

Rochester Township

Board Meeting Minutes

June 9, 2022

Meeting was called to order at 7:00 pm by Chairman Jeff Orth.

Members present - Matthew Kitzmann, Jamie Neisen, Brian Zmolek, Nathan Clarke, Jeff Orth and Randy Staver

Guests – Pat McGowan, Dean Thompson, Bill Tointon, Andrew Forliti, Sheriff Kevin Torgerson, Roger Ihrke, Ian Keith and Viki Morris.

Minutes – Brian Zmolek moved to approve the minutes for the May 12, 2022 meeting. It was noted that Brian Mueller was mistakenly listed as a member instead of Nathan Clarke. Matt Kitzmann seconded. All voted in favor and the motion passed.

Deputy's Report – Deputy Dean Thompson reviewed the call report of 28 calls for service. There was some discussion regarding resident comments related to speed and placement of signs and/or the speed trailer. Problems have been noted on 8th Street SW. It was decided that additional data is needed to properly assess issues and possible solutions. Deputy Thompson will move the trailer to various locations to gather data.

2021 Audit –

- Andrew Forliti from Smith Schafer presented the 2021 audit report. Andrew noted that the township has almost a years' worth of funds in reserve. It is good to have healthy reserves given unanticipated cost increases such as rising inflation and fuel costs. Andrew noted the 2021 population data of 2,134 people and 691 households.
- Additional audit notes:
 - The audit provides a reasonable, but not absolute, assurance that financials are free of material misstatement.
 - An unmodified "Clean" opinion was issued for 2021.
 - There are no exceptions to Minnesota legal compliance.
 - Given the limited personnel, the township is unable to segregate accounting duties.
 - Including the Reserve Fund, reserves are 98% of annual total expenditures.
 - The township has no debt.

Woodland Valley Estates Preliminary Plat & Development Agreement –

- Brian Zmolek moved to remove this item from the table. Matt Kitzmann seconded. All voted in favor and the motion passed.
- Roger Ihrke spoke. He highlighted points in the development agreement. He also reviewed the GDP and preliminary plat maps.
- Roger stated that if the Board desires to have the trail constructed, he advised that Bill Tointon and Brandon Theobald have some discussion to determine potential costs.
- Roger noted that the Irons property will be put in a non-buildable trust.
- Bill Tointon spoke and talked about the cost and availability of concrete culvert materials. He suggested using metal culverts. He also addressed the design for 100 year flood. He suggested that he speak with Brandon to see if a resolution can be found.
- Based on Board discussion as well as communication from Brandon Theobald it was decided that concrete culvert materials should be used.
- Jamie Neisen stated that the discussions should continue before the Development Agreement (DA) is accepted. Roger suggested the DA could be accepted but not signed. Bill said that culvert material and size are not in the DA and agreed that it could be accepted but not signed.
- Jamie Neisen expressed some frustration that supporting documentation is not always received in a timely manner and suggested that the township have a checklist in place as far as dates when documents should be due. Brian Zmolek agreed but said enforcements should not be applied for the project this evening. Jamie further asked about the timeline for approving this project. Roger said that will still be ok if action is taken at the July meeting. Matt Kitzmann said that, if necessary, a special meeting could be called.
- Bill Tointon said there is currently no performance guide for submitting materials whereas the City of Rochester requires two weeks.
- Roger asked for approval of the Development Agreement. Brian Zmolek moved to accept the agreement as presented. Brandon has stated that there are a few items that still need resolution. As such, Roger and Brandon are recommending that the Board adopt the agreement but not sign it until Brandon has given his ok. Matt Kitzmann seconded. Jamie stated he does not feel prepared to vote at this time until those discussions have been completed. The motion passed 3-2 with Nathan Clarke and Jamie Neisen voting nay.

2630 Wildrose Ln SW

- Roger Ihrke reminded the Board that a permit request had been received and a denial sent. An incorrect license was used during the application. The owner would need a variance or plans for grading and retaining walls must be provided.

Next week is the deadline for a response to the legal action. In response to a question from the public, it was stated that there are some other interested parties but nothing substantive.

- Jeff Orth distributed a communication from Peter Tiede where the property owner has requested documentation and asked several questions.
- Viki Morris commented that she does not feel the process has been as transparent as it should be and would like more information. Roger Ihrke commented that building plans are not disclosed to the public. Ms. Morris questioned how builders are held accountable. How does the public know what is built is what was planned?
- Nathan Clarke commented that this shouldn't have gotten this far. The construction should have been inspected.
- In response, Roger (TCPA) looks to see if a plan complies with ordinances such as height. It was discovered later that a grading plan and retaining wall would be needed. The building permit subsequently expired. Building inspectors check on various aspects as construction progresses. Inspections to date have found everything to be in compliance.
- Matt Kitzmann asked what could be done in the future to further assure compliance.
- Roger commented that it can be difficult to require demolition. The courts often look to see whether something of value will be destroyed which can be construed to be a taking. A member of the public commented on 'value' and impact on value on other properties. At a minimum it perhaps violates the spirit of what is ultimately constructed.

Rookery Lawsuit

- A note was received from the attorneys representing the township in the rookery litigation. The Minnesota Court of Appeals affirmed the township's decision on a negative declaration of a need for an EIS and found no errors in the process and decisions made. The petitioners now have 30 days in which to decide if an appeal will be filed with the Minnesota Supreme Court.
- A public member asked what the developer is allowed to do now. Roger Ihrke responded that they can continue work already begun. The risk to the developer is that if the Preliminary Plat is not approved then the developer may have expended funds unnecessarily.
- Roger noted that adjoining property owners have proposed options that will be reviewed by the Planning and Zoning Commission.

Pool covers

- The Boards proposed language will be presented to the Planning and Zoning Commission at their meeting on June 14th in the context of a public hearing. The

results of that meeting will then be presented to the Board. Roger Ihrke said that only one comment had been received where someone stated that a pool alarm is more important than a pool cover.

Right of Way / Headwalls; Res2022_04_03

- No action was taken on this item this month.

Audio / Video system

- Matt Kitzmann provided an update. He has contacted some providers and received some suggested equipment options. Randy Staver suggested talking to the city and county to learn from their experiences. Jeff Orth asked if other options such as Teams or Zoom could be used.

Planning and Zoning Commission Resignation

- Roger Ihrke stated that Chris Forgarty has resigned from the commission effective immediately.
- Roger further commented that there will be conflicts due to absences that may require moving meeting dates. He suggested that should be avoided, if at all possible, given the busy calendar combined with time constraints for reviewing proposals. In addition, any meeting date changes must be republished.
- Two township supervisors sit in the meetings as alternates. After discussion it was decided that the Board should formalize the role of the alternates and substitutions such that the work of the commission could continue.
- Jamie Neisen moved to allow substitution of Planning and Zoning Commission members of no more than two supervisors from the township board if the alternates are not available so as to allow for a minimum of a three member quorum and preferably a full five member complement. There should not be a four member group so as to eliminate the possibility of tie votes for actions taken. Brian Zmolek seconded. All voted in favor and the motion passed.

Olmsted County Maintenance Agreement –

- Olmsted County presented a maintenance agreement to the township that specifies rates for equipment and services should the township wish to use county services.
- Jamie Neisen moved that the township should sign the agreement. Nathan Clarke seconded. All voted in favor and the motion passed.

Computer Policy –

- Randy Staver introduced the topic by reminding the Board of the purchase of laptops for board members to use in performing their work. Four laptops were purchased in November 2020 at a total cost of \$3,008.26 or \$752.07 each. At

the time of purchase, the Board had decided that Supervisors could choose to return their laptop if they left the Board or purchase it. Randy suggested that the useful life of a laptop is five years and that if a supervisor wished to purchase the laptop the value could be prorated based on date of purchase. Using that as a guide would place a remaining value of \$501 as of the end of June 2022 on the laptop that was used by Brian Mueller.

- Nathan Clarke would like a laptop and will pursue purchase with a limit of \$1,000.
- Jamie Neisen moved to allow board members to purchase their computer based on 20% depreciation per year. He further commented that any equipment returned should be professionally scrubbed of all information. Nathan Clarke seconded. All voted in favor and the motion passed.

MAT Legal Conference

- Nathan Clarke commented on the legal conference he attended recently. Nathan stated that he learned quite a bit about open meeting rules and also what topics can legally be discussed in a closed meeting. Those topics include personnel issues, litigation and contract negotiations. There is a prescribed process for publishing notice of a closed meeting and what records must be kept.

Information Availability

- Matt Kitzmann continued the earlier discussion by stating concerns when supporting agenda documentation is received just prior to a board meeting. The Board discussed a reasonable deadline. Jamie Neisen moved to set a deadline of 5:00 pm Friday the week before a regularly scheduled Thursday board meeting. Matt Kitzmann seconded. It was noted that township supervisors would be exempt from the deadline. All voted in favor and the motion passed.
- There was further discussion as to how much time key responders should be given to conduct review and provide comments from their respective professional perspective. Three key responders were identified – Peter Tiede (legal), Brandon Theobald (engineering) and Roger Ihrke (planning). A timeframe of three weeks from receipt of the materials was suggested. The clerk was asked to contact those individuals for their input which will then be shared with the Board.

Annual Picnic

- Randy Staver noted that if the Board wishes to pursue the annual picnic, the item should be discussed at the July meeting. He asked for some direction so that he can start creating a mailing list and postcard. Board members indicated a desire to hold the picnic.

Reports:

Treasurer's Report –

- Treasurer Randy Staver reported. Jamie Neisen moved approval of the treasurer's report. Nathan Clarke seconded. All voted in favor and the motion passed.

Rochester Township Claims – Jamie Neisen moved and Brian Zmolek seconded to accept and pay Rochester Township claims #5009-5040 in the amount of \$115,822.94. All voted in favor and the motion passed.

JPB Claims – Jamie Neisen moved and Nathan Clarke seconded to accept and pay Joint Powers Board claims #5836-5866 and the Rochester Township share in the amount of \$25,972.31, and a payroll share of \$9,656.19. All voted in favor and the motion passed.

Road Maintenance Supervisor Report –

- Pat McGowan reported. Mathy Construction actual expense was 9% lower than the estimated cost. It was noted that some septic system barriers which are mesh bags filled with packing peanuts had broken open and getting spread around. The construction firm has been notified. Pat will be getting chloride for later application. They will be spraying for wild parsnip. Since Juneteenth is a federal holiday observed on Monday, June 20th this year, Pat asked if the staff should plan to take it off as a paid holiday. Pat was asked to check with Cascade township, the City of Rochester and Olmsted County so that we are consistent.

TCPA Report –

- June 23rd is the 25th anniversary of TCPA. It will be held in the township garage from 3:00 pm to 7:00 pm.

Board of Adjustment Report –

- No meeting this month.

Planning and Zoning Commission Report –

- No further information beyond what was discussed in earlier topics.

Board Chair Report –

- No comments this month.

Upcoming Meetings –

- Planning and Zoning Commission – June 14, 2022 – 7:00 pm
- Joint Powers Board – July 22, 2022 – 9:00 am – Rochester town hall

Meeting Adjourned – Jamie Neisen moved to adjourn the meeting. Nathan Clarke

seconded. All voted in favor and the motion passed. Meeting was adjourned at 11:30 pm.

Respectfully Submitted,

Randy Staver, Clerk / Treasurer

Jeff Orth, Chairman