

Rochester Township

Board Meeting Minutes

April 14, 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, Brandon Theobald, Geoff Griffin, Randy Petersen, Tim Parkin, Gene Peters, Roger Ihrke and four members of the public.

Minutes – Jamie Neisen moved to approve the minutes for the March 10, 2022 meeting. Matt Kitzmann seconded. All voted in favor and the motion passed. Matt Kitzmann moved to approve the minutes for the March 23, 2022 meeting. Brian Zmolek seconded. All voted in favor and the motion passed. Jamie Neisen moved to approve the minutes for the April 4, 2022 meeting. Nathan Clarke seconded. All voted in favor and the motion passed.

Deputy's Report – Deputy Dean Thompson reviewed the call report of 29 calls for service.

Old Business:

Rookery Lawsuit

- No further information at this time.

2630 Wildrose Ln SW

- Matt Kitzmann provided an update. We have received word of a notice of a hearing to be held on May 19th. Roger Ihrke spoke and relayed that the attorney would like to have a couple of witnesses who can attest to what activity has been occurring. The attorney would also like to have one township supervisor serve as a witness. Interested persons should contact Roger. Nathan Clarke stated that he had spoken with Peter Tiede and based on his advice, Nathan will be recusing himself from this matter going forward. Dean Thompson will provide information related to calls for law enforcement service.

Pool covers

- The Board had previously determined language to be added to the ordinance.

Roger Ihrke will edit the ordinance accordingly for presentation and action. Board members noted that they had spoken with pool companies to apprise them of the actions being taken and they were pleased.

New Business:

Bowe-Leitzen Property –

- Roger Ihrke spoke. This is a zone change that the Planning & Zoning Commission approved unanimously changing the zoning from Agricultural District (A-3) to Agricultural Resource Commercial District (ARCD).
- There is additional engineering work to be done and future opportunities to set certain conditions via conditional use permits (CUP). The general development plan (GDP), which lasts for two years, has expired and will need to be re-presented.
- Roger referred to comments from the county stipulating that Salem Road Court SW must be removed in lieu of a new access being created for this project. Bill Tointon spoke and stated he will work with Olmsted County Public Works regarding timing of certain road access.
- Nathan Clarke commented that he would not want to see a final configuration where material could wash onto other properties similar to what has occurred with some other development. Bill responded that that couldn't happen in this project.
- Jamie Neisen commented that P&Z heard concerns about how long this project will take and what remedies will be in place in case private wells are compromised in some manner. Options were also discussed for road access to the two existing homes.
- Jamie asked if this would be considered spot zoning. Roger Ihrke responded that the ARCD zone is the only zone that permits mining and this is not spot zoning.
- Nathan Clarke expressed concern with a mining operation in close proximity to a housing development. Bill Tointon spoke and gave examples where mining operations occurred at the same time as housing development and property values were not compromised.
- Matt Kitzmann noted that even if this were not a mining operation there would still need to be material removal to accommodate development. He clarified what the Board is taking action on tonight. Roger Ihrke commented that stipulations cannot be placed on a land use decision and that there will be future steps in the process and additional public hearings.
- Jamie Neisen asked Brandon Theobald to comment on how this project may or may not help with flooding issues. Brandon said that removal of material should help the flooding situation and also noted that the developer will be required to do a flood study.

- Noting that since Old Valley Road is often a flood hazard and that potentially replacing it could be a benefit to township safety, Matt Kitzmann moved approval of the zone change from A-3 to ARCD. Brian Zmolek seconded. The motion carried 4-1 with Nathan Clarke voting nay.
- Bill Tointon spoke and recommended that the existing road access remain until the mining operation has been completed. Jamie Neisen moved that the township ask the county to let access remain via Salem Road Court SW to the two homes. Brian Zmolek seconded adding that Salem Road Court SW should be based on an interim use timeframe which can specify an end date whereas a conditional use permit can be open ended. All voted in favor and the motion passed.

2022 Annual Road Tour Report –

- Information from the road tour is contained in the minutes from April 4, 2022. Pat McGowan presented a summary of the projects along with bid information he has obtained. The bids reflect about a 30% increase in material cost. The projected total road cost would be \$827,941.
- Jamie Neisen asked Pat if the information provided in the previous agenda item changes his recommendation on Meadow Crossing Road SW. Pat said it does and that he would recommend not doing anything with Salem Road Court SW.
- Jamie Neisen moved to modify the road report to remove Salem Road Court SW from any work this year and do crack filling on Meadow Crossing road from county road 8 up to Glenwood Road. Brian Zmolek seconded. All voted in favor and the motion passed.
- Pat commented that he would like to see the township use a rating system for assessing road conditions. Pat provided an example that allows quantification of roads. Pat also noted that the timing of the road tour can show road conditions to appear to be worse than they really are. A consistent rating system would help alleviate those discrepancies.
- Matt Kitzmann moved to have Pat implement a road rating system. Jamie Neisen seconded. All voted in favor and the motion passed.

Lilly Farms Fourth Preliminary Plat –

- Roger Ihrke summarized the project and commented on discussion that occurred at the Planning & Zoning Commission. Planning & Zoning approved the preliminary plat along with five variances. Four of the variances related to lot size and one related to a roadway length that exceeds ordinance standards.
- Geoff Griffin spoke and said that he agreed with staff report. The variances mainly reflect lot width to depth. Brandon Theobald spoke and said they continue to develop engineer comments. He also said that this will be a little

different in that the township is involved with building a road. He further said that there will be a construction contract and bid involved. He will be returning with that document.

- Nathan Clarke stated that he has heard from several residents that they are concerned with the amount of development occurring. A member of the public commented that he feels that some development is occurring too quickly without enough thought as to long term impact. Geoff Griffin spoke and said that he has not heard any negative comments regarding this project. He also reiterated that the roadway being constructed will be better than the current roadway.
- Brian Zmolek moved approval of the preliminary plat. Matt Kitzmann seconded. The motion passed 3-2 with Jamie Neisen and Nathan Clarke voting nay.

Resolution Adopting ROCOG Organization Agreement – Res2022_04_01 –

- The proposed revised ROCOG organizational agreement has been presented to the various townships and is requesting approval. Jamie Neisen moved approval of the ROCOG agreement. Brian Zmolek seconded. All voted in favor and the motion passed.
- There was some discussion whether there is an opening on ROCOG for a township representative. Representatives are appointed by the township association. Jeff Orth will follow up.

Annual Reorganization –

- Randy Staver reviewed the draft document which was edited through discussion. Jamie Neisen moved approval of the 2022 reorganization document with edits. Matt Kitzmann seconded. All voted in favor and the motion passed.

West Hills Amount for 2023 –

- In keeping with budget planning and inflation indexes, Matt Kitzmann suggested an increase of 7% which would raise the fee to \$396 per resident. Jamie Neisen moved to set the fee at \$400 for this year. Brian Zmolek seconded. Matt Kitzmann had stepped out of the room. The motion passed 4-0.

Resolution Appointing Election Judges – Res2022_04_02 –

- Randy Staver explained the need for the resolution. Jamie Neisen moved adoption of the resolution. Nathan Clarke seconded. All voted in favor and the motion passed.

Resolution Pertaining to Headwalls in the Township ROW – Res2022_04_03 –

- Matt Kitzmann opened the discussion. This relates to the topic of state statute prohibiting headwall construction. The Board had previously agreed that they would address existing headwalls at such time as a road is reconstructed. The question was raised with Peter Tiede whether the township could be indemnified. He said that it is not easy for a homeowner to release a governing body. It was also noted that the township cannot demand that a homeowner remove a headwall at their expense. It therefore becomes a socialized cost.
- Peter proposed a resolution for the Board to consider which allows consideration based on budget.
- Jamie questioned item 1 in the findings and resolution that states “unless permitted” and whether that is an accurate statement given that state statute outright prohibits their construction. Roger Ihrke stated that there are examples of obstacles in the ROW and further said that there may be a situation where there may be extenuating circumstance that would require construction within the ROW.
- Roger advised that we should first review the current ordinance to see if the topic is addressed. Board members agreed to follow up with residents that have headwalls to get their input.

Hunting Legislation –

- Nathan Clarke spoke about legislation being considered that would allow rifle hunting where only shotguns are currently allowed. DNR is supportive of the change whereas residents and members of law enforcement have concerns. Nathan will follow up with MAT to see if they will help us draft a letter to legislators that Jeff Orth could sign on behalf of the township.

Residential Home Use Request –

- Roger Ihrke said he received two requests for use and building at a residential home. The homeowner submitted a request asking to start a business in her home. Roger sent her a letter of denial based on township ordinances. The homeowner is appealing the denial. A public hearing will be scheduled for the next meeting.
- The same property owner submitted a request to build an in-ground swimming pool in her front yard. The ordinance only permits construction in the side or rear yards. There was some discussion whether the area would be considered a front or side yard. After viewing a photo of the property, the Board feels this is a front yard and therefore a pool is not permitted. The homeowner may choose to submit a variance request to the Board of Adjustment if she wishes to pursue.

Information Items:

- Audit Status – Randy Staver reported that the Smith Schafer audit is nearly complete. Kelsey Moore came on site to complete a visual record inspection. The audit report will be provided to the Township Board likely in June or July.
- Certificate of Election and Oath – Randy Staver reported that the Certificate of Election has been issued and oath taken for Nathan Clarke.
- Townhall Cleaning – Randy Staver noted that he met with Crystal Lammers to go over cleaning duties. Crystal has cleaned the offices once. She will typically do cleaning every other Thursday afternoon.

Reports:

Treasurer's Report –

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

Rochester Township Claims – Jamie Neisen moved and Matt Kitzmann seconded to accept and pay Rochester Township claims #4969-4990 in the amount of \$60,433.03. All voted in favor and the motion passed.

JPB Claims – Jamie Neisen moved and Brian Zmolek seconded to accept and pay Joint Powers Board claims #5776-58005 and the Rochester Township share in the amount of \$23,028.43, and a payroll share of \$7,369.96. All voted in favor and the motion passed. A comment was made related to the fairly large discrepancy in heating expense between the two townships. It was noted that Cascade rents out their town hall whereas Rochester does not.

Road Maintenance Supervisor Report –

- Pat McGowan reported. A new staff member is coming on board. The road tour and bidding process has been completed. Proposed road projects are within budget. The backflow preventer work has been completed.

TCPA Report –

- Jeff Orth reported. YTD fund balances are negative by about \$5,000 but this is primarily related to timing. They continue to work at finding candidates for Roger's replacement. Roger has specified he would like to retire by the end of 2022. June 16th is the 25th anniversary of TCPA. An open house will be held at Rochester town hall beginning at 2:00 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 –

- Matt Kitzmann offered comments as he closed out his year as chair and said it was challenging at times but an enjoyable experience.

Upcoming Meetings –

- Planning and Zoning Commission – May 10, 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. Brian Zmolek 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