

## Executive Session

July 9, 2022

Board members reviewed Adkins latest offer from June 27, 2022. All Board members had received an email of that offer. Mr. Wilson reminded everyone that you can't meet to discuss it until you have a Board meeting because of the Open Meetings Act. What the judge basically said in chambers was that he dismissed the case against Board members individually for torturous interference. The judge also said that the adverse possession claim is hanging on by a thread and the only reason it's there is he believes there was an amendment to the statute in 2016. If Adkins can establish that he adversely possessed the shed, stairs and all that for 15 years prior to 2016, then possibly he has an adverse possession claim. The judge also stated that even if he is successful, he still can't expand what he adversely possessed. It means the steps would stay, the shed, and two feet of the deck that's on the property would stay and the retaining wall as it is. Mr. Wilson then read #1 of the offer. There was a discussion of a survey that Mr. Adkins had done. He read #2, and #3. We did the initial survey because he wouldn't do one and now that we did ours. Suddenly he turns around and has one done. If you look at the survey that is attached, he's basically saying that it's going to go out 30 feet from his surveyed property line. Mr. Wilson read #4. See attached offer. Renee wants to know how much (property) does Adkins need? Parker told Tom that he could do it at the top of the bluff. He could secure that bluff from the top. Parker did not tell Tom five feet, ten feet, fifteen feet. I can tell from the survey line to the top of the bluff is about 15 feet. We have already offered him 1/3 of that. (5 feet) Dottie wants to know if we can get away with selling him this property? She doesn't want to sell him the property. How come we have to have everyone to vote for a dues increase, but we only have to have 50 people here to sell our property? How can we not do that? Renee said that's why we offered an easement. The only way real estate can be sold that is owned by LH is by the General Membership. That is by statute. The Board has no authority to convey any real estate. They can not grant an easement. It must be done by General Membership. It means just who shows up at the meeting. Mr. Wilson then spoke about the dues increase and how that was a grey area. The Court of Appeals ruled reading the statute that it appears that it requires 50% of all of the members. That language reads differently than anything else that the Board does or the General Membership does. Then there was a discussion of the lawsuit and the letters sent initially to intimidate the Board. It's a violation of the Canon of Ethics to use the legal system as a form of punishment. Then Mr. Wilson discussed the suit against Kurt Riese. Mr. Wilson wants each Board member to write a letter about how the lawsuit has impacted you. He needs the letters in the next week or 10 days. Are we going to consider this digressive bargaining? (Glady) Liz questioned about the adverse possession hanging by a thread. Does that mean that there is a potential for him to adversely possess that property? Have you read that statute? The statute is very clear that you cannot adversely possess against a municipal corporation. LH is defined as a municipal corporation, but the judge believes that the statute was changed in 2016. The judge thinks it needs to be researched further. That's why we are proceeding on and Tom is going to research. Glady feels that the stairs are a liability for us. It's in our counter complaint that all

existing structures have to be removed. (nuisance and trespass count) Lynn suggested offering 8 feet. Don agrees with Lynn that we need to take the 5 feet and make it 10 feet in an effort to settle this. Don says 15 feet. Adkins wants 30. Split it in the middle. Kurt says we would be the first Board ever to give away any parkway. We are not giving him the property. Kurt says not a foot of it and we will win this lawsuit. Dottie agrees with Kurt. The Board said no to his offer. Bob wanted to know if we need to make that vote in front of the reconvened meeting. Mr. Wilson said no. It is not a formal vote. There was not a Motion. Mr. Wilson would prefer that we not make a Motion on this. It defeats going into Executive session. Don and Lynn are interested in making a counter offer. Don thinks a counter offer is reasonable. Don thinks 5 feet should go to 10 feet. He wants to know what other people think about that. Someone brought up what does he need? Mr. Wilson said he could go back to Adkins and say tell us how many feet are you talking about. Then he talked about the email Adkins sent about a different system that could be installed at the top of the bluff. Tom wants to know exactly. He thinks the starting point is how many feet do you really truly need to put a retaining wall in. Maybe Parker needs to go back out there. Gladys said that we are not going to give it to him, only allow him to use it. Then he talked about the Virginia Brown issue from years ago. Gladys suggested that we send someone in that has some knowledge to look at it. There was a discussion of pile driving near Adkins house. Liz discussed about community perception of how we are trying to resolve this issue. Lynn brought up negotiating a settlement. Mr. Wilson said to settle it's going to take a compromise. Then Mr. Wilson discussed the adverse possession statute. Dottie wants to know what are the chances of us paying these legal fees? Mr. Wilson said he thinks Kurt will get his back for sure, but there's no guarantees. So can I guarantee he's (judge) is going to award us attorney fees. No I cannot. Gladys feels we need to give Tom some direction. Are we going to make a counteroffer or get some direction or some idea of where something acceptable/workable could go on. Gladys would like the adverse possession to be settled and she would like to know how much land does he need. The type of wall is up to him. Mr. Wilson thinks we need something in writing about a system that he can put in that we can bring to the General membership and say he doesn't need to be on our property. We need a civil engineer. Bob will call the county. Liz moved to close the Executive session. Seconded by Dottie. Motion passed. (202214) 11:00