

**MINUTES SILVER CREEK TOWNSHIP  
REGULAR BOARD MEETING HELD ON FEBRUARY 13, 2019**

The meeting was called to order by Supervisor Bill Saunders at 7:00 p.m. on Wednesday, February 13, 2019. The Pledge of Allegiance to the Flag of the United States of America was recited.

MEMBERS PRESENT: Supervisor Bill Saunders, Clerk Lorri Behnke, Treasurer Maureen Kuriata, Trustee Bill Zuhl and Trustee Mike Glynn.

MEMBERS ABSENT: None.

**APPROVAL OF AGENDA**

Trustee Zuhl moved, seconded by Treasurer Kuriata, to approve the agenda for the February 13, 2019 meeting

**CALL FOR PUBLIC COMMENT**

Bruce Nevins asked about the roads and county schedule for projected road projects.

**APPROVAL OF MINUTES**

Clerk Behnke moved, seconded by Treasurer Kuriata, to approve the Minutes of the regular board meeting on January 9, 2019 and the Minutes of the Budget Workshop on January 19, 2019. Motion carried by voice vote.

**APPROVAL OF BILLS AND CLAIMS**

Treasurer Kuriata reported the bills and claims for February 13, 2019. Clerk Behnke moved, seconded by Trustee Glynn, to approve the following bills and claims in the total amount of \$50,353.99, as follows:

FROM THE BUILDING DEPARTMENT FUND	\$6,105.84
FROM THE GENERAL FUND	\$29,325.60
FROM THE INDIAN LAKE SEWER FUND	\$11,861.70
FROM THE INDIAN LAKE WEED FUND	\$46.41
FROM THE MAGICIAN LAKE WEED CONTROL FUND	\$0.00
FROM THE PARKS AND REC FUND	\$0.00
FROM THE PUBLIC SAFETY FUND	\$3,014.44
GRAND TOTAL OF DISBURSEMENTS	\$50,353.99

Motion carried by unanimous roll call vote.

## **READING OF COMMUNICATION**

No communication reported.

## **POLICE REPORT**

Chief Grice reported: 28 complaints, 1 warning, 1 ticket issued, 3 accident policed, 0 arrest handled, 1 arrest - assist other agency, 6 assist other police agencies, 0 in Township, 6 in City of Dowagiac, 0 County assists, 0 out of county assist, 1 assist fire and ambulance departments, and 1 assist motorist & pedestrians, 91 property inspections.

## **BLIGHT AND LIQUOR REPORT**

4 liquor inspections with no violations. No blight report

## **HEALTH & SERVICE REPORTS**

**Indian Lake Fire Department:** 10 calls in January, 5 in Silver Creek Township, 2 in Tribal and 3 others.

**Sister Lakes Fire Department:** 10 calls in January;

**Pride Care:** 20 calls total; 6 – priority 1 calls; 12 priority 2 calls; 2 priority 3 calls.

## **BUILDING/ZONING INSPECTOR'S REPORT**

5 building permits were issued, with a total projected construction cost of \$780,500.00; 1 demo permit and 3 zoning compliance permits.

## **APPEALS BOARD REPORT**

The last meeting was cancelled due to weather and has been rescheduled for February 21, 2019.

## **PLANNING/ZONING COMMISSION REPORT**

Trustee Zuhl their last meeting was January 23, 2019 and they are amending 155.083 to include bulk fuel storage. Next meeting date is March 27, 2019.

## **STANDING INSPECTORS REPORT**

For the month of January:

8 Electrical permits; 5 plumbing permits (2 plumbing, 3 sewer) and 5 mechanical permits.

## TREASURER'S REPORT

Treasurer Kuriata reported a General Fund trial balance of \$251,645.13 and the Indian Lake Sewer Fund trial balance of \$270,319.74.

## OPERATIONAL REPORTS

**Indian Lake Sewer:** Treasurer Kuriata reported she is working with Umbaugh to gather SAW grant information on our rates to determine if we are charging enough.

**Sister Lakes Sewer:** Sister Lakes Area Utility Authority will hold its monthly meeting February 14, 2019.

**Parks and Recreation Committee:** Trustee Glynn reported their next meeting will be April 15, 2019.

**Public Safety Committee:** Chief Grice reported they met last week and the primary concerns and discussions were about snow mobile issues; Undersheriff Roach attended their meeting.

## OLD BUSINESS

### BUILDING/ZONING ADMINISTRATOR UPDATE ON ORDINANCE

Solar Energy Systems (Ord 19-01) is still under review by the planning commission.

## NEW BUSINESS

### MOTION TO APPROVE LED LIGHTING PROJECT

Supervisor Saunders moved, seconded by Treasurer Kuriata. Discussion: Trustee Glynn noted that the information provided by AEP is informational and to be considered an example regarding the cost of replacing existing fixtures. He stated the cost of the fixtures is likely to be 2-4x more than listed. Clerk Behnke noted we want Trustee Glynn to help with specifically identifying our lighting needs in the main meeting room as lighting was dim during the last election. Clerk Behnke inquired if sensors in the bathroom and some closets would also help and Trustee Glynn confirmed this would help save money and is required in newer buildings. Trustee Glynn noted the cost savings reported by AEP is accurate. This motion was postponed until next month to gather more information.

Motion postponed by unanimous voice vote.

**MOTION TO ADOPT ORDINANCE 19-02**  
**WEED, GRASS AND UNCONTROLLED PLANT GROWTH**

Trustee Glynn moved, seconded by Trustee Zuhl. Discussion: the wording and punctuation in the exemptions section. For clarification, the following changes were submitted: "A-R District, natural shoreline restoration and preservation projects in all districts".

Motion carried by unanimous roll call vote.

**MOTION TO ADOPT RESOLUTION 19-05**

This resolution recognizes the contributions of Barb Runyon as Clerk for Silver Creek Township.

This resolution was not on the agenda for the January meeting, but it presented to her at the January 9, 2019 meeting because she planned to retire effective February 1, 2019.

Treasurer Kuriata moved, seconded by Trustee Zuhl.

Motion carried by unanimous roll call vote.

**MOTION TO APPROVE RESTORATIVE LAKE SCIENCES CONTRACT**  
**FOR MAGICIAN LAKE**

Trustee Glynn moved, seconded by Treasurer Kuriata. Discussion, review of the actual contract, it appears to be the same as in the past and needs approved by board as well as approval for it to be signed by Supervisor Saunders.

Motion carried by unanimous roll call vote.

**MOTION TO ADOPT THE INTERNATIONAL CODE COUNCIL GUIDELINES**  
**FOR USE BY SILVER CREEK TOWNSHIP BUILDING DEPARTMENT IN**  
**DETERMINING PERMIT COST.**

Trustee Zuhl moved, seconded by Supervisor Saunders. Discussion: Building/Zoning Administrator Herter explained this is a national average guideline for construction costs. Because costs do fluctuate, he will continue to use his extensive experience and good judgement, because costs do fluctuate, but this gives builders and homeowners a guide of what to expect. The phrase "as reviewed every 2 years" is added to the motion to provide a schedule for updating this guideline.

Motion carried by unanimous voice vote.

**MOTION TO ADOPT RESOLUTION 19-06**  
**SILVER CREEK TOWNSHIP ZONING ORDINANCE ENFORCEMENT POLICY**

Supervisor Saunders moved, seconded by Trustee Zuhl. Discussion: The wording after number 5 appears to have some typographical errors and should read as follows:

5. If the complaint “reflects an”; instead of respects and

With the above correction, the motion to adopt Resolution 19-06, Silver Creek Township Zoning Ordinance Enforcement Policy as follows:

**SILVER CREEK TOWNSHIP – RESOLUTION 19-06**  
**ZONING ORDINANCE ENFORCEMENT POLICY**

WHEREAS Silver Creek Township has adopted and enforces a Zoning Ordinance in accordance with the Michigan Zoning Enabling Act, PA 110 of 2006, as amended; and

WHEREAS Silver Creek Township employs a Zoning Administrator charged with the duties and responsibilities of enforcement of the Silver Creek Township Zoning Ordinance; and

WHEREAS the Silver Creek Township Zoning Administrator also functions as the Township Building Official; and is primarily responsible for the administration and enforcement of the State Construction Code in Silver Creek Township; and

WHEREAS the Silver Creek Township Board recognizes the difference in function of each position and seeks to most efficiently utilize the Township’s ordinance enforcement resources; and

WHEREAS the Silver Creek Township Board, upon due consideration of the resources and time limitations involved and in seeking to provide a consistent enforcement mechanism for the Zoning Ordinance wishes to adopt a policy for the enforcement of the Township Zoning Ordinance; and

WHEREAS, it is the responsibility of the Township Board to assure that the Zoning Administrator enforces the provisions of the Ordinance; and

WHEREAS the Township Board also has a fiduciary duty to the Township residents to ensure that enforcement of township ordinances is not unduly financially burdensome to the Township; and

WHEREAS, the Silver Creek Township Zoning Administrator and Building Official occasionally receives complaints about physical changes that were made to a particular property by a person other than the owner; and

WHEREAS, the Silver Creek Township Board finds it necessary and reasonable to adopt a policy for responding to such complaints.

NOW THEREFORE BE IT HEREBY RESOLVED that the Zoning Administrator/Building Official shall undertake the following actions with respect to complaints about physical changes made to properties within the Township made by a person other than the owner:

1. Observe the property in question; and
2. Determine whether the complaining party knows when the physical changes were made; and
3. Determine whether the complaining party has photographs or other documentary evidence as to the property prior to and after the alleged physical change; and
4. Research in the files of the Zoning and Building Code office for permits; and
5. If the complaint reflects an entirely new building or an addition to a building, notify the Township's Assessing Officer of the change so as to permit him to determine whether to adjust the assessment of the property; and
6. The zoning administrator is to undertake an evaluation with the Township Attorney as he may deem necessary as to whether the complaint can be established in the Cass County District Court by a preponderance of the evidence with the following considerations:
  - a. Whether there is photographic and/or documentary evidence; and
  - b. Whether the lack of documentary evidence can establish a violation (as in the case of no permit); and
  - c. If it appears that the physical change occurred more than 18 months prior to the complaint and there has been no intervening complaint, the case is likely to be dismissed for "laches"; and
  - d. Whether testimony as to the type and time of construction is available; and
  - e. If the Zoning Administrator/Building Official did not personally observe the construction, the Zoning Administrator is required by Michigan Statute to request permission of the Township Attorney to issue a citation; and
  - f. The Zoning Administrator and Township Attorney may consult in terms of whether a Municipal Civil Infraction Violations Bureau citation or a court citation should be issued; and
  - g. The potential for obtaining a court order establishing that the zoning violation is a *nuisance per se*, subject to abatement.

7. If the complaining party requests a determination as to disposition of the complaint, the zoning administrator may provide such information so long as it is a public record and is not covered by the attorney-client privilege.

Discussion. Motion carried by unanimous roll call vote – policy adopted.

**MOTION FOR TO SUBSTITUTE THE BAILEY ASPHALT BID FOR THE REITH-RILEY BID IN THE INN-D-INN DRIVE IMPROVEMENT PROJECT**

Treasurer Kuriata moved, seconded by Clerk Behnke. Discussion: this was made at the written request of Jim Rubino, representing the Inn-D-Inn homeowners. The original bid submitted by Reith-Riley did not include all of the same product and services as the Bailey Asphalt bid, which better meets their needs. This is a tentative approval as the beginning of a special assessment district project.

Motion carried by unanimous voice vote.

**MOTION TO APPROVE THE TENTATIVE RESOLUTION ON THE PROPOSED INN-D-INN DRIVE ROAD IMPROVEMENT, REPAIR AND MAINTENANCE, SPECIAL ASSESSMENT DISTRICT.**

The Township Board had received petitions and communications of interest in making improvements to Inn-D-Inn Drive within the Township. The Board deemed such requests to be both prudent and in the interests of the public health safety and welfare. The Township Board deemed it expedient to obtain the plans and cost estimates and tentatively resolved to fund such road maintenance and improvements via a special assessment in accordance with the provisions of PA 188 of 1954, as amended. The Township Board tentatively resolved to create a special assessment district identified as “Inn-D-Inn Drive Special Assessment District”; to request plans and cost estimates, and to set a public hearing on the proposed district.

Motion for the Township Board tentatively resolve to finance the maintenance and improvement of Inn-D-Inn Drive, a road within the Township via special assessment and to tentatively name the special assessment district “Inn-D-Inn Drive Special Assessment District”.

Clerk Behnke moved, seconded by Treasurer Kuriata. Motion carried by unanimous voice vote.

Motion for the Township Board, acting on its own motion, direct the plans for the improvements, the locations thereof, and the estimate of the cost of same be prepared.

Clerk Behnke moved, seconded by Supervisor Saunders. Motion carried by unanimous voice vote.

Motion for the ordering the plans and cost estimates to be filed with the Township Clerk for public examination.

Clerk Behnke moved, seconded by Treasurer Kuriata. Motion carried by unanimous voice vote.

Motion to adopt the following resolution: Tentative Resolution 19-07 -- Proposed Inn-D-Inn Drive Special Assessment District as follows:

**SILVER CREEK TOWNSHIP  
CASS COUNTY, MICHIGAN**

**TENTATIVE RESOLUTION 19-07  
ON PROPOSED INN-D-INN DRIVE  
SPECIAL ASSESSMENT DISTRICT**

At a regular meeting of the Township Board held on February 13, 2019, the Silver Creek Township Board adopts this resolution in accordance with MCL 41.721, et seq.

NOW THEREFORE, BE IT HEREBY RESOLVED THAT the Township Board does hereby tentatively declare its intent to create a special assessment district for the purposes of funding road repairs, improvements, upgrades and maintenance (including asphaltting) to Inn-D-Inn Drive within the Township in accordance with PA 188 of 1954, as amended (the Public Improvements Act) and charging the costs for implementation, administrative costs and repairs, maintenance, upgrades and improvements (including asphaltting) to the benefitted parcels in accordance with Public Act 188 of 1954, as amended, (MCL 41.721, *et seq.*).

Specifically, Inn-D-Inn Drive is intended to be upgraded and paved. A portion of the road that is presented unpaved will be paved.

The Township Board hereby states its intention to charge the costs or a portion of the costs to the properties benefitted by the improvement in the district which is described as:

- All parcels with frontage on Inn-D-Inn Drive according to the front footage that each has on the road.

The proposed district is tentatively named “Inn-D-Inn Drive Special Assessment District”.

BE IT FURTHER RESOLVED that the Township Supervisor is directed to obtain the plans and cost estimates for the proposed road improvements; and

BE IT FURTHER RESOLVED that the plans and cost estimates be filed with the Township Clerk for public examination; and



BE IT FURTHER RESOLVED that a hearing on any protests or objections to the proposed road improvements, the cost estimates therefor and/or to the Special Assessment District proposed to be established for the assessment of a portion of the cost of such improvements shall be held on **March 27, 2019** at a meeting of the Township Board at the Silver Creek Township Hall, 32764 Dixon Street, Dowagiac, MI 49047 commencing at 7:00 p.m.; and

BE IT FURTHER RESOLVED that the Clerk be instructed to give proper notice of such hearing by mailing and publication in accordance with law and statute provided; and

BE IT FURTHER RESOLVED that all resolutions or parts of resolutions insofar as they conflict with the provisions of this resolution be and the same are rescinded

Motion by Clerk Behnke to adopt Resolution 19-07, seconded by Supervisor Saunders.

Motion carried by unanimous roll call vote.

#### **MOTION TO APPROVE A \$75 PERMIT FEE FOR DEMOLITION PERMITS**

Trustee Glynn moved, seconded by Treasurer Kuriata. Discussion: Building/Zoning Administrator Herter advised there have been many demolitions over several years which were not done correctly and could pose a danger. The demolition permit has had no fee, yet there is still little compliance, so a permit fee is now recommended. He noted if the project requires a permit to rebuild then it will require a demolition permit and he requests this should take immediate effect.

Motion carried by unanimous voice vote.

#### **MOTION FOR LINE ITEM TRANSFER**

Trustee Zuhl moved, seconded by Treasurer Kuriata to transfer \$677.59 from Contingencies to office equipment for the purchase of 20 new foldable chairs for public seating. Discussion: this chairs will replace 20 of the older plastic chairs that have been here from the 70's and have become unstable.

Motion carried by unanimous roll call vote.

**MOTION TO PAY MRS KURIATA \$100/MO FOR HER FUNCTIONS AS THE MISS DIG COORDINATOR FOR INDIAN LAKE SEWER**

Clerk Behnke moved, seconded by Trustee Glynn. Discussion: The Indian Lake Sewer board recommends the Silver Creek Township Board – Indian Lake Sewer – to pay Mrs. Kuriata \$100 per month as the Miss Dig Coordinator beginning January 2019. Mrs. Kuriata advised there are several Indian Lake Miss Dig tickets that have wrong addresses and the old drawings from 20 years ago have not been updated when homes are demolished and rebuilt. Thus, she spends extra time on weekends and evenings research the correct information so the contractor can mark the sewer, and she is not being compensated for it.

Motion carried by unanimous roll call vote.

**OTHER BUSINESS**

Motion to donate the 20 old chairs to the Indian Lake and Sister Lakes Fire Departments.

Treasurer Kuriata moved, seconded by Supervisor Saunders. Discussion: The fire department has expressed interest in these and will make good use of them.

Motion carried by unanimous voice vote.

**PUBLIC COMMENT**

None.

**ADJOURNMENT**

Supervisor Saunders adjourned the meeting at 8:21 p.m.

Prepared by: Lorri Behnke, Clerk

Dated: February 13, 2018

To be approved: March 13, 2019