

**SALEM TOWNSHIP
TOWN BOARD MEETING**

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September 5, 2018

Members Present: **Rick Lutzi**
 Gail Fritts
 Brian Connelly
 Sharon Petersen
 Drew Moessner

The meeting was called to order at 7:00 p.m. by Brian Connelly with the pledge of allegiance.

Brian Connelly asked if the board members had any changes to the printed agenda. A motion was made by Rick Lutzi and seconded by Drew Moessner to approve the agenda. The motion passed unanimously.

The board reviewed and signed claims for payment as presented. The claims and payroll are as follows:

The claims presented for payment tonight are as follows:

Claim No. 9956 to 9966 and 9981

Payroll Checks 9967 to 9980

The total of claims and payroll presented tonight for payment total \$4,950.44

A motion was made by Drew Moessner and seconded by Rick Lutzi to approve the claims for payment as presented. The motion passed unanimously.

The mail was reviewed by board members.

Secretary's Report

After review, a motion was made by Brian Connelly and seconded by Drew Moessner to approve the written secretary's report for the August 2018 town board meeting. The motion passed unanimously.

Treasurer's Report

Gail Fritts gave the Treasurer's Report as follows:

Beginning Balance	\$ 73,575.67
Receipts	\$ 243.29
Total Disbursed	\$ 16,268.44
Ending Balance	\$ 57,550.52

We have the following Certificates of Deposit:

58237-1	1.35%	4/8/2019	\$38,184.97
58851	1.25%	3/8/2019	\$42,066.79
70062	1.1%	10/8/2018	\$28,411.49
70271	1.25%	1/8/2019	\$ 8,077.67

Total **\$116,740.92**

The total funds available as of July 31, 2018 is \$174,382.44

The treasurer will check on the renewal information for the certificate that will expire in October before the next meeting.

Sharon Petersen reported that we have received a check from a title company for a property on Willow Run that was sold. She will confirm that all taxes have been paid and get information and draw a check for this pre-payment on 224 Westridge Avenue to Citizen's Bank to apply to our loan for the Willow Run project.

After review, a motion was made by Drew Moessner and seconded by Rick Lutzi to approve the treasurer's report as given. The motion passed unanimously.

Olmsted County Deputy Sheriff

The deputy was present and reported that there has been an increase in construction site thefts. There was discussion about staffing in the county. There were questions from the residents that were present that were answered.

Next Era Energy Resources Dodge County Wind

We received a letter from Dodge County Wind about a meeting on September 15, 2018 at 5:00 p.m. at the Kasson Mantorville Senior High School Forum Room at 5:00 p.m. Rick Lutzi will attend this meeting.

TCPA

Daniel DeCook/Eric DeCook Sand Pit Bond

Roger Ihrke was asked for the information that he has gathered about bonds for sand pits and information on past operations.

The county has handled bonds in two different ways. They have allowed the County Engineer to set the bond at a fixed amount, and they have also set the rate at \$10,000.00 per open acre.

We have four operations that had the escalator clause in their Conditional Use Permit. The four permits that have this are Braaten Quarry, Koehler pit (discontinued permit due to inactivity), Builders Sand and Gravel, and Rochester Asphalt.

The index rate for the past five years was sent out to board members. The information was reviewed by the board. Roger Ihrke has done the calculations on what the bond should be in the pits with the escalator clause. They are as follows;

Braaten Sand	\$6,150
Koehler (Discontinued)	\$5,305
Builders	\$5,410
Rochester Asphalt	\$5,835

These are the calculations per open acre. The average would be \$5,650.00 per open acre at this time. The index that was used was the construction price index. This was what has been called out in our permits.

Brian Connelly asked about how the county views open acres and whether they are considering open acres. Is the water included? Roger Ihrke expressed that the one example included all water.

Brian Connelly asked about how we should handle bond updates on open acres and bonds that should have been updated. Roger Ihrke explained that the Planning and Zoning should have the responsibility to set the open acres on the five-year anniversary and set the new bond rate at that time. The board discussed getting bonds that should have been adjusted brought up to date. The bond will be a minimum bond for 10 acres. At this time the minimum bond will be \$56,500.00. Questions were asked about the cost of getting a bond. The normal fee for a bond is 3% which is renewed yearly.

There was discussion about open water and how we want to define it. There was discussion about how disturbed acres are calculated. There was extended discussion about water surface and how it will be calculated in relation to open acres.

The board discussed that they consider setting the open acre amount for sand pit bonds at \$5,650.00 per acre with a ten-acre minimum. If additional sand pits are opened in the future they would be increased by whatever the index has increased since this point in time.

Lisa Munis made several comments about setting the bond and using that instrument to encourage quick reclamation of the sand pits in our township. Other residents offered possibilities that could be considered.

Drew Moessner stated that the bond be set at a ten-acre minimum to include 30% of the open water surface. It was decided that Roger Ihrke will draft a resolution that will define water surface in relation to open acres.

After discussion, a motion was made by Brian Connelly and seconded by Rick Lutzi to set the per acre amount for the bonds for Daniel DeCook and Eric DeCook at \$5,650.00 per acre with a ten-acre minimum (\$56,500.00) plus 30% of open water surface acres with the escalator clause that has been included with the last four sand pit bonds that will be reviewed every five years. The motion passed unanimously.

The board will review the resolution and advise the Planning and Zoning on the three existing pits that have the escalation clause on updating their bond amounts.

Rochester Asphalt—Compliance Inspection

Brian Connelly explained that the board has received the report from the August 6 inspection. The report details that both conditional use permits are still not in compliance. His report illustrates the compliance issues that remains. We gave them a 60-day extension in June and the compliance issues are not resolved. We will decide what action to take on these conditional use permits.

We have a compliance agreement on the sand pit that was drawn up and signed in 2014. The agreement set up a time table to bring all items into compliance. They have been granted extra time to bring items into compliance. In June, we gave them 60 additional days to bring items into compliance. At the inspection in August there were still items that remain out of compliance. While some items have been done, they remain out of compliance. The board now needs to decide how to proceed.

The special district did not have a compliance agreement tied to it directly. The conditional use permit for the special district was issued in 2014. These are on separate tracks. Brian Connelly asked for board input.

Rick Lutzi expressed that this has been going on so long, it needs to conclude. We have been working with them for four years.

Drew Moessner says that he tries to give people a second chance. We did this. In the order to be consistent, we need to resolve this.

Brian Connelly reviewed the content of the compliance agreement. It stated that if we send them a letter of Non-Compliance, we can act to rescind their conditional use permit after giving them five days of notice. That is the next step we can take. Brian Connelly was assigned to work with our attorney to decide a course of action.

Matt Johnson said that we have been working on items. We have performed. We did give the board progress reports and did not get any feedback from Roger. He feels that all the items in this list are new.

There was discussion about items that are not completed. Roger Ihrke explained that the plan that was drawn up for the stream straightening was approved by the DNR. At the inspection you stated that you have a new plan. That plan was never submitted to us for approval. You did work to an unapproved plan. That is not acceptable.

Brian Connelly asked if the MPCA and other permits have been submitted to TCPA. Roger Ihrke responded that we have not received any permits from them.

Roger Ihrke stated that we have many pictures that show that you are out of compliance. Brian Connelly state that the technical issues can be disputed within the five-day window. The non-technical issues are unacceptable, such as a sign permit, and copies of state permits submitted to TCPA. This is simple stuff.

Rick Lutzi stated that he has been to every inspection. At this point in time I am ready to pull the permit.

Drew Moessner asked if the notice of non-compliance would be the next step.

Brian Connelly stated that we have given them chance after chance. Do we want to give them another chance? The public and the board would like to see this resolved.

Matt Johnson stated that they had asked for information from Roger and received no response.

Roger Ihrke responded that they should review what they requested. They had asked for an inspection before the official inspection that was scheduled for August 6. I responded to that request stating that every inspection that we have done was with the town board. I told you that I will not do an inspection without arranging a scheduled inspection for the town board to be in attendance.

Brian Connelly explained that he has been working with our attorney and Roger about how to proceed after the August 6 inspection. The board assigned him to come up with possible plans of action for this meeting. Tonight, we have discussed our options. Brian asked the other board members how they wanted to proceed. Other residents have Conditional Use Permits and stay in compliance. Why have you not gotten into compliance in four years.

Matt Johnson responded to the board questions. He expressed that he feels he is in compliance.

Brian again explained the board options as he understands it from our attorney. He feels we can send a letter on non-compliance tonight as stated in the compliance agreement based on the August 6 inspection. We can also do nothing.

Brian Connelly explained that the protocol of the non-compliance agreement stated that you have five days to respond to technical issues. This is not a revocation. I feel we must do something.

Rick Lutzi agrees with Brian's assessment. Rick Lutzi made a motion to send a non-compliance notice.

Brian Connelly asked to amend the motion. Brian Connelly amended the motion to move the town clerk be authorized to send the Notice of Non-Compliance dated today to Royal Johnson and J.B. Investments concerning the Zoning Compliance Agreement dated March 5, 2014, and that a copy of Roger Ihrke's report dated August 9, 2018 be attached as

Exhibit A to the letter. Rick Lutzi agreed to the amended motion. The motion passed unanimously.

Strain Property

Roger Ihrke stated that there is an issue regarding the property ownership. They have been notified by phone about the issue. Roger Ihrke will follow up with a letter to the people occupying the property. He may hand deliver the letter. There is confusion about the ownership on the property. The property owner is dead.

Garbage in Ditches

Rick Lutzi asked about garbage being dumped in the township road ditches. Is there any way to have the property owners take care of this issue? Roger said we should talk about this at Township Association meeting.

OLD BUSINESS

TCPA Meeting

Brian Connelly reported on the last meeting. Finances remain strong.

ROADS

The clerk's report was reviewed by board members.

The stop sign in the ditch on 40th Street and 110th Avenue. Rick has called the county and a temporary sign will be put up. The resident has also requested a Dead-End sign on this road. The board agreed that it would be a good idea to have one put up. There is a curve sign missing on 110th Avenue. There is also a pole in the ditch by Quimby.

Willow Run Repairs

Rick Lutzi has received some additional quotes for additional work that needs to be completed on Willow Run. Due to the rain the work will be re-scheduled for next week. A motion was made by Brian Connelly and seconded by Drew Moessner to approve the additional fees for work on Willow Run. The motion passed unanimously.

Signs

No action on this subject. Will have more information after fall road inspections.

Fall Road Inspections

The board schedule the fall road inspections for September 13 and September 17 if additional time is needed. They will meet at 4:30 p.m. at the town hall.

Spraying Ditches

The town board will not be done at this time as the budget does not allow the expense at this time.

MATS Documents on Right of Way

The clerk supplied documents from Minnesota Association of Townships about Right of Way issues. It will be reviewed at a future meeting.

Todd Bucknell

The plans for road grading were reviewed with Todd Bucknell. The board told him that it is time to start grading thru the chloride to prepare for winter.

On 35th Street east of County Road 3 may need some additional rock due to washing from the recent rains. The board reviewed other trouble spots and ditches that will be worked on as funds are available.

Town Hall Roof Repairs

The board discussed whether we should deposit the check from MATS for the first payment on the roof repair. It was decided that we will deposit it after the October meeting. Brian Connelly will do some additional checking with other sources about this settlement and try to get additional estimates.

Web Site for Township

Sharon Petersen reviewed the report on web site activity.

NEW BUSINESS

General Election

Sharon Petersen reported that she has arranged judges for the general election in November. The board reviewed the schedule. A motion was made by Drew Moessner and seconded by Rick Lutzi to approve the election judge schedule for the November 6 election. The motion passed unanimously.

Northern Natural Gas & Minnesota Pipeline Projects

The clerk will work on keeping the pipeline information we receive updated as it is received.

District I Minnesota Association of Township Annual Meeting

Sharon Petersen reported on this meeting. It was held in Owatonna. We received updates on legislative issues and budget issues for the Association. The new Executive Director will be announced soon.

Items Brought up by Board Members

Sharon Petersen requested that we deposit the check received from the sale of a home in Willow Run and a check be drawn to pay down the principal on our Willow Run loan to Citizen's State Bank.

A motion was made by Brian Connelly and seconded by Rick Lutzi to approve the check being issued to pay down the loan for Willow Run from the funds received from the title company for the house sale in Willow Run. The motion passed unanimously.

The board discussed the mowing and the signs in the ditch on 70th Avenue, Tenth Street and 20th Street.

Drew Moessner mentioned that the berm on Daniel's second pit had a berm that may have gotten blown out in the heavy rains. Drew will contact Daniel about this.

Drew Moessner wanted to notify Chris DeCook that he can't use the Ross building for commercial use any longer.

Citizen Comment

Lisa Munis asked about whether we can put a ballot question on the November election. She was told that we can't put a question on the November election. Questions were asked about how a question could be put on a ballot issue at the township level. A request to have it listed as an agenda item at the annual meeting. She expressed that they feel that the board members do not listen to their concerns. She wants to know how the board can illicit their opinion about this issue.

Brian Connelly stated that everyone who comes to a meeting feels they have not been heard is not true. They are heard and that they say they are not happy when they do not get the outcome that they want.

Rick Lutzi will be on roads this month.

A motion was made by Brian Connelly and seconded by Rick Lutzi to adjourn the meeting at 10:05 meeting. The motion passed unanimously.

Respectfully submitted,

Brian Connelly
Chairman

Sharon Petersen
Clerk