



Delegation to the Township of Minden Hills

Bob Lake Public Boat Launch Reclamation

Bob Lake Association

June 27, 2024

Executive Summary

Our ask...

That the Township of Minden Hills represent its constituents and the community at large by reclaiming the Bob Lake public boat launch using the resources and tools at its disposal, including the legal and funding options presented by this delegation.

Established in 2017, The Bob Lake Association (BLA) is a volunteer-based community organization, established to represent common interests of the more than 230 Bob Lake property owners. Almost 8 years ago, the public boat launch on Bob Lake was suddenly barricaded after serving the community for over half a century. In spite of numerous requests, attempts to work with the Minden Hills Council have not resulted in the restoration of a boat launch either for cottagers or for the general public. As directed by our membership, restoring public boat launch access for Bob Lake remains our top priority. The BLA requests that the Minden Hills Council consider this delegation with respect to:

- the Township's accountability for missed opportunities and for decisions made by past Councils and staff members resulting in the closure of the public boat launch
- working with the Bob Lake Association to restore the public boat launch at its original dam location

This delegation document will:

1. Outline the accountability of the Township by clearly identifying decisions and courses of action/inaction taken that may have resulted in the mishandling of the Bob Lake public boat launch. This includes information derived from public records and documents, obtained through the "Freedom of Information Act", and that date back to nearly a year before the launch was closed.
2. Document options that the BLA understands are available to the Township to restore the public boat launch on Bob Lake at the original dam site location. Recognizing Council's repeated concern that costs are a barrier, two different funding options are outlined which are void of any tax base or budget allocation.
3. Provide a high-level historical timeline of BLA's effort to work with Council as well as a summary of benefits realized by a public boat launch on Bob Lake (extracted from past delegations).

The Bob Lake Association is committed to working with the Township to bring a long overdue solution to this situation – not only for the over 230 property owners on Bob Lake, but also for the entire community that has been denied access to this valued public resource. The BLA is asking Council to act on behalf of its constituents and the vast majority of Bob Lake property owners by reclaiming a critical public asset that we believe was illegally shutdown and left unchallenged.

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Township's Mishandling of the Bob Lake Public Boat Launch File

This section documents a number of critical errors or missteps made by the Township when dealing with the closure of Bob Lake's public boat launch. Evidence is provided in the form of public records (newspaper articles) or Township documents received through the Freedom of Information Act. Thought provoking observations and questions are also included to help highlight the significance of the evidence.

#1 – Township failed to act when contacted by previous land owner in 2015

Through email correspondence obtained from our first Freedom of Information Act request, the BLA learned that the then owner of the boat launch site property had inquired about a severance to the Township in 2015 – a year prior to the launch closure in 2016. The actual email conversation is provided in the following two pages, but can be summarized as follows:

1. The land owner (name redacted) sent an email to Mark Coleman (then Township's Director of Community Services) on November 9, 2015. The email is a written request to have the Bob Lake launch removed from the Township's website (a listing of Minden Hills public boat launches) as it is on private land, and confirming there is no agreement between them and the Township for its public use. The email also includes a screenshot of the then Minden Hills public boat launch webpage showing a picture of the Bob Lake public launch and its address (1038 Bob Lake Road).
2. On November 19, 2015, Mark Coleman forwards the email from the land owner to Ian Clendening (then Township's Planner) asking *"Is the following the location in question? If so, I don't know the history as to why its listed on the Township website."*
3. On November 20, 2015, Ian Clendening replies to Mark Coleman as follows:
"I don't know anything about this inquiry or how it found itself on the Township website. We do not have any reference to 1038 Bob Lake Road – if the image is from the dam at Bob Lake, our records indicate that to be private property, and the individual inquired about severing the property earlier – I believe they may be selling the property and cleaning up "loose ends"."
4. On May 27, 2016 (6 months later and just after the launch was barricaded), Mark Coleman forwards the above email thread to Colin McKnight (then Township's Chief Building Officer), Ian Andresen (then Township's Supervisor, Community Services), and Lorrie Blanchard (then Township's CAO).

This was a startling revelation for a number of reasons:

- The Township knew the Bob Lake public launch was on private land long before the closure. That is very different than the messages communicated by the mayor and Township, where the news of the launch being on private land was contrary to their understanding about it being located on an unopened shoreline road allowance.
- The land owner inquired with the Township about severing their property "earlier" – presumably to rid themselves of liability concerns from the boat launch in preparation of selling the land (a statement from the land owner made in several media interviews). This leads to many other questions, such as: What was the Township's response to the owner regarding severance? Did Clendening or Coleman notify Council about the situation? If so, why wasn't there an agreement established to sever the land in order to retain the public boat launch, and avoid the entire fiasco that has unfolded ever since? To help bring clarity to some of these questions a second Freedom of Information Act request was submitted to the Township on March 11, 2024, however this request was denied due to privacy issues. An appeal was not possible in time for this delegation. A follow-up request was made to the Township seeking clarity on why the privacy concerns could not be dealt with through redaction. The response provided no further details on this front, and warned that any future requests on this matter *"will be considered frivolous and vexatious in accordance with Section 20.1 of the Municipal Freedom of Information and Protection of Privacy Act"*.

- Why is the Director of Community Services, whose job includes maintaining the Township's public boat launches, unaware of why the Bob Lake boat launch is listed on the Township's website? It was one of the dozen Minden Hills public boat launches under his remit – why wouldn't it be listed on the Township's website like all the others?
- It was clear to the Planner that the land in question was private property – no mention of the unopened shoreline road allowance misconception. Why didn't staff raise a concern with Council after realizing one of their public boat launches was located on private land without any agreement with the owner? Was this message only escalated 6 months later as a result the launch being suddenly closed?
- Note that the previous land owner's email contains an incorrect statement "*this is not a public ramp*". By all accounts that was a public launch used as such for more than half a century – the fact that it was on private land does not change its public designation.

From: Mark Coleman
Sent: Friday, May 27, 2016 3:40 PM
To: Colin McKnight; Ian Andresen; Lorrie M. Blanchard
Subject: FW: Big Bob Lake Boat ramp reference on Web Pages

From: Ian Clendening
Sent: Friday, November 20, 2015 8:38 AM
To: Mark Coleman
Cc: Colin McKnight
Subject: RE: Big Bob Lake Boat ramp reference on Web Pages

I don't know anything about this inquiry or how it found itself on the Township website. We do not have any reference to 1038 Bob Lake Road – if the image is from the dam at Bob Lake, our records indicate that to be private property, and the individual inquired about severing the property earlier – I believe they may be selling the property and cleaning up “loose ends”.

Does this help?

From: Mark Coleman
Sent: Thursday, November 19, 2015 2:44 PM
To: Ian Clendening
Subject: FW: Big Bob Lake Boat ramp reference on Web Pages

Hi Ian,

Is the following the location in question? If so, I don't know the history as to why its listed on the Township website.

Mark Coleman
Director of Community Services
Township of Minden Hills
7 Milne Street, P.O. Box 359
Minden, ON K0M 2K0
Office 705-286-1936 ext. 201
Cell 705-455-2260

1-844-277-1260
www.mindenhills.ca
#MyHaliburtonHighlands

Confidentiality Warning: This message and any attachments are intended only for the use of the intended recipient(s), are confidential and may be privileged. If you are not the intended recipient, you are hereby notified that any review, transmission, conversion to hard copy, copying, circulation or other use of this message and any attachments is strictly prohibited. If you are not the intended recipient, please notify the sender immediately by return e-mail, and delete this message and any attachments from your system. Thank you.

From: [redacted]
Sent: Monday, November 09, 2015 1:54 PM
To: Minden Hills Administration <admin@mindenhills.ca>
Cc: [redacted]
Subject: Big Bob Lake Boat ramp reference on Web Pages

Hello,

It has come to our attention, that you have listed on your web pages a boat ramp for Big Bob Lake. As owners for the property that this ramp and water Dam is sitting on we are notifying you that this is not a public ramp and is on private property. We are asking you to remove it from your website immediately and any other references you may have listed to this Ramp.

We do not have any agreements with the township to allow this ramp to be used or listed by Minden Hills on the Web Sites.

[redacted]

<http://mindenhills.ca/boat-launches/>



[redacted]

[redacted]

#2 - Mayor claiming land severance was not possible

One of the immediate and obvious solutions discussed when the launch was closed in the spring of 2016 was to simply sever the land – addressing the primary concerns expressed by the property owner around the land being private and subject to liability claims with a public boat launch on it. We know that the property owner was interested in severing the land (see point #1 above), so expropriation would not have been necessary. In response to this, the mayor is on public record stating:

“The second complexity is that you live on a lake that’s at capacity and there is no division of lots that are permissible. It is a unified lot it cannot be divided.”

Minden Time, August 30, 2016, <https://mindentimes.ca/news/boats-stranded-on-bob-lake/>

Through correspondence with the then Township planner (Ian Clendening), the BLA learned that the above statement from the mayor is **categorically false!** The following is an email extract from Ian Clendening which includes the relevant sections from the Township’s Official Plan (key points highlighted), which clearly indicates that severance for non-residential purposes was very much permitted.

From: Ian Clendening <iclendening@minderhills.ca>
Date: February 27, 2018 at 10:32:26 EST
To: BLA chair <bla.ca.chair@gmail.com>
Subject: RE: My conversation with Mayor Devolin

Hi Laurent,

The prohibition on severances for lot creation is intended to ensure that no further phosphorus inputs are introduced from lot creation. While the statement that severances are prohibited is correct in most all circumstances, there are some exceptions identified in the Township’s Official Plan provided below, such as in the event of a non-residential severance (such as a boat launch).

3.2.3.1.1.5 Council will not consider any application that involves the creation of a new lot, or new medium density, lifestyle or cluster residential units, or any non- residential development, on the shorelines of lakes listed in Section

3.2.3.1.1.3, unless at least one of the following applies.

- Each created and retained lot has an existing dwelling and septic tank tile field, and its use is and will remain residential.
- If the proposed development is non-residential, includes appropriate stormwater management design and it does not involve or require any new individual on-site or communal sewage disposal systems, or expansion of existing systems.

In conversation with Ian Clendening the BLA asked why wasn’t the mayor aware that severance was possible – Ian’s response was “*The mayor didn’t ask*”. This is a clear failure of basic process and communication – the simplest and obvious solution that could have avoided 8 years of grief was not pursued based on an incorrect understanding on one of the most fundamental elements of the issue at hand. We believe this failure is linked directly to the mayor’s decision to deal with the boat launch issue personally, rather than engaging staff and legal counsel as one would expect from a Township Council when faced with the sudden loss of an important public asset (see point #4 below).

#3 – No legal counsel engaged to investigate if the launch closure was lawful

Various statements from the mayor were captured in a Minden Times article on May 25, 2017 in regards to legal options (see <https://mindentimes.ca/news/bob-lake-residents-prepare-for-legal-action/>). Below is an extract from that article:

Devolin said the township had looked at a number of options including a prescriptive easement.

“We had this brought early on to our attention” Devolin said. “This was brought to the attention of our lawyers.”

The reeve said the advice the township had received from its legal counsel was that the township did not meet the criteria for a prescriptive easement meaning the municipality could not demonstrate 20 consecutive years of use and owns no dominant land in the area.

“Obviously none of us are lawyers” Devolin said. “We have to take their advice. Private individuals absolutely will have rights and can take legal action. We have played our hand out. We have exhausted every avenue that we could.”

The BLA’s research has uncovered two separate legal avenues that were available to the Township, without significant burden or legal expenses, that should have rendered the launch closure illegal. These are covered in the sections below that describes the Township’s rights for reclaiming the original launch.

Furthermore, the BLA does not believe the Township requested a reasonable assessment of legal options from their legal counsel based on their documented description of legal services and expenses. The following table is an extract from a Director of Community Services report dated December 8, 2016, which summarizes the total Township expenses related to the Bob Lake launch file (CSD report [#16-o8o](#)):

Greg Bishop Surveying inclusive of expenses, disbursements	\$2,890.54
Russell, Christie, LPP - Legal inclusive of mapping, title searches, Licence Agreement, By-law, disbursements	\$1,667.41
Kawartha Security Guard Service Sept. 30 – Oct. 10	\$2,223.84
Sub-total	\$6,781.79
Pending invoice from Private Landowner of Boat Launch per terms of Licence Agreement	\$2,500.00
Total	\$9,281.79

The legal services are described as “*mapping, title searches, Licence Agreement, By-law, disbursements*”, and the results of which was provided in our Freedom of Information Act. This description of legal services and their output makes no reference to any assessment or opinions on the Township’s rights to challenge the closure on legal grounds. Based on the information received in our Freedom of Information request, most of the legal effort was preparing the contract with the property owner and associated bylaw for the temporary removal of boats in the fall of 2016.

Less than \$1700 in total for the limited services described and delivered is fair – there is no way that amount also included a proper legal assessment of options available for the Township to pursue in challenging the closure.

#4 - Mayor taking on the file personally without requesting staff support

From the initial news of the launch closing in May of 2016, the Mayor took ownership for resolving the issue. He was heard many times saying he was “personally” taking on the file, indicating that the gravity of the situation was too great to simply hand it off. At first this was welcome news as our issue was getting attention at the top of the house. In hindsight, we believe this was extremely harmful and a major factor in the overall mishandling and failed outcome.

Why wasn’t a staff report requested to investigate potential solutions and present their findings to Council (the normal course of action)? The Planner knew severance was possible (and in fact requested by the owner previously) and could have recommended that as a basis for a long-term solution. Other staff members may have questioned the

legality of the launch closure regardless of it being on private land (see Township's rights section below) and requested a proper legal assessment of options for consideration to solve the immediate problem of the launch being closed and boats being stranded on the lake.

Instead of trained staff working together to find a solution, we got the mayor and political responses. Instead of a written public report on what due diligence had been done along with recommendations, we got verbal updates from the mayor, such as the following response to an agenda item on the April 27, 2017 Council meeting:

k) **Verbal Report Reeve Re: Bob Lake Boat Launch**

Reeve Devolin provided an update on the access to Bob Lake. Reeve Devolin spoke to the efforts the Township had taken in 2016 regarding the private boat launch and access to the lake, and that there was no new developments to report.

It's understood from comments made by the mayor that Council and staff had several closed session discussions on the Bob Lake boat launch issue. What necessitated all those discussions to be done under a closed session? The lack of transparency on what effort was made and options considered only raised doubt and suspicion amongst the concerned public.

One month after that verbal update (on May 25, 2017), Council passed a resolution absolving itself from any further responsibilities with regards to the Bob Lake boat launch, and making this "...a private matter between the owner of the subject lands and those wishing to use the lands as a boat launch..." (resolution copied below). An important public asset, used by the community and maintained by the Municipality for over half a century, disappears without any evidence released to show that the Township exercised any of its legal rights to challenge the closure and retain that public asset. That should be considered unacceptable by any standards...

Res. #17-273

Moved by: Councillor Schell

Seconded by: Councillor Anthon

Whereas Council acknowledges a delegation from Gerry Meade regarding the Bob Lake Boat Launch as information;

And Whereas the Council of the Township of Minden Hills:

a) is aware that certain private lands have been used a boat launch for access to Bob Lake by some members of the public including owners of property on Bob Lake; and

b) assisted in negotiating the temporary "reopening" of the lands as a boat launch in the fall of 2016; and

c) is aware that such future or further use has been prohibited or blocked by the owners of those private lands;

d) And further that Council requests the property owners to keep the township informed of new information related to the Bob Lake Boat Launch;

Now therefore be it resolved that the Council of the Township of Minden Hills has determined that the continued use of the subject lands as a boat launch is a private matter between the owner of the subject lands and those wishing to use the lands as a boat launch and that the Township considers its involvement in the matter to be at an end.

CARRIED

Township's Rights to Reclaim Bob Lake Public Launch at Dam Site

The Township has several legal rights and powers available to reclaim the Bob Lake public boat launch at the original dam site location. These are broken down into the following two different approaches:

1. Prove the closure by the original land owner was illegal and have the current land owner remove all barriers.
2. Expropriate the small section of land used by the launch and restore the public launch on now public property.

Both of these options are described in more detail below. Legal advice received by the BLA has recommended expropriation as the far more straightforward, lower cost, and quicker option to pursue. However, our intent with this delegation is not to prescribe how the Township should proceed, but rather enlighten the Township on some available and tangible solutions.

Prove Closure Illegal

The BLA believes the act of closing the Bob Lake public boat launch was in fact illegal based on the following two separate Ontario laws:

1. The Ontario Real Property Limitations Act (<https://www.ontario.ca/laws/statute/90l15#BK30>) through its "Right of way easement" clause (section 31).
2. The Ontario Road Access Act (<https://www.ontario.ca/laws/statute/90r34>) through its definition and rules surrounding an "access road" or "common road", in conjunction with the Ontario Municipal Act (<https://www.ontario.ca/laws/statute/01m25>) and its definition of a "public highway".

Real Property Limitations Act

The Real Property Limitations Act includes the following "Right of way easement" clause:

Right of way easement, etc.

31 No claim that may be made lawfully at the common law, by custom, prescription or grant, to any way or other easement, or to any water course, or the use of any water to be enjoyed, or derived upon, over or from any land or water of the Crown or being the property of any person, when the way or other matter as herein last before-mentioned has been actually enjoyed by any person claiming right thereto without interruption for the full period of twenty years shall be defeated or destroyed by showing only that the way or other matter was first enjoyed at any time prior to the period of twenty years, but, nevertheless the claim may be defeated in any other way by which it is now liable to be defeated, and where the way or other matter as herein last before-mentioned has been so enjoyed for the full period of forty years, the right thereto shall be deemed absolute and indefeasible, unless it appears that it was enjoyed by some consent or agreement expressly given or made for that purpose by deed or writing. R.S.O. 1990, c. L.15, s. 31.

The following is a "plain English" interpretation of this using ChatGPT:

This text is a legal provision concerning property rights, specifically about claims to use certain types of land or water that belong to the government or other people. Here's a simplified explanation:

If someone has been using a path, water source, or any other right over someone else's land for 20 years without being stopped, they can legally claim that right. Even if it started before the 20-year period, as long as it's been continuously used for 20 years, the claim is valid.

If the use has been going on for 40 years without being stopped and without any explicit agreement, the right becomes absolute and cannot be taken away unless there was a specific agreement allowing the use.

The only specific legal statement on record from the mayor pertained to "prescriptive easement" as an option for individuals who can prove uninterrupted use of the land for a 20-year period ("prescriptive easement" is a "right of way easement" established through prolonged use). When asked why the Township couldn't claim a prescriptive

easement in this case, the mayor's response was "...advice the township had received from its legal counsel was that the township did not meet the criteria for a prescriptive easement meaning the municipality could not demonstrate 20 consecutive years of use..." (see Minden Times May 25, 2017 article reference in [#3 – No legal counsel engaged to investigate if the launch closure was lawful](#)). As noted previously, there is no evidence of official legal advice received in terms of a description of legal services rendered and paid for. Furthermore, proving 20 years of uninterrupted use should have been straightforward for the Township – surely there are maintenance records dating back well past 20 years, and collecting affidavits from any number of Bob Lake property owners or community members attesting to uninterrupted public use for 40+ years would have been easy to obtain.

Road Access Act

The Ontario Road Access Act includes two key definitions:

1. **"access road"** means a road located on land not owned by a municipality and not dedicated and accepted as, or otherwise deemed at law to be, a public highway, that serves as a motor vehicle access route to one or more parcels of land;
2. **"common road"** means an access road on which public money has been expended for its repair or maintenance;

It's clear that by definition our original boat launch was considered a "common road" in 2016 – there is no doubt that our launch was advertised as a public launch for decades, and that the Township spent public monies to maintain it.

The act then declares the following conditions under which an "access road" or "common road" can be closed – below is a direct copy/paste from the Act with highlights:

When access road may be closed

2 (1) No person shall construct, place or maintain a barrier or other obstacle over an access road, not being a common road, that, as a result, prevents all road access to one or more parcels of land or to boat docking facilities therefor, not owned by that person unless,

- (a) the person has made application to a judge for an order closing the road and has given ninety days notice of such application to the parties and in the manner directed by this Act and the judge has granted the application to close the road;
- (b) the closure is made in accordance with an agreement in writing with the owners of the land affected thereby;
- (c) the closure is of a temporary nature for the purposes of repair or maintenance of the road; or
- (d) the closure is made for a single period of no greater than twenty-four hours in a year for the purpose of preventing the acquisition of prescriptive rights. R.S.O. 1990, c. R.34, s. 2 (1).

When common road may be closed

(2) No person shall construct, place or maintain a barrier or other obstacle over a common road that as a result prevents the use of the road unless,

- (a) the person has made application to a judge for an order closing the road and has given ninety days notice of the application to the parties and in the manner directed by this Act and the judge has granted the application to close the road; or
- (b) the closure is of a temporary nature for the purposes of repair or maintenance of the road. R.S.O. 1990, c. R.34, s. 2 (2).

The highlighted sections make it clear that access/common roads cannot be closed by any means, except under specific conditions and with proper procedures followed - none of those conditions existed or procedures followed when the owner closed the launch.

Note that there have been changes to the Ontario Municipal Act that affect the definition of a "public highway". The original definition stated "once the municipality has expended public money for the opening of the road 'on which

statute labour has been usually performed' it becomes a public highway and can only be closed in accordance to the law". The Act has been updated to define a "public highway" as:

Establishing highways

31 (1) REPEALED: 2006, c. 32, Sched. A, s. 16 (1).

By-law necessary

(2) After January 1, 2003, land may only become a highway by virtue of a by-law establishing the highway and not by the activities of the municipality or any other person in relation to the land, including the spending of public money. 2001, c. 25, s. 31 (2); 2006, c. 32, Sched. A, s. 16 (2).

Our boat launch was clearly a "public highway" by the original definition given the Township had spent public monies on maintaining it for decades. On the new definition, a simple by-law could have easily declared the launch a "public highway".

By all means, the original boat launch was also considered a forced or trespass road (a publicly used existing roadway on private land - Google it), of which there are many in the Municipality. A private land owner cannot place a barricade on a forced road – it's illegal...just as we believe the closure in 2016 of the Bob Lake public boat launch was.

Expropriation

The Ontario Expropriations Act (<https://www.ontario.ca/laws/statute/90e26>) provides a well-documented and structured means for the Township to acquire property for the benefit of the community at large. ChatGPT summarizes the purpose of the Ontario Expropriate Act as follows:

To provide a fair and transparent process for the expropriation of private property for public purposes. It sets out the procedures that must be followed by expropriating authorities, such as municipalities and government agencies, to ensure that landowners are properly informed, consulted, and compensated for the expropriation of their property. The Act also establishes the rights of landowners affected by expropriation and provides mechanisms for resolving disputes, including the determination of fair compensation. Overall, the Act seeks to balance the public interest in acquiring land for important public projects with the rights and interests of affected landowners.

There are conditions where the overall governing body (Local Planning Appeal Tribunal - LPAT) could deny an expropriation request, such as (ChatGPT summary):

1. **Lack of Public Purpose:** The LPAT may find an expropriation unnecessary if the stated public purpose for which the land is being expropriated is not clear or legitimate. The public purpose must be in the public interest, such as for building infrastructure, public facilities, or other projects that benefit the community.
2. **Alternative Solutions:** The LPAT may consider whether there are alternative solutions that could achieve the same public purpose without the need for expropriation. If reasonable alternatives exist that would avoid the expropriation of private property, the LPAT may question the necessity of the expropriation.
3. **Inadequate Planning or Justification:** If the expropriating authority has not adequately planned or justified the need for expropriation, the LPAT may find it unnecessary. This includes assessing whether the expropriation is part of a well-thought-out and reasonable plan that serves a genuine public purpose.
4. **Disproportionate or Unreasonable Impact:** The LPAT may take into account the impact of the expropriation on the affected landowner. If the expropriation disproportionately harms the landowner or if it is deemed unreasonable in the circumstances, the LPAT may question its necessity.
5. **Failure to Follow Legal Procedures:** If the expropriating authority has failed to follow the legal procedures outlined in the Expropriations Act, it may lead the LPAT to find the expropriation unnecessary. This includes failing to provide proper notices, negotiate in good faith, or adhere to the requirements of the law.
6. **Public Interest Balance:** The LPAT considers the balance between the public interest and the rights of the affected landowner. If the public interest can be adequately served by other means or if the harm to the landowner is excessive in comparison to the public benefit, the LPAT may find the expropriation unnecessary.
7. **Errors in Process:** Any errors or deficiencies in the expropriation process, such as inaccuracies in the Notice of Intention to Expropriate or procedural mistakes, may lead the LPAT to question the necessity of the expropriation.

The BLA strongly believes there are no conditions surrounding the original boat launch dam site under which the LPAT would rule against expropriation. The only material element requiring negotiation is remuneration for the land owner, which is based on fair market value. Given the specific location (next to the dam) and Bob Lake's "at capacity" designation (no severed lots permitted for residential purposes), we feel that a fair market value would be a very modest expense – it represents less than 1% of the current lot (0.33 of 52 acres), and is on land that has no other utility (no structure would be permitted so close to the road or dam).

Through research and advice received, the BLA believes expropriation of the required land is a straightforward process for the Township to undertake without major effort or expense. The effort is predicated on political will, and expenses are covered in the next section.

Funding Options

The BLA has presented funding options in past delegations to Council for supporting the restoration of our public boat launch without the use of regular tax dollar revenues or budget. These funding sources include the Township's Shoreline Road Allowance Reserve Account, and a special tax levy applied to Bob Lake property owners. Details on these options have been updated and included below for Council's consideration.

Shoreline Road Allowance Reserve Account

At its December 4, 2017 meeting, Council adopted a policy ([#113](#)) pertaining to the use of funds received through the sale of Shoreline Road Allowances (SRA's). The policy directs that proceeds from the sale of SRA's go into a special reserve account to be used for funding projects that meet the following requirements:

- *Purchasing land which provides the general public with opportunities for the recreational enjoyment of lakes located within the Township together with the recreational opportunities at the nearshore area of such lake; or,*
- *Naturalizing Township owned property located at or near the shoreline of a lake or river.*

As of May 27th, 2024, the balance of the Shoreline Road Allowance Reserve Account is believed to be **over \$638,000** based on tracking of all public documents released on the sale of SRAs.

The BLA feels very strongly that funding the restoration of a Bob Lake public boat launch using SRARA monies is justified – it ticks all the boxes!

- It purchases land (expropriation is a valid form of acquiring public property)
 - Previous concern of already owning the Claude Brown road allowance is moot
- It provides the general public with opportunities for the recreational enjoyment of lakes
 - The clear and ultimate purpose of Policy #113
- It aligns with the Township's Asset Management Plan & Master Parks and Trails Plan
 - Excerpts from these documents show how important public launches are as a public asset (ironically showing Bob Lake's public launch listed as one of thirteen!)
- It provides opportunity for naturalization of Bob Lake's shoreline
 - Permits Bob Lake property owners to remove private boat launches built since the public launch closed
 - Pre-emptively eliminates future private boat launches from being constructed on Bob Lake

Special Tax Levy

The BLA has researched options available for funding municipal projects through special tax levies – a mechanism whereby the municipality finances a municipal project on behalf of an identified subset of property owners, and then recovers those costs through incremental property taxes to that identified group over a set number of years. This research has surfaced two such provisions available under the Municipal Act and Regulations - [Local Improvement Charges](#) (LIC) and [Special Area Rates](#) (SAR).

Our own review of the text and legal description for both the LIC and SAR tax provisions would indicate that either method could be applied in our case to recover all or a portion of the capital costs involved. In particular, the [LIC regulation](#) provides examples of valid "work" to which it applies, which includes the following most relevant to our situation:

- (f) - sodding any part of a highway and planting trees, shrubs and other plants on a highway;
- (h) - constructing a park, square or other public place;
- (i) - constructing a retaining wall, dyke, breakwater, groyne, crib or other shore protection work along a body of water;

The “special area” receiving benefit and paying the additional tax levy would be Bob Lake property owners – 239 in total. However, the BLA requests that the Township seek additional information from staff and lawyer(s) to confirm our condition meets all legal requirements for such tax provisions.

The following is a simple calculation showing \$100,000 in contributions raised by Bob Lake property owners and recovered through an average tax increase of less than \$60/year for owners over a 10-year period – a temporary (10-year) property tax increase of less than 2%.

Number of lakefront properties surrounding Bob Lake:	239
Capital funds raised through the LIC/SAR tax:	\$100,000
Number of years to amortize the LIC/SAR tax:	10
Interest rates (Infrastructure Ontario website):	5.00%
Annual increase per property owner for LIC/SAR tax:	\$54.19

The BLA feels this represents a significant source for cost recovery through a very modest financial impact to Bob Lake property owners, who will benefit the most.

Note – through our Freedom of Information Act request we learned that the then CAO reached out to the Ministry of Municipal Affairs in July of 2016 to inquire about the use of Special Area Rates to build a public boat launch. Their response is provided below:

Lisa Fitton

From: Sizov, Petr (MAH) <Petr.Sizov@ontario.ca>
Sent: Thursday, July 21, 2016 9:58 AM
To: Lorrie M. Blanchard
Cc: Fath-York, Alison (MAH)
Subject: RE: Special Area Rate

Hi Lorrie,

Further to our discussion, below please find the relevant excerpt from the *Municipal Act, 2001*, concerning **by-laws regarding special services**. We are currently looking into your question regarding LICs and will advise you as soon as possible. In the meantime, please let me know if you have any questions or concerns. Thank you.

- 326. (1)** A municipality may by by-law,
- (a) identify a special service;
 - (b) determine which of the costs, including capital costs, debenture charges, charges for depreciation or a reserve fund, of the municipality are related to that special service;
 - (c) designate the area of the municipality in which the residents and property owners receive or will receive an additional benefit from the special service that is not received or will not be received in other areas of the municipality;
 - (d) determine the portion and set out the method of determining the portion of the costs determined in clause (b) which represent the additional costs to the municipality of providing the additional benefit in the area designated in clause (c);
 - (e) determine whether all or a specified portion of the additional costs determined in clause (d) shall be raised under subsection (4). 2001, c. 25, s. 326 (1); 2006, c. 32, Sched. A, s. 136 (1).

Respectfully,

Petr Sizov
 Ministry of Municipal Affairs ([MMA](#)), and
 Ministry of Housing ([MOH](#))
 Rockwood House
 8 Estate Lane
 Kingston, ON K7M 9A8
 613-545-2117 / 1-800-267-9438, ex. 117
petr.sizov@ontario.ca

Fun-fact: Bob Lake property owners have paid over \$2.5 million dollars in municipal tax to the Township of Minden Hills since the Bob Lake public boat launch was shutdown. See calculation details below:

Bob Lake Property Taxes: 8-Year Summary

Bob Lake Property Assessments

Total BL Property Assessment Value	\$89,610,000 (as of 2020)
Number of BL Properties	239
Average BL Property Assessment	\$374,937

Bob Lake Property Taxes Paid	2016	2017	2018	2019	2020	2021	2022	2023	8-Year Total	Average
Township of Minden Hills Mill Rate *	0.00320843	0.00337298	0.00354121	0.00364817	0.00372662	0.00384133	0.00400664	0.00419856		
Township of Minden Hills Taxes Paid	\$287,507	\$302,253	\$317,328	\$326,913	\$333,942	\$344,222	\$359,035	\$376,233	\$2,647,432	\$330,929

* Pulled from <https://www.mindenhillsc.ca/en/local-government/property-taxes.aspx>

Historical Timeline Summary of BLA's Council Efforts

The BLA has made numerous proposals to The Township of Minden Hills in an attempt to resolve our boat launch situation since the public launch was closed in 2016. The complete history, including all delegation related artifacts and press coverage, can be found on our website (<https://boblakeassociation.ca/boat-launch>). The following is a very brief summary of the BLA's boat launch resolution attempts:

- **November 2017** marked our first unsuccessful delegation to Council. This requested the Township to construct a public launch on their Claude Brown Road allowance. This proposal was rejected by Council based primarily on inflated cost estimates and liability/safety concerns. This attempt is referred to as "Plan A".
- **April 2019** marked our second unsuccessful delegation to Council. This requested the Township to build a public launch on acquired or expropriated land near the original dam launch location. This proposal was rejected by Council because the property owner was not willing to part with the land, and the perceived costs associated with challenging that was deemed too great when weighed against other Township priorities (despite the BLA's proposal for various funding models to cover costs outside of normal tax revenues). This attempt is referred to as "Plan B".
- In **August 2021** the Township agreed to invest in a joint engineering and legal review for constructing a public boat launch on their Claude Brown Road allowance. This was prompted by a BLA funded planning assessment from EcoVue that indicated the site was viable and within the Township's means to construct and maintain a public boat launch on. The resulting engineering and legal reviews also concluded the site was viable, however Council voted in March 2022 against proceeding any further based on cost and liability/safety concerns. This is sometimes referred to as "Plan A2" because it was the 2nd attempt at the same Claude Brown site from the original Plan A.
- **January 2023** marked our third delegation to Council. This requested the Township to lease a suitable portion of their Claude Brown Road allowance to the BLA, and permit the BLA to construct and insure a "Bob Lake Community Boat Launch" – completely self-funded by the BLA. The proposal was rejected based on a staff report that rehashed the same concerns around costs, safety, and liability – it's clear that Council will not support any form of boat launch on their Claude Brown Road allowance. This is referred to as "Plan A3" since it is our 3rd attempt at the same Claude Brown site from the original Plan A.

Bob Launch Public Boat Launch Benefits Summary

The following is a brief summary of benefits realized by a Bob Lake public boat launch:

- **Maintain property values:** The loss of Bob Lake's public boat launch will result in an estimated 10-15% reduction in property resale value according to a local real estate expert. Boating is a significant part of cottage life. The absence of a public boat launch will be a deterrent for the majority of prospective Bob Lake cottage buyers in the future, and real estate agents will use this to justify lower offers. MPAC does not consider access to a boat launch in their assessments. However, resale values over time are the single biggest assessment factor. Bob Lake property values have no doubt increased over the past 8 years, even without a public boat launch. However, the deterrent of having no boat launch will mean those property value increases will be less for Bob Lake compared to other lake properties in the Township, resulting in lower MPAC assessment value increases for Bob Lake properties compared to neighboring lakes...meaning non-Bob Lake properties will be paying a higher share of Minden Hills property. In other words, anything that negatively effects Bob Lake property resale values will result in a proportional tax increase for everyone else!
- **Reduced shoreline impacts:** The absence of a public launch means more private boat launches will be built. A survey of Bob Lake property owners in 2021 showed that 19 owners were considering to build a private launch on their property because of our public boat launch situation, and we know that many have already done so since. These additional private launches will have a significant and undisputable environmental impact due to the resulting shoreline alterations. Restoring our public boat launch will eliminate future private boat launches from being built, and provides an opportunity for some of the existing private launches to be re-naturalized and reversing the environmental impact. The BLA looks forward to the day when we can spend our time on these type of activities by putting the public boat launch battle behind us!
- **Access for authorities:** A public launch provides quick, easy and known water access to services such as MNRF for water quality testing or OPP for search and rescue (avoiding potentially devastating delays in an emergency situation). As an example, we have had conversations with the Haliburton Highlands Outdoor Association (HHOA) where they have offered their help in creating new spawning beds on our lake with strategically placed jagged-edged light-colored rocks that promote trout spawning and hatch survival rates...but only when our public launch access is restored.
- **Local business impacts:** The lack of a public boat launch will have a wide range of impacts on local businesses, such as fewer cottage renters, a lower number of boats and boat owner spend in the region, fewer guest fishers or recreational boaters coming to Minden, and inability to sell water-access only products and services such a floating docks or barge-only materials for construction. We have more than a dozen letters from local businesses and organizations stating their support of BLA's efforts to restore our public launch (included in our first delegation to Council and available on our website (<https://boblakeassociation.ca/boat-launch>))