

Rochester Township

Board Meeting Minutes

January 13, 2022

Meeting was called to order at 7:00 pm by Chairman Matt Kitzmann.

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

Guests – Pat McGowan, Roger Ihrke, Dean Thompson, Bill Tointon, Geoff Griffin, Nathan Smischney, Gene Peters, and four members of the public.

Minutes – Jamie Neisen moved to approve the minutes for the December 9, 2021 meeting. Jeff Orth seconded. All voted in favor and the motion passed.

Deputy's Report – Deputy Dean Thompson reviewed the call report of 32 calls for service.

Old Business:

Ordinance Updates

- Proposed revisions were considered for the Construction and Maintenance of Access Driveways / Approaches / Culverts ordinance and the Access Management and ROW ordinance. The proposed changes would align the ordinances to be the same as the ordinances adopted by Cascade township.
- Matt Kitzmann opened public hearings for each ordinance. There was no public testimony. Matt closed the public hearings.
- Jeff Orth moved for adoption of the Construction and Maintenance of Access Driveways / Approaches / Culverts ordinance. Jamie Neisen seconded. All voted in favor and the motion passed.
- Jeff Orth moved approval of the Access Management and ROW ordinance. Brian Zmolek Neisen seconded. Roger provided comments that the main changes add some additional information such as driveway distances, definition of different roadways and speeds. Jamie asked which ordinance controls the number of driveways. Roger responded the access management ordinance. All voted in favor and the motion passed.

Road Mileage Certification List

- Clerk Randy Staver said that he has worked out the corrections with Olmsted county Public Works. The corrected total certified road mileage is 29.61 versus the original mileage of 27.92.

Rookery Lawsuit

- No further information at this time.

2630 Wildrose Ln SW

- Matt Kitzmann has had some discussions with our legal counsel. The property owner has asked for 90 days to sell the property. If no buyer is found then they would agree to give the township permission to take down the structure. Any costs would be assessed via property taxes to the current property owner. Roger Ihrke commented that if a new buyer is found a new building permit would be required since the earlier permit expired. In addition, there would need to be a building safety inspection, a grading permit and a road bond.
- Jamie Neisen asked about previous concerns about construction sufficiency and the HVAC system. Roger commented that those concerns turned out to be unfounded.
- Jamie Neisen asked about bonding for the roadway and how repairs are made. Roger said they would have to tell us what haul roads would be used and a bond would be set up as needed. Roger stated that the township can set a date beyond the end of construction for a warranty period. An engineer would be used to do an assessment to verify status prior to the project moving forward.
- Legal counsel has suggested agreeing to the 90 day extension. A new agreement would need to be written with a new buyer and perhaps certain stipulations could be included. Jamie Neisen stated he would like to see a 12 month timeframe for project completion.
- Jeff Orth moved that Matt work with Roger and Peter Tiede to write an agreement relative to the 90 day extension. Brian Mueller seconded. All voted in favor and the motion passed.

New Business:

Secondary Access Request – Nathan Smischney –

- Mr. Smischney presented his request for a second access to his property located at 2643 Glenwood Rd SW to access a proposed two stall garage. He talked about location of the building based on Mayo Woodlands bylaws and the limitations those bylaws create. The bylaws do not prohibit the secondary structure so long as lot lines and setbacks are observed. Jamie Neisen noted that the township ordinance does not allow for multiple driveways so a variance would be required at a minimum. Jeff Orth commented that often there are safety concerns which is one reason requests are denied. The Board was not in favor of allowing the request but did offer some suggestions that the property owner might consider to achieve his desired goals.

Woodland Valley Estates – GDP & Zone Change –

- Roger Ihrke presented the staff report for a proposed GDP and a zone change from A-3 to R-1. The development would have 15 lots. The area is already approved for subdivision development. Roger also noted that an EAW is not required. Roger

stated that the Board should decide if a traffic study is desired. Planning and Zoning Commission approved the request but noted a desire for a wider roadway.

- Roger said that Brandon Theobald has offered to provide assistance if a traffic study is needed. Roger said if a traffic study is desired then the action should be tabled unless the board determines that an updated letter and recommendations previously written by Brandon would suffice in which case action could be taken now.
- A member of the public commented and asked whether approval of this or other developments would compromise his desire to develop in the future.
- Bill Tointon provided additional background. Jamie Neisen asked Bill about the roadway being wider. Bill expressed concerns related to the cost as well as the steepness of the grade and he would not recommend widening the road.
- Brian Zmolek moved not to require a traffic impact study. Brian Mueller seconded. All voted in favor and the motion passed.
- Jeff Orth moved to approve the GDP with staff findings. Brian Zmolek seconded. All voted in favor and the motion passed.
- Jamie Neisen moved to approve the zone change. Brian Mueller seconded. All voted in favor and motion passed.

Millie Meadow Estates Third – Land Use Plan Amendment –

- Roger Ihrke provided the staff report. The property is currently zoned A-2 with a land use of Resource Protection. It will need to be rezoned to R-1 and the land use changed to Suburban Development. Geoff Griffin provided additional information in response to how much area will be left open.
- Jeff Orth moved to support the land use plan request and direct Roger to draft a letter to forward to the county board to request final approval. Brian Mueller seconded. All voted in favor and motion passed.

Lilly Farm Township Road –

- Roger Ihrke provided a report and stated that we have asked for a map from the county. Roger said the board needs to determine if the township is willing to build the road.
- Geoff Griffin commented and said there were disagreements with the county on the process but not the design. The county has since provided direction and is supportive. Geoff stated that he is relying on exemption 6.5.1 in the Wetland Conservation Ordinance in support of the project and that there is already an ag crossing based on exemption 6.5.8. The design would remove the old ag crossing and install an engineered crossing which he feels will be better.
- Jamie Neisen expressed concern that the township doesn't build roads and instead relies on developers. Agreeing to this request would require an exemption to the ordinance which would set a precedent for future similar requests from developers.
- Jamie Neisen asked about options, Geoff responded that they could go to the county board but they are required to come to the township first. Matt Kitzmann noted that there is an assumed liability if the township constructs a road, Gene Peters offered

that he would be acceptable to a longer warranty.

- Jamie Neisen moved that the township not move forward with township development of the roadway. Jeff Orth commented that the decision seemed to be based simply on the existence of Decorah Edge. He suggested that this is a unique scenario and posed whether another month of thought would be worthwhile. Jamie Neisen emphasized that the Olmsted County Soil and Water had not placed this particular restriction regarding the Decorah Edge on any previous recent developments in Rochester Township.
- Roger Ihrke commented that he originally had difficulty getting an opinion from the county on a process for amending the ordinance. The county has now provided that plan. Roger stated that if the township denies the request, they must state reasons for denial for consideration by the county in an appeal. Jamie stated that he believes sufficient restrictions have already been identified based on previous communications. The motion failed for lack of a second.
- Jamie Neisen restated his motion to state that Rochester Township will not build the road based on the Olmsted County Wetland Conservation Ordinance (WCO) restrictions 6.32, 6.36 and 6.37 outlined in the letter from Skip Langer, Olmsted County Soil and Water, dated 4/17/19. Gene Peters commented that if the township doesn't wish to construct the road, they should state a simple rationale if possible. The motion failed for lack of a second.
- Several board members expressed concerns that emphasis needs to be placed on the county to modify the ordinance and that an appeals process needs to be defined. Other members felt that there is an appeals process in place and that the dilemma is more so the sequencing of which body hears a request first.
- Jeff Orth moved to accept the proposal and setting a 6 year warranty and that the township also makes an official request of the county to address the ordinance deficiencies and lack of explicit process. Brian Mueller seconded. The motion passed 4-1 with Jamie Neisen voting nay.

Board of Audit – Set Meeting Date –

- Brian Mueller and Brian Zmolek volunteered to serve on the Board of Audit.
- The board decided to set the date for 02/08/2022 at 2:00 pm at the town hall.

RES2022_01_01 Election Judges Appointment –

- Matt Kitzmann and Jeff Orth volunteered to serve as election judges.
- Jamie Neisen moved approval of the resolution. Brian Zmolek seconded. The motion passed 3-1 with Brian Mueller abstaining.

RES2022_01_02 Absentee Ballot Board Appointment –

- Matt Kitzmann and Jeff Orth volunteered to serve on the absentee ballot board.
- Brian Zmolek moved approval of the resolution. Jamie Neisen seconded. The motion passed 3-1 with Brian Mueller abstaining.

2023 Budget –

- Treasurer Randy Staver presented the draft 2023 budget and commented on the actual numbers for 2021.
- The Board discussed the budget in general and directed the treasurer to draft a budget for 2023 with the following criteria: 25% increase for compensation, allocate \$20,000 for legal expense, and increase other categories by 7%. The proposed changes are in line with CPI increases, job market activity, and anticipated legal expense. Changes were also proposed for the current 2022 budget.

Information Items:

RES2022_01_03 – ARPA Funds for Essential Employees – Pat McGowan: Jeff Orth moved to approve RES2022_01_03, RES2022_01_04 and RES2022_01_05 in block. Brian Zmolek seconded. All voted in favor and the motion passed.

RES2022_01_03 – ARPA Funds for Essential Employees – Chris Lien: Approved in block.

RES2022_01_03 – ARPA Funds for Essential Employees – Mark Cochran: Approved in block.

New Agenda Items:

- Storm Damage – Reimbursement. Matt Kitzmann reported that he attended a discussion with Olmsted county staff at the Emergency Operations Center regarding storm damage that occurred during the storm on December 15th. It was suggested that a claim be submitted through joint powers rather than each township individually.
- Pool Fence Ordinance. Matt Kitzmann reported that the county has modified their pool ordinance to allow for pool covers in lieu of a fence. The dilemma is that each township must modify their respective ordinance and Rochester Township does not currently allow for a pool cover option. The board decided to leave the ordinance as is and require a fence for below ground pools. The Board directed Roger to send letters to any residents who do not have a fence installed. Matt Kitzmann will attempt to meet with the homeowners first.
- ARPA funds – lighting. Matt Kitzmann stated that ARPA funds could be used to upgrade building lighting to more efficient LED lighting. Matt offered to research options. Jamie Neisen moved to let Matt move forward and spend up to \$2,000 to upgrade lighting. Brian Mueller seconded. All voted in favor and the motion passed.
- Glenwood Road SW. Jamie Neisen said that Mark Cochran had asked that a letter be written asking the developer to mitigate the damage. Matt said that Brandon will

take the lead in interacting with the developer. The clerk was asked to write an email to both the developer and Brandon and copy the Board.

- Township Engineer. Jamie Neisen posed that our engineer representative should be present when certain topics are discussed. The clerk was asked if he could contact Brandon when items such as GDP's will appear on the agenda and check on his availability.
- Janitorial Maintenance – Townhall. Given Pat's new role, the board discussed whether a cleaning service should be used for routine town hall custodial needs. Jeff Orth will follow up on potential options.

Reports:

Treasurer's Report –

- Treasurer Randy Staver reported. Jeff Orth moved approval of the treasurer's report. Jamie Neisen seconded. All voted in favor and the motion passed.
- Randy commented that we received information that now says the township may spend ARPA funds for certain general fund and road fund expenses. MAT is providing more information.

Rochester Township Claims – Jamie Neisen moved and Brian Mueller seconded to accept and pay Rochester Township claims #4925-4941 in the amount of \$55,046.90. All voted in favor and the motion passed.

JPB Claims – Brian Mueller moved and Jeff Orth seconded to accept and pay Joint Powers Board claims #5690-5718 and the Rochester Township share in the amount of \$47,244.27, and a payroll share of \$30,873.26. Randy noted that the payroll was higher than normal due to pay out to Mark Cochran for accumulated comp time and PTO. All voted in favor and the motion passed with Brian Mueller abstaining.

Road Maintenance Supervisor Report –

- Pat McGowan reported. The storm on December 15th caused additional work with several trees down. Olmsted county asked for a storm damage report and Pat provided a summary of time spent and associated expenses. Pat talked about the individual that has been working part time who intends to move to full time once he finishes his current job. Pat continues to complete required training.

TCPA Report –

- Jeff Orth reported. The financial report for TCPA for 2021 was very positive. They will be meeting with a person next week who might potentially serve as a replacement for Roger.

Board of Adjustment Report –

- No meeting this month.

Planning and Zoning Commission Report –

- Nothing to report.

Board Chair Report –

- Nothing additional to report.

Upcoming Meetings –

- OCTOA – January 27, 2022 – 7:30 pm
- Joint Powers Board – January 28, 2022 – 9:00 am – Rochester Town Hall
- Planning and Zoning Commission – February 8, 2022 – 7:00 pm

Meeting Adjourned – Jamie Neisen moved to adjourn the meeting. Brian Mueller seconded. All voted in favor and the motion passed. Meeting was adjourned at 12:30 am.

Respectfully Submitted,

Randy Staver, Clerk / Treasurer

Matt Kitzmann, Chairman