

**SALEM TOWNSHIP
SPECIAL TOWN BOARD MEETING
www.salemmn.org
DECEMBER 9, 2015**

Members Present: **Rick Lutz**
 Sharon Petersen
 Gail Fritts
 Brian Connelly
 Jim Evans

The meeting was called to order at 6:30 p.m. by Brian Connelly with the pledge of allegiance.

Brian Connelly stated that the purpose of the meeting tonight is to discuss the issues relating to the Milestone Materials/Donovan Family Farms CUP and the requirements that need to be in place for the transfer of responsibility.

The primary issue with the transfer is the bond. There are also some issues with the Conditional Use Permit compliance issues.

The board received a detailed letter from Troy Gilchrist about the issues with the transfer of responsibility. Troy's letter explains and clarifies that the Conditional Use Permit goes with the land and that Condition #27 in the original permit is an unenforceable condition that was in error. The town board does not want to involve itself in any of the lease agreement issues between Milestone and Donovan Family Farms. Milestone Materials can be released from the bond requirements when Donovan Family Farms has a replacement bond in place.

There was board discussion about the fact that the board will not release Milestone Materials from the requirement to have a bond in place until such time that Donovan Family Farms has secured a replacement.

Roger Ihrke had been contacted for information about these issues. Roger Ihrke stated that the board can't force Milestone Materials to renew their bond. If they do not renew the bond and Donovan Family Farms has not secured the bond, both parties will be out of compliance. The board at that time can start the process to dissolve the Conditional Use Permit. Jim Evans also stated that the letter that Roger Ihrke sent to Milestone and Donovan Family Farms states that they have to renew the bond or reclaim the sand pit. Township Cooperative Planning has recommended that the board not adopt a resolution releasing Milestone Materials unless the bond from Donovan Family Farms is in place.

It was discussed that Donovan Family Farms is out of compliance at this time. They do not have the gate in place. There is a requirement for "No Trespassing" signs and contact information on the gate. The monitoring well has to be transferred to the health department.

The board discussed drafting a resolution for a public hearing that could have multiple options at our next town board meeting. It was discussed by the board if they can issue a demand to Milestone to reclaim the property in order to comply with their Conditional Use Permit. Roger Ihrke explained that while we can do that, there is no lease in place for Milestone to be on the property, which may result in a trespassing issue. Milestone has not had a lease in place for one year. Donovan Family Farms has released Milestone from reclamation and confirmed that release to TCPA and to the town board on December 2.

It was discussed that we can't demand reclamation by Milestone because they don't have any interest in the property.

The letter the board received today from Troy Gilchrist will be sent to Roger Ihrke for his review.

Roger Ihrke was called for input on this issue. He advised the board that Milestone Materials has notified the board that they will not be renewing the bond at the end of 2015. You have informed the property owner that a bond needs to be in place prior to the expiration of the bond from Milestone. To protect the ordinance, you are authorizing TCPA to advertise a public hearing to terminate the Conditional Use Permit at the next town board meeting unless Donovan Family Farms has put a bond in place.

Roger Ihrke explained that in the future, the board could adopt a resolution releasing Milestone Materials on the Conditional Use Permit. This could be when the board is advertising a public hearing for another purpose and add this to the hearing agenda. No special hearing should be required as the transfer from Milestone to Donovan Family Farms is complete.

The public hearing is a formality. The bond will expire on December 31, 2015 and if Donovan Family Farms doesn't have the replacement bond in place, they are out of compliance and the permit will be dissolved. It would then require Donovan Family Farms to apply for an amended Conditional Use Permit.

Brian Connelly asked if Milestone could elect to not renew the bond. Roger Ihrke explained that Milestone Materials has a lease that expired over a year ago. If the board told Milestone that they had to go on the property to reclaim it, the township could end up in a court battle that we don't want. You would be forcing them to go onto property they have no right to. That would require the lawyers and the judge to decide this issue. Milestone does have some responsibility, but Mr. Donovan has taken that responsibility on when he released them from all reclamation on this property.

Brian Connelly asked if they could legally let it expire. Roger Ihrke explained that they could let it expire, unless the township is willing to go to court to force them to renew the bond. If the bond expires, and no bond is replaced by Donovan Family Farms, the township could pursue both Milestone and Donovan Family Farms for reclamation.

Donovan Family Farms has nothing in writing in regard to reclamation.

The board requested that Roger draft the resolution for the public hearing that will be scheduled for January 6. The resolution authorizes his office to advertise the public hearing.

A motion was made by Rick Lutzi and seconded by Jim Evans that Milestone Materials has notified the board that they are not renewing the bond that expires on December 31, 2015. The town board authorized Township Cooperative Planning to advertise a public hearing on January 6, 2016 to terminate the Conditional Use Permit unless a replacement bond is in place by Donovan Family Farms by January 1, 2016. Roger Ihrke will draft the resolution that will be attached to the minutes of this meeting. The motion passed unanimously.

TCPA will prepare and advertise for this public hearing.

The clerk was directed to get a copy of the bond from the safety deposit box.

A motion was made by Rick Lutzi and seconded by Jim Evans to adjourn the meeting at 7:22 p.m. The motion passed unanimously.

Respectfully submitted,

**Brian Connelly
Chairman**

**Sharon Petersen
Clerk**