeting. (Sara & Camille have already announced their resignations.)

**By-laws wording** for change in Annual Meeting date: Sara mentioned that the actual wording for the Associate Member change on 8/6/05 was not finalized until after the vote. The proposed change for the Annual Meeting date is under VI. Meetings, Section 3 of the DLPSA By-laws on page 3. A motion should be made to make the change to: "There shall be an annual meeting of the Duck Lake Peninsular Shores Association the 2<sup>nd</sup> Saturday in September". By-laws copies should be provided for the meeting.

**Funds transferred** to separate account for long-term projects: There will be none available until new dues are received due to the many proposed projects being considered for 2006.

### **New Business**

**Next board meeting:** Sara suggested we change the next meeting, since several board members may be out-of-town over the July 4<sup>th</sup> weekend. It was agreed to change from Monday 7/3 to Tuesday 6/27.

**Community garage sale** on June 3<sup>rd</sup>: Board will need to place an ad in the Record-Eagle & put up signs.

**Loon report:** Sara took a copy to Interlochen State Park for their rangers.

**Access # 4 Letter:** A copy of a 4/17/06 letter was provided to the Board, which was sent to the 3 parties from Plat #3 who are docking boats at access #4, Carnes, Weinert, and Sommerville, by Dan & Beverly Bodary, in addition to 8 others with lots in Plat #2. This group copied the Michigan DEQ, Green Lake Township, in addition to the DLPSA Board, regarding "Encroachment at Central Park (Private)". See attached letter. Both parties have asked & attended DLPSA Board Meetings (Jon Weinert & others on 5/3/05, and Dan Bodary on 11/7/05, see minutes), and presented their concerns on this matter. In both cases, the Board stated that they would have to pursue on their own, that this is not a matter involving DLPSA.

**Trash in Park:** Jan has observed inappropriate trash in the park & speeding along the roadways, as she walks the peninsula daily. The Board stated that the appropriate government body should be called whenever loitering or speeding is observed, and that there is an officer stationed at Blair Township Hall who can patrol the park.

**Real estate signs:** Sara noted that signs are already appearing at the intersection of Peninsular Shores and East Shore Drive again. Krysti Baker at Green Lake Township has said that their new zoning ordinance will be adopted soon, with notification to all brokers that "off-site" signs will be removed, that only "Open House" signs will be permitted. For beautification purposes, it would be nice if realtors would cooperate in the meantime.

**New Bulletin Board boxes:** Sara will purchase and replace for dues slips.

The meeting was adjourned at 9:15 PM.

Respectfully submitted 5/4/06, with revisions 5/11/06.

Sara Cockrell, DLPSA Secretary

Mr. and Mrs. Dan Bodary  
4392 Central Park Drive  
Grawn, MI 49637  
April 17, 2006

To: Mr. Thomas A. and Mrs. Elizabeth L. Carnes  
Mr. Jon D. and Mrs. Barbara E. Weinert  
Mr. Max and Mrs. Darlene Sommerville

Subject: Encroachment at Central Park (Private)

This letter is written on behalf of ourselves, Dan and Beverly Bodary (lot 154), along with Sheryl Beckman and Laura Tolen (lot 88), Gregory and Bonita Beckman (lot 127), Lester and Joann Faus (lot 128), Lisa Donnelly (lot 89), Michael and Dorothy Glasser (lot 132), Karl and Mary Lynn Hogue (lot 140), Edward and Barbara Roach (lot 124) and James and Cheryl Turner (lot 134), all owners of lots in Peninsular Shores Park No. 2, to ask that you cease your encroachment upon Central Park (private). You have encroached upon the rights of the lot owners to whom Central Park (private), the open land at the end of Central Park Drive at its intersection with East Shore Drive, has been dedicated by placing your boats, dock and hoists in the park and adjacent water.

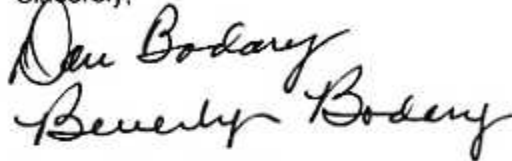
The recorded plat of Peninsular Shores Park No. 2 which designates the lot where you have been encroaching as Central Park (private) provides, "...that the streets or drives and park as shown on said plat are hereby dedicated to the joint use of the lot owners of this plat." Like all other lots fronting on an inland lake, Central Park (private) consists not only of the land from the road to the water, but also the adjacent bottomland under the water of Duck Lake. None of you who have been encroaching own property in Peninsular Shores Park No. 2; all of your lots are located in Peninsular Shores Park No. 3. Whenever you have placed your boats, your dock and/or your hoists on the shore or in the water adjacent to Central Park (private), your personal property has encroached upon the opportunity for the lot owners to whom the park has been dedicated to make "joint use" of that portion of the park you have occupied.

Michigan courts have had to make determinations about similar situations in recent years. In *Little et al v. Hirschman*, the Michigan Supreme Court held that dedications of land for private use convey an irrevocable easement in the dedicated land. That holding applies to Central Park (private); all the owners of lots in Peninsular Shores Park No. 2 have an irrevocable easement in it. None of you own a lot in the plat in which the park is located so none of you have an easement of any kind in the park. Those who ask that you stop encroaching have heard that you may assert that because you have utilized both the shore and the adjacent bottomland in the park "for years" you are entitled to continue doing so. That assertion is incorrect. Recently, in a lawsuit to stop certain hunting, a Judge in Alpena County allowed those who sued to hunt on land for several weeks each year based on their claim that they had hunted on the land for years. The Michigan Court of Appeals reversed that ruling in *Cramer v. State of Michigan*, holding that Michigan does not sanction alternating possession and use of land. The Court of Appeals concluded possession has to be continuous and uninterrupted to deny the ownership of the legal owners. Each year the moment your boats, dock and hoists were removed from the bottomland, possession was broken and the law restores the constructive possession of the owners. There is no such thing in Michigan as establishment of adverse possession on a seasonal basis by putting your boats in the water in the summer.

It also has been heard that if you cannot continue encroaching upon Central Park (private) you demand that no one be able to use the boat launch at the eastern end of Ivan Drive. The street end where that boat launch has been built is within Peninsular Shores Park No. 3. The doctrine of laches bars you from undoing what the owners of the lots in Peninsular Shores Park No. 3 agreed to by accepting the substantial investment by the Duck Lake Peninsular Shores Association in paving, lawn maintenance, underwater concrete, dock and locked chain in return for being able to use that facility along with other dues paying members of the DLPSA.

In spring 2006 you are requested to remove your dock sections from Central Park (private) and to cease and desist from infringing upon the rights of the owners of lots in Peninsular Shores Park No. 2 to use of that park and adjacent bottomland. None of you have any right to use that park because none of you own a lot within the plat in which the park is located. You are specifically requested not to place your boats, dock, hoists or any other objects in the park or on the bottomland adjacent to the park.

Sincerely,

Handwritten signatures of Dan Bodary and Beverly Bodary. The signature of Dan Bodary is written above the signature of Beverly Bodary.

Dan and Beverly Bodary

Cc: Eric Hudy, Michigan Department of Environmental Quality (DEQ)  
Green Lake Township Board of Supervisors  
Duck Lake Peninsular Shores Association (DLPSA) Board of Directors