

Rochester Township

Board Meeting Minutes

July 14, 2022

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

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

Guests – Pat McGowan, Dean Thompson, Bill Tointon, Jason Kappers, Roger Ihrke, Gene Peters, Jeff Broberg and eight members of the public.

Minutes – Jamie Neisen moved to approve the minutes for the June 9, 2022 meeting. Nathan Clarke seconded. All voted in favor and the motion passed.

Deputy's Report – Deputy Dean Thompson reviewed the call report of 49 calls for service. The deputy reviewed information related to a speed study along 8th St. SW.

Rookery Lawsuit –

- A hearing on the motion for summary judgment will occur on July 15, 2022 after which our legal counsel will provide an update. The judge has up to 90 days to render a decision. The timeframe to appeal to the Minnesota Supreme Court has expired.
- A question was asked whether the decision timeframe affects the 60 day rule. Roger Ihrke responded that based on the dates the township will still be within the limits. June 17th began the clock for the 60 day rule.
- Nathan Clarke asked whether it made sense to vote on the Pavilion Estates matter while the legal decision is pending. Peter Tiede responded that there are separate questions to consider – a decision based on whether the appeal of the GDP decision is upheld and a decision on the Preliminary Plat. He further stated that based on the dates involved and that the township is still within the 60 day window, the Board could wait until the August meeting before making a decision on the Preliminary Plat. The ruling on the appeal could render any decision made on the Preliminary Plat moot. However, if the appeal of the GDP decision is rejected then the Board must decide on the Preliminary Plat in August.
- Brian Zmolek stated that it seems prudent to wait on the Preliminary Plat decision. Roger Ihrke cautioned that the Board will need to state findings and give staff direction. The Board may need to continue the August meeting for a couple of days to allow staff to draft the findings.

2630 Wild Rose Lane SW –

- The hearing on the motion for summary judgement will occur on July 15, 2022. The judge then has up to 90 days in which to make a ruling.
- Peter Tiede was present and summarized the current status.
- Nathan Clarke asked about mediation and Peter explained that isn't an option right now given the legal process. The Board asked that Peter also attend the August board meeting to discuss actions that occur at the July 15th hearing.

Pool Covers –

- Roger Ihrke spoke and stated that the Planning and Zoning Commission held a public hearing on the topic. The commission moved approval of the proposed language with the addition of language related to pool alarms.
- An open question for the board is whether an ordinance change will be retroactive or only in instances going forward. He also noted that Rochester township will be different from other townships. Roger stated that there will be a need to inform pool installers.
- Roger asked whether an alarm would be needed if there is a pool cover and fence installed. Also, will the rule apply different if the pool is in-ground or above ground. He asked for direction from the Board so that he can draft language for adoption at the meeting in August.
- Jamie Neisen said that it may be difficult to retrofit existing pools. His preference is that no alarm should be required if the pool has a cover and fencing but if there is only a pool cover then an alarm is required. Brian Zmolek agreed. Nathan Clarke stated that essentially a pool must have two of the three protections. Jamie said that this should apply to above ground pools too.
- Roger Ihrke noted that the alarm could artificially set off with water movement on a windy day. He asked for confirmation from the Board before he drafts the ordinance.
- Matt Kitzmann expressed concern that the township will be different from other townships or county. He would prefer consistency. Brian Zmolek agreed.
- Jamie Neisen moved that, going forward, all in-ground pools must install an alarm and cover unless there is a cover and fencing installed then no alarm is needed. Further, above ground pools will require an alarm regardless of whether there is a cover and fencing. Nathan Clarke seconded. All voted in favor and the motion passed.

Right of Way / Headwalls; Res2022_04_03 –

- Nathan Clarke began the discussion by asking what remains to be resolved. Matt Kitzmann reiterated that the current policy is that headwalls will be removed when roadwork occurs that also requires work in the ditches. The board will

continue discussion on the topic next month.

Audio / Video System –

- Matt Kitzmann provided an update. The vendor he has been speaking with is hesitant to put together a quote until they are certain they can obtain the equipment.

Approve Plans and Specifications & Ordering Advertisement for Bids for Construction of Lilly Farms 4th – Res2022_05_01 –

- Matt Kitzmann moved approval of the resolution. Brian Zmolek seconded. The motion passed with Jamie Neisen and Nathan Clarke voting nay.

Preliminary Plat & Appeal – Pavilion Estates –

- Nathan Clarke moved to table the item. Brian Zmolek seconded. All voted in favor and the motion passed.

Final Plat & Amended Development Agreement – Lilly Farm 4th –

- Roger Ihrke spoke and summarized the request and project. The plat meets requirements. Staff recommends approval and Roger noted that the Planning and Zoning Commission approved the project 4-0.
- Jason Kappers from whks spoke in agreement with staff findings and their report.
- Brian Zmolek moved approval of the final plat. Matt Kitzmann seconded. The motion passed 3-2 with Jeff Orth, Matt Kitzmann and Brian Zmolek voting aye and Jamie Neisen and Nathan Clarke voting nay.
- Jamie Neisen spoke and reiterated that he is against having the township build a road for a developer. Nathan Clarke spoke in agreement with the statement.
- Brian Zmolek moved approval of the amended development agreement. The motion passed 3-2 with Jeff Orth, Matt Kitzmann and Brian Zmolek voting aye and Jamie Neisen and Nathan Clarke voting nay.

Annual Township Picnic –

- Matt Kitzmann suggested use of a food truck based on the recent experience of TCPA event. This is viewed as an easier option and allows township supervisors to interact more with township residents.
- Nathan Clarke moved to pursue a food truck. Brian Zmolek seconded and further suggested using the same vendor as was used for the TCPA event. Cost for the TCPA event was \$3.00 per taco plus a \$200 charge for the food truck. The township will provide beverages and dessert.
- The event will be held on Tuesday, August 16th from 4:00 to 7:00 pm at the town hall. An alternate date will be Thursday, August 18th contingent on the availability of the food truck vendor. All voted in favor and the motion passed.

Approve Election Judges – Primary & General Elections – Res2022_07_01 –

- Randy Staver explained that the resolution is needed to approve upcoming election judges for the remainder of the year. The election official (clerk) is allowed to make adjustments to the list as needed. Jamie Neisen moved to approve Res2022_07_01. Nathan Clarke seconded. All voted in favor and the motion passed.

Animal Control Incident –

- Brian Zmolek reported and said he has been in contact with the owner of the dog. The owner did quarantine the dog for ten days. They further stated that the dog has been entered into a six month training program.
- Since there is no township or county ordinance, the default is State statute which allows for bonding as insurance.
- Since the dog is in a training program, the township will wait until the end of the six month period to decide if further action is needed. Brian will contact the animal owner to explain the decision.

Garage Floor Repair –

- Matt Kitzmann presented information he has received in the form of a quote of \$26,812.50 to perform repairs on the concrete floor of the township garage. Based on comments from Pat McGowan, the end of August or early September would be a good time for the work. Road crew staff will take care of moving equipment out of the shop.
- It was noted that bids of \$25,000 or greater require a specified process. Matt said he would visit again with the preferred contractor to see if a lower price could be obtained.
- Jamie Neisen moved to allow Matt Kitzmann to negotiate at a cost less than \$25,000. Matt Kitzmann seconded. All voted in favor and the motion passed.
- It was noted that this would be a viable use of ARPA funds for the project.

Reports:

Treasurer's Report –

- Treasurer Randy Staver reported. He noted that this month's report does not reflect the second half of ARPA funds received in the amount of \$207,964.10 or the first half of tax levy receipts in the amount of \$637,879. Matt Kitzmann suggested the township may wish to consider raising the reserve amount to 60%. 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 Matt Kitzmann seconded to

accept and pay Rochester Township claims #5041-5060 in the amount of \$280,660.71. All voted in favor and the motion passed.

JPB Claims – Brian Zmolek moved and Nathan Clarke seconded to accept and pay Joint Powers Board claims #5868-5896 and the Rochester Township share in the amount of \$17,821.52, and a payroll share of \$9,656.19. All voted in favor and the motion passed.

Road Maintenance Supervisor Report –

- Pat McGowan reported. This is about the busiest time of the year with all the road work being performed. The new tractor is working very well.

TCPA Report –

- The 25th anniversary of TCPA was held on June 23rd. It was well attended and a successful event. Approximately 130 people attended
- Two interviews have been scheduled for the near future as possible replacements for Roger Ihrke's position.

Board of Adjustment Report –

- No meeting this month.

Planning and Zoning Commission Report –

- Nathan Clarke noted the email written by Arthur Handleman which was made available to other board members for their review. He also noted the current opening on the commission.
- Brian Zmolek spoke about the lack of control the township has in certain aspects of a development. The feedback from residents is that they are asking the township to be more thoughtful. Brian stated that the development agreement is one of the best ways to ensure that a development occurs as desired.

Board Chair Report –

- No comments this month.

Upcoming Meetings –

- Planning and Zoning Commission – August 9, 2022 – 7:00 pm. The date for this meeting will likely change given that August 9th is an election day.
- Joint Powers Board – July 22, 2022 – 9:00 am – Rochester town hall
- OCTOA – July 28, 2022 – 7:30 pm

Meeting Adjourned – Nathan Clarke moved to adjourn the meeting. Matt Kitzmann seconded. All voted in favor and the motion passed. Meeting was adjourned at 9:35

pm.

Respectfully Submitted,

Randy Staver, Clerk / Treasurer

Jeff Orth, Chairman