BEAR LAKE LAKE BOARD
REGULAR MEETING
Thursday July 11, 2019
6:00 p.m.
North Muskegon City Hall
MINUTES

CALL TO ORDER: The meeting was called to order by Kim Arter at 6:00 pm.

PLEDGE OF ALLEGIANCE TO THE FLAG:

ROLL CALL:
• Present: Darrell VanFossan, Brenda Moore, John Snider, Steve Johnson and Kim Arter
• Absent: None
• Also: Dr. Jennifer Jermalowiz-Jones of RLS, Linda Henchel, Recording Secretary Veronica West and four (4) area citizens.

MINUTES: Darrell VanFossan moved to approve the minutes of June 13, 2019 as presented. John Snider supported the motion. The motion carried by voice vote. The minutes will be placed on file.

REPORTS:

• Treasurer’s Quarterly Report: Darrell VanFossan presented his report for the quarter ending June 30, 2019, which also included cumulative year to date figures. He summarized the expenses and the cash on hand, noting that about half the annual 2019 budget has been spend and we are halfway through the year. Brenda Moore moved to accept the report and place it on file. John Snider supported the motion. Kim Arter noted that placement of treasurer’s reports online on the BLLB page of the Laketon Township website was previously approved at last month’s meeting and this report will be place online with the others once approved. A voice vote was taken and the motion carried.

• Restorative Lake Sciences Bid Comparison: Dr. Jones stated they will be out on the lake on July 23rd for gathering the next samples/data for the baseline data sets required by the State for the whole lake laminar flow aeration system permits. Kim Arter commented on hearing from residents that there are algal blooms occurring. Darrell VanFossan commented on hearing from residents on the east end of the lake (nearest the old celery flats area and the Bear Creek inflow that there is a lot of milfoil in the shallow water there and boats are getting stuck in the weeds. Dr. Jones noted that the area was treated with a systemic product and sometimes that causes the tops of the plants to grow very quickly before it dies off; she noted they would take a look at this issue and the algal bloom issue when they are out on the lake July 23rd. Kim Arter asked Dr. Jones to re-review her aeration bid comparison for the benefit of the 2 members that missed her review last month. Dr. Jones explained how she laid out her analysis for an “apples to apples comparison”. She discussed the comparison of the system components (number, size and material of the diffusers, length of the hose, number and decibel level of the compressors etc), noting the number of compressors proposed by PLM was a lot and thinks it would be difficult to find 38 property owners willing to house a compressor on their property, the number of hose in the PLM bid is double that of EverBlue and this is one of the most expensive components. She also noted she feels the number & type of diffusers proposed by EverBlue was the better option and also noted that EverBlue only proposes 2 compressors. Dr. Jones talked about the bioaugmentation portion (microbes, type and number of applications) noting this portion is largely responsible the cost being
so much more than was originally estimated in the budget. Dr. Jones noted that while both proposals are good, the EverBlue proposal is unique in that it takes some water from Bear Lake and grows the microbes in that water then mixes it back into the lake in the form of a slurry and the microbes are already acclimated to the chemistry of the Bear Lake water and it works really well. Kim Arter noted that the issue of petroleum being detected in the sediment is the issue they are approaching the state for help with. Next Dr. Jones talked about the additional benefits (annual winterizing, diffuser cleaning & warranty) with Darrell VanFossan asking her to elaborate and explain what the warranty covers. Dr. Jones noted that the only problems not typically included are vandalism and lightning strikes. It was noted that the EverBlue bid proposal was the only one to discuss electrical costs. It was also noted that as a governmental unit there are often significant discounts to be had from the utility companies and Dr. Jones can put this Board in touch with another lake board that was successful in obtaining a discounted electricity costs. Dr. Jones also talked about bid costs (purchase price vs lease price) and stated she feels the lease option with EverBlue is the most affordable option. She noted that while the costs are much more than originally estimated in the budget, she feels it is very reasonable considering the scope of work that is needed and especially considering the petroleum digesting microbe/bioaugmentation portion that was not known to be needed originally. She also added that once a vendor is selected, the BLLB attorney and the vendor company would negotiate out a specific contract and that can sometimes take months so selecting a vendor soon is important. Darrell VanFossan asked about the increased cost and how it would work considering this would be implemented in year three of this five year plan and the lease being a five year lease and expressed concern over the bid prices versus what the budget amount is. Dr. Jones stated that the contracts would have “out clauses” and explained these proposals are very aggressive and even perhaps over designed to address all of the issues in this lake (low oxygen, low biodiversity, petroleum in the sediment, toxic blue-green algae). She noted that it may be possible to ask the chosen vendor to come up with a lower cost design that would still work. There was extensive discussion about this possibility and Steve Johnson asked if Dr. Jones had any documentation/data on these systems from other lakes so that the board can have this information to show concerned citizens that are very opposed to this project that they do work and results will be seen. Dr. Jones stated her company has several case studies on their website and noted that every system is different based on the needs of that particular lake and the goals of that lakes citizens and lake board. Darrell VanFossan echoed Steve Johnson’s thoughts on this and asked Dr. Jones to try to come up with a few that have good data & results on lakes as similar to this as possible, noting that the petroleum in the sediment is unique to Bear Lake. Brenda Moore noted the cost differences between the two proposals is so large and asked if one company has more experience than the other. Dr. Jones noted that PLM seems to have more experience with aeration of ponds, smaller canals and bays where EverBlue tends to have more experience with large bodies of water and open lakes. There was discussion of a few very vocal citizens at the last meeting that are still very upset with the plan and wanting more local experts called in for other options. Steve Johnson stated he has been barraged with these residents comments and Brenda Moore urged him to avoid one on one conversations outside of an open public meeting. Brenda Moore also noted that while the local experts are valuable, Kathy Evan herself has stated she is not a scientist and her expertise is in watershed management and Dr. Steinman is a water chemist and this project to restore Bear Lake is for a whole ecosystem not just those two parts. The question was asked how much can be talked about when residents approach or call or email. Kim Arter stated none; conversations outside of an open public meeting are considered ex-parte communication and are a violation of the Open Meetings Act. It was noted that citizens should be encouraged to bring any questions, comments and concerns to a meeting to be discussed in the public venue. Dr. Jones then reiterated that she would not recommend this laminar flow aeration system if she didn’t have the date and references on many other lakes to show that it works. She also added that part of any contract would be an “out clause” that if the system is not working as it should and results not being obtained to tweak or adjust the system or to
remove it altogether. Discussion moved on to Kim Arter noting that things have been moving forward with DEQ discussions and this board is looking for help from the State in the form of an appropriation due to the petroleum that has been found in the lake sediment. There have been discussions with the State Rep Terry Sabo and State Senator Jon Bumstead who are both very concerned and interested in this issue. It was noted that these two legislators sit on major appropriations committees and citizens were encouraged to contact them to ask for their support of Bear Lake and funds for assistance to address the petroleum issue. Kim Arter expressed hope that’s they would have a determination on an appropriation from the State later this summer. Dr Jones stated it would be a great idea to try to get Senator Bumstead out to visit the lake and take him on a tour show him what issues exist, she is willing to take him out with her team. Brenda Moore had several questions; including wanting to know if the levels of petroleum detected are considered a health hazard and if any of the Board members had been able to do a site visit at a lake with an aeration system in place and if Dr. Jones is aware of any situation where a lake board and a drain commissioner were able to join together with the ability to levy assessments on properties upstream to assist with the lake as those upstream have a tremendous affect on the lake as well. Dr. Jones answered the questions noting she is working with the latest requirements from the DEQ for the permit application and noted there may be some room for negotiation on what they require time that no other lake has the petroleum issue that Bear Lake has and she stated she would have to do some checking to see if there has ever been a situation where a lake board and a drain commissioner joined up to levy assessments on upstream properties. Kim Arter noted there has not been a site visit as of yet - having difficulty getting together with the other lake board contact person as he is out of state at the moment. Dr. Jones commented on being able to find another lake to visit if they are not able to work out a date/time with the first one suggested or that even her team could take them out on one of the lakes. Darrell VanFossan commented on liking the idea of approaching the legislators for an appropriation from the State as it will be much quicker than trying to get a grant if one were to be available for application. Kim Arter noted that’s grants are very difficult to apply for and to get and take a lot of time and upfront costs (like engineering) and then not all the grant qualifications can always be met - she added this board is always looking, but sometimes the costs of applying for the grant outweigh the grant funding benefit. John Snider noted that Senator Bumstead has been attending monthly breakfast meetings with local elected officials and if very interested in this situation. Brenda Moore wanted to discuss worst case scenario with regard to costs of this aeration system vs the funds budgeted as the bids are clearly way over the budget, what next? Dr. Jones noted first a vendor must be selected, then ask them to come up with a lower costs design that will still work; last resorts wold be to go back to the public to ask for more money or just do invasive species and water quality treatments and call it good. Darrell VanFossan talked about the budget, noting last year was under budget and as of right not there is a shortfall of about $138,000 plus electricity costs so roughly $150,000 would close the budget gap based on the budget and the lease option costs from EverBlue. So discussion surmised that an appropriation from the State of $150,000 would solve the financial issue. Steve Johnson asked how much overdesign Dr. Jones has seen in past quotes; she responded that it depends on the system, the issues needing to be solved and the goals of that particular lake community. She also noted that asking for a less aggressive design on a reduced scope could still produce positive results, just maybe at a slower pace. Kim Arter noted that Bear Lake is still included in the AOC (area of concern) and there is still GLRI money available and is making contacts to try to get more funding for this project. Brenda Moore moved to pursue discussions with EverBlue for a laminar flow aeration system. John Snider supported the motion. Darrell VanFossan asked for clarification that this motion is not to approve a contract, but to enter into discussions; and discussion indicated this is indeed the case.

A roll call vote was taken. Voting in favor of the motion: Steve Johnson, Darrell VanFossan, Brenda Moore, Jon Snider and Kim Arter.
Voting against the motion: None
Motion Carried.

COMMUNICATION: NONE

OLD BUSINESS:

- **Proposed Director’s Liability Insurance:** The only quote received is for $1,917.00 for a 1 (one) million dollar policy that would cover defense costs and payouts. The 1 million dollar amount is a per year total, not per event. There was discussion about what other lake boards do, elected officials having governmental immunity and other personal liability policies. Darrell VanFossan had discussions with his own personal insurance agent and couldn’t find a policy to cover him and was told to find a policy like this one quoted. Steve Johnson expressed frustration that having to spend more money for a liability insurance policy to protect the people on this board, who are citizens and volunteers, from lawsuits from angry people when all this board is trying to do is make the lake better. There was lengthy discussion on this subject and Dr. Jones stated she has seen lake boards sued in the past for violations of the public act and talked about a few examples but they have largely been thrown out of court. There were concerns for the volunteer citizens on this board being sued; Brenda Moore noted that most lawsuits seem to be frivolous, but there are still costs to go to court, pay the attorney, take time off work and the suits typically look to stop the work, not get monetary awards. Darrell VanFossan moved to table a decision on obtaining this liability insurance policy pending more information from the attorney and finding out what other lake boards do regarding this issue. Brenda Moore supported the motion. The motion carried by voice vote.

NEW BUSINESS: NONE

PUBLIC COMMENT:

- **Clint Babcock of 648 Lake Dr** - Thanked the Board and the citizen volunteers, expressed excitement to get the aeration system in place as it is a proven technology and stated the sooner it gets implemented the better. He asked if it would be possible to design the system so that in the future parts of it could be shut down or removed as needed. Dr. Jones explained that partial systems are not very effective and explained that doing this would not work in Bear Lake as it is really one open area without separate distinct basins that can be isolated for partial systems. Brenda Moore commented that it may be possible in future years to shut it down and watch and see what happens with the health of the lake.

BOARD COMMENT:

- Kim Arter - She encouraged residents to contact State Rep Terry Sabo and State Senator Jon Bumstead and ask them to support an appropriation of funds to assist with addressing the oil/petroleum issues in Bear Lake.
- Brenda Moore - She announced she has signed a final order on a 3 (three) million dollar project on the Ribe Drain (upstream of Bear Lake) to do work on 4 1/2 miles of the drain,
a bid from a local company came in the lowest and hopes that work will start this fall as she has permits in hand; although there is still one pending lawsuit.

ADJOURN: John Snider moved to adjourn the meeting. Brenda Moore supported the motion. The motion carried by voice vote and the meeting adjourned at 7:36 pm.

Respectfully Submitted:
Veronica West
Recording Secretary

Approved by the Bear Lake Lake Board on _______________________.

Signed: __________________________________________________________.