

Rochester Township

Board Meeting Minutes

October 14, 2021

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

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

Guests – Mark Cochran, Roger Ihrke, Dean Thompson, Bill Tointon, Ed Clark, Jeff Broberg, Steve Connelly, twenty-three members of the public.

Minutes – Jamie Neisen moved to approve the minutes for the September 9, 2021 meeting. Brian Zmolek seconded. All voted in favor (5-0) and the motion passed.

Deputy's Report – Deputy Dean Thompson reviewed the call report of 45 calls for service. Dean noted that the county received a grant for two speed trailers.

Old Business:

Pavilion Estate – EAW

- Roger Ihrke reported and provided a report on behalf of TCPA. He stated that at their last meeting the Planning and Zoning Commission had approved the zone change and denied the GDP based on the proposed lot sizes of less than 3.5 acres. Roger walked through the project timeline to date and underscored certain process rules, e.g. the 60 day rule which ends November 18, 2021.
- Roger provided history of where the 3.5 acres criteria came from which happened to be the average lot size in the county at a certain point in time. Roger said that it is an average established and used by the township since 1999 but is not meant as a strict standard.
- The county has not updated their criteria and land use plan since 2016 although they may be making changes within the next several months.
- Roger said that staff believes that the GDP still meets criteria for approval with one exception which is the length of the proposed roadway. Roger referred to findings that have been written supporting approval.
- Jamie Neisen asked for some clarification of the 3.5 acre criteria as addressed in the opinion from the county. Roger responded in part that some lots in the Cairnbrae Estates development are greater than 3.5 acres. He also reiterated that the 3.5 acres is an average county-wide.
- Brian Zmolek commented whether a win-win solution could be found. He asked

how small a lot can be and still have individual septic systems. Roger responded two acres is the minimum. Roger further responded that to reduce the lot sizes would require another approach such as establishing a special district or use of a community septic system. Roger went on to say that there would need to be sufficient findings to deny or ask the developer to modify their plan. Brian stated that by perhaps reducing the lot sizes that might reduce the length of the road and also possibly allow more protection of the rookery.

- Bill Tointon spoke. He was the consultant of record working with the county and township in 2016 when the land use plan was created. In response to Brian's questions, Bill stated that alternative plans have been considered but each alternative presented new challenges such as more grading or more removal of trees. Also, there would likely be an increase in development cost.
- Roger asked that if the Board leans toward denial that they table the item until the November meeting to allow Roger time to write sufficient findings.
- Jeff Orth asked whether anyone was aware of active nests this year. The response was yes. Matt Kitzmann commented that the zone change and GDP are separate topics from the EAW appeal and litigation.
- Jeff Orth moved for approval of the zone change. Brian Zmolek seconded. All voted in favor and the motion passed.
- Jeff Orth asked whether a wildlife buffer might be used similar to a buffer found in Heritage Hills. Roger responded that a 50 foot wildlife corridor is provided in the proposed plan. Jeff Orth asked Mr. Tointon whether the wildlife could be expanded in size. Bill responded that as the project would move forward he would seek to minimize disturbances.
- Brian Zmolek moved to table the GDP decision until the November meeting. Jamie Neisen seconded. All voted in favor and the motion passed.
- Bill Tointon asked for some direction. Brian Zmolek volunteered to discuss options with the developer.

Engineering consulting support work group

- There was no update to report. Brian Zmolek will try to set up a meeting with Roger Ihrke and Jeff Orth. Brian Mueller commented that his experience working with whks in the past has been positive.

New Business:

Mayo Woodlands Third Final Plat –

- Roger Ihrke spoke. He stated that the Planning and Zoning Commission approved the plat at their last meeting. Staff recommends moving forward.
- Roger asked that the Board have some discussion about a proposed pedestrian trail. Cost estimates have been provided. The developer is also involved in the trail discussions. Roger said that it would take about a month to get on the

county boards agenda which would allow time to create a trail agreement. Roger said the topic should be on the agenda next month.

- Jamie Neisen asked whether the trail agreement should be part of the Development Agreement. He also asked why certain items were mentioned as being deleted from the original agreement dated June 13, 2002. The engineer from WSB responded that those earlier items were not applicable to this agreement. He read the text of what was deleted. Roger also stated that the items were removed at the request of the township legal counsel.
- Jamie asked about some language changes to add clarity. Roger responded that those changes have already been made and are included in the agreement being proposed for approval and signature this evening.
- Jamie asked whether there is language that provides for individual lot grading plans. Roger said if the language is not included then it could be included in covenants. Ed Clark clarified that the grading plans are in the covenants versus the Development Agreement.
- Jamie asked whether the language "substantially completed" could be changed to reflect issuance of occupancy permit. The township's subdivision ordinance uses the language "totally completed". Roger stated that "totally completed" and issuing an occupancy permit are the same. After some discussion Jamie recommended adding the following language to the DA: "However, the Township shall not accept the dedicated public roadways for maintenance by the Township or taxpayer's expense until such time as fifty percent (50%) of the houses in the Project have received occupancy permits and the second lift of bituminous paving has been finished on all public dedicated roadways within the plat."
- Roger asked the Board to approve the agreement with the thought that the individual site grading plan language be included in the Development Agreement.
- Ed Clark noted that the trail must be referred to as a recreational trail going forward and not a pedestrian trail since it is not ADA compliant to be called a pedestrian trail. Roger corrected that changes could be made that would allow it to still be considered a pedestrian trail.
- Brian Zmolek moved to amend the Development Agreement to include the individual lot grading language and that it should apply to all lots. Brian Mueller seconded. All voted in favor and the motion passed.
- Jamie Neisen moved approval of the final plat and Development Agreement as amended. Brian Mueller seconded. All voted in favor and the motion passed.
- Roger spoke about concerns raised by Peter Tiede relative to well agreement language and about a septic line that runs under a township roadway and wanted the Board to be aware.
- Jamie Neisen asked about the homeowner's association and the potential difficulty finding people to participate given some complexities that can arise. Brian Mueller reminded the Board that the township does not enforce covenants.

- Discussion occurred about trail maintenance and the responsibility. The question was raised whether homeowner's associations could serve in that role. Roger noted that there are multiple associations in the area which might complicate response.
- Roger mentioned that it would be unlikely that the township would be upgrading Meadow Crossing Road in the near future and he felt that a separate pedestrian trail would help public safety. Jamie agreed that it would be very expensive for the township to widen Meadow Crossing Road and a trail would be a less expensive alternative for the township to improve public safety.
- Discussion occurred whether to pave the trail or leave it gravel. Roger mentioned a Subordinate Service District which can be used in a situation like this so that costs of maintenance are not the responsibility of the entire township. However, Roger said that the cost to set up the district is about the same as the cost to pave the trail. Roger reiterated that the developer is willing to participate in the trail project which is a plus. Ed Clark spoke to what aspects of the trail bid he would be willing to bear. He also suggested leaving the trail as gravel and see how much it is used before deciding whether to pave it.
- Brian Mueller moved to accept the bid and the cost portions that the township would handle with the trail remaining gravel. Ed Clark would pay \$52,250 for a crushed rock trail from Glenwood Road SW to Mayo Woodlands Road SW and the township would pay \$10,315 for the crushed rock trail from Mayo Woodlands Road SW to Wright Road SW. The cost to pave the trail (\$30,105) will be deferred. Jamie Neisen seconded. All voted in favor and the motion passed.
- Jeff Orth moved to approve the final plat. Brian Zmolek seconded. All voted in favor and the motion passed.

2630 Wildrose Ln SW –

- A letter written by Peter Tiede for pursuing an order to raze the building was discussed.
- Brian Mueller moved to approve the letter and send it. Jeff Orth seconded. All voted in favor and the motion passed. Peter Tiede will be asked to send the letter.

Height Restrictions - Letter –

- A letter had been received from Ms. Viki Morris asking the Board to reconsider the language in the building height ordinance. Roger stated that part of the issue with the Wild Rose property is that the illustration submitted showed the grade as though it was already there. The topic will be discussed further at a later date.

Snow Plowing Contract Rates –

- Mark Cochran spoke and talked about how Joint Powers handles plowing of non-

township roads. The topic will be discussed at the next Joint Powers meeting. No action is required at this time.

Information Items:

- Performance Bonds – Randy Staver informed the Board of work being done to determine which performance bonds are still active and their current face value. He is continuing to do research.
- Annual Picnic – Randy Staver provided a summary report for the 2021 picnic. Total cost for the event was \$976.86 and the budgeted amount was \$500. Some different food items were tried this year. The Board will revisit the budgeted amount during the annual budget discussions.
- ARPA Reporting – Randy Staver informed the Board of information received that stipulates reporting requirements for any ARPA funds expended. The first report will be due by April 30, 2022. Mark Cochran will be making a proposal to Joint Powers about some potential fund uses.
- MS4 License – Randy Staver informed the Board that we received a letter from the MPCA that our MS4 application has been accepted and they issued notice of coverage. Next steps will involve creating a mitigation plan. Brandon Theobald spoke and said he would be working with staff on any corrective measures.
- MnDOT Mapping – Randy Staver reported that MnDOT is requesting updated township map information. He has reached out to Olmsted county GIS to see if this can be coordinated since other townships are being asked for the same information. County staff have contacted MnDOT to determine how best to proceed.
- Dedication of Roads – Randy Staver reported that we received a letter from Peter Tiede informing the township of changes in Minnesota statute related to road use and maintenance. The Board will discuss at a later date the information and recommendations provided by Mr. Tiede.

New Agenda Items:

- Land Use Plan. There seem to be questions about interpretation of the land use plan and being equitable and consistent across developments. Jeff Orth commented that the challenge is in finding the right balance between efficient use of land including agricultural use, affordable residential use, etc. The Planning and Zoning Commission is asking for direction on the appropriate lot

sizes that they should look to approve. Board discussion indicated reluctance setting specific numbers given the variability of development projects although there was some sentiment toward setting a standard lower than 3.5 acres. The land use plan will be revisited but at this time flexibility is still needed.

Reports:

Treasurer's Report –

- Treasurer Randy Staver reported. Jamie Neisen moved approval of the treasurer's report. Brian Mueller seconded. All voted in favor and the motion passed.
- Randy noted a refund received from whks for \$4,461.14 for an invoice paid twice. He also noted the \$100,684.90 received in ARPA funds which is being held in account 1306.

Rochester Township Claims – Jamie Neisen moved and Brian Mueller seconded to accept and pay Rochester Township claims #4877-4896 in the amount of \$42,413.23. All voted in favor and the motion passed.

JPB Claims – Brian Mueller moved and Jamie Neisen seconded to accept and pay Joint Powers Board claims #5590-5620 and the Rochester Township share in the amount of \$24,641.17, and a payroll share of \$12,860.26. All voted in favor and the motion passed.

Road Maintenance Supervisor Report –

- Mark Cochran talked about the following: spraying has been completed for the season; the new garage door has been installed; mowing has been completed for the season; attended a continuing education event; getting prices on a replacement mower; some patching ongoing and minor ditch work.

TCPA Report –

- Matt Kitzmann attended on behalf of Jeff Orth. He reported that things are in very good shape financially. The process to find Roger's replacement has begun. A comprehensive test will be developed for potential applicants.

Board of Adjustment Report –

- No meeting this month.

Planning and Zoning Commission Report –

- Information from the recent meeting is contained in above discussions (Pavilion Estates and Mayo Woodlands Third).

Board Chair Report –

- Matt talked about a well dispute and how it has been resolved although the parties will need to work through the county. Jamie spoke about a construction noise complaint he receive. The contractor has been contacted and they said they would take care of it.

Upcoming Meetings –

- Joint Powers Board – October 22, 2021 – Cascade town hall – 9:00 am
- Planning and Zoning Commission – November 9, 2021 – 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 11:40 pm.

Respectfully Submitted,

Randy Staver, Clerk / Treasurer

Matt Kitzmann, Chairman