

**MINUTES SILVER CREEK TOWNSHIP
PUBLIC HEARING AND
REGULAR BOARD MEETING HELD ON SEPTEMBER 9, 2015**

The Public Hearing on the Magician Lake Weed Control Special Assessment Tax Roll was called to order by Supervisor Bill Saunders at 6:30 p.m. on Wednesday, September 9, 2015. The Pledge of Allegiance to the Flag of the United States of America was led by Supervisor Saunders.

MEMBERS PRESENT: Supervisor Bill Saunders, Treasurer Maureen Kuriata, Clerk Barbara Runyon and Trustee Mike Glynn. Trustee Joel Moore entered the meeting at 6:36 p.m.

ABSENT: None.

OTHERS PRESENT: Attorney John Magyar.

UPDATE ON MAGICIAN LAKE WEED CONTROL SPECIAL ASSESSMENT

Attorney Magyar reported that after researching PA 188 that at the end of a special assessment, anything over 5% of the original assessment must be refunded, and a resolution to refund those monies is on the agenda. At the public hearing the Magician Lake Improvement Association wanted to maintain additional sums for unexpected treatment.

He went on to report that a meeting was held with the Magician Lake Improvement Association and they agreed they did not need \$90,000 and that \$50,000 would suffice; \$67,260 for first year and then 17,260 thereafter. The township will now have to re-notice the special assessment roll for a public hearing. The balance from the previous assessment will be refunded and the new assessment will generate \$67,260 the first year and \$17,260 the following four years.

Clerk Runyon reported the net return of approximately \$23,341.00. The winter tax bill will reflect a credit of \$54.12 per parcel unit and \$27.06 per vacant parcel the first year, and \$40 per parcel unit and \$20 per vacant parcel the following four years. The first year is a larger assessment of approximately \$155.86 per parcel unit and approximately \$77.93 per vacant parcel, but will reflect as a credit on the tax bill due to the return.

Trustee Glynn questioned whether there would be another public hearing, and Clerk Runyon responded that there would be one in October on the Special Assessment Roll. He also clarified that the previous assessment reserve of \$90,608.00 would be returned according to PA 188.

Trustee Glynn wondered when the meeting with the Magician Lake Improvement Association was convened and questioned whether it was in violation of the Open Meetings Act.

Attorney Magyar responded that there were only two board members present and it was not a quorum.

Trustee Glynn questioned whether it should have been a public hearing, and believes the public should have had an opportunity to be present. He stated that it is a government function and that we are presently contracting and turning it over to the lake associations, and is apprehensive since we are dealing with tax payer money. He would like to see a board set up to deal with special

assessment districts which would include township board members, lake association members and members of the public.

Clerk Runyon stated that the first public hearing was to establish the special assessment district, the public received written notice and several people attended and spoke. The next meeting is the second phase, which is the assessment roll. It was noticed for today but due to the change is going to be re-noticed to October. At that time taxpayers will have an opportunity to either object in writing or appear at the hearing to protest the assessment.

Attorney Magyar understands that government shouldn't let private individuals collect and use taxes, but the lake associations have vested interest in their lake. If we are going to do something with them and still exercise our governmental function, we hold a public hearing and interested parties have an opportunity to speak. We should not have a large amount of money being held without review each year as to how it is going to be spent. That's a proper exercise of our governmental function and work with the people.

Trustee Glynn reiterated his feeling that the meeting with the lake association should have been a public hearing and the public included.

Attorney Magyar responded that he would have shared in his concern but we are now reducing the amount. We held a public hearing on the topic, lowered it, and we are now going to re-notice the assessment for public hearing. If we are increasing it would be one thing, but we are not.

Supervisor Saunders called for public comment

PUBLIC COMMENT

Dick Morey of the Magician Lake Improvement Association questioned what happens if, after the first year of establishing a \$67,000 account, we have a new invasive species and have to spend \$40,000 for treatment; how do we get back to the \$67,000?

Attorney Magyar responded that it's difficult with this type of situation where you don't have an exact amount. PA 188 is not quite as efficient as say, a sewer project, which is a one-time project and you know the exact amount. If you run out and need additional monies, you re-do the assessment district. It's time-consuming and expensive, but everyone receives notice and gets an opportunity to comment to the township board on what's being done on their lake before it's assessed. Further discussion was held as to establishing another special assessment district.

Dick Morey noted his frustration stating that his understanding after leaving the strategy meeting was that yearly assessments would provide \$67,000 annually. Further discussion was held.

Trustee Moore asked if the Lake Associations wouldn't have a better handle on what they are going to need and they possibly need a cushion.

Attorney Magyar noted that there are trade-offs. You don't want to have large funds and put something in the lake that's not contemplated because of some species you didn't plan on. People could object to what's being put in the lake and you would have no control or hearings on it. That's your trade off. Do you want to give notice or don't you.

Jerry Donley asked if the 5% at the end of the five years or on a yearly basis.

Attorney Magyar responded that it was at the end of the five years.

Bill Saunders stated that the problem with PA188 is that estimates don't come in until spring but we are collecting taxes later and you can't coordinate them. You don't know your cost for next year and we are trying to collect money for it.

Dick Morey explained the lake inspection and survey process. He believes the lake association has done a good job at managing the treatment and has been able to go from assessing \$170 annually to \$50 to now \$40.

Supervisor Saunders concurred. He stated that if the money gets too low, they can ask for a new special assessment district.

Dick Morey voiced his concern that it would only go up 10%.

Supervisor Saunders explained that it would be a new assessment.

Discussion was held as to whether it would require new petitions, but it was noted that according to PA 188 the township board could act on it without petitions.

Trustee Glynn questioned whether earlier resolutions should be amended.

Clerk Runyon noted that the new resolution states that all resolutions and parts of resolutions insofar as they conflict with the provisions of the within resolution are hereby rescinded.

Trustee Glynn questioned the language in the new resolution not stating the assessed amount, and which resolutions should be considered. Discussion was held. It was decided that R15-17 scheduling the hearing on assessment roll and R15-18 returning the \$90,608.00 were proper and would be considered at the regular board meeting.

Dick Morey asked what the assessment for first year and following year would be.

Trustee Glynn responded that it would be \$155.86 the first year and \$40 the following years.

Jerry Donley questioned why.

Trustee Glynn said the resolution that passed last month and indicated it was \$40 per parcel and could go up 10%.

Jerry Donley argued that that resolution should not be used. That this was done after the fact, once the board became aware of the \$90,000 refund. Magician Lake Improvement would not have asked for more than \$40.

Attorney Magyar responded that there will be an excess in the fund of \$50,000 rather than \$90,000. If more money is needed, they can request it, but not without a hearing. He noted there has never been a shortage in special assessments and no one has asked for additional funds.

Further discussion was held.

Supervisor Saunders declared the meeting adjourned at 7:20 p.m.

REGULAR BOARD MEETING

Supervisor Saunders called the regular board meeting to order at 7:24 p.m.

MEMBERS PRESENT: Supervisor Saunders, Clerk Runyon, Treasurer Kuriata, Trustee Glynn and Trustee Moore.

ABSENT: None.

OTHERS PRESENT: Attorney John Magyar.

APPROVAL OF AGENDA

Clerk Runyon moved, seconded by Trustee Moore, to approve the September 9, 2015 Silver Creek Township Agenda with the addition of a motion to amend August Bills & Claims. Motion carried by voice vote.

PUBLIC COMMENT

There was no public.

APPROVAL OF MINUTES

Trustee Moore moved, seconded by Trustee Glynn, to approve the August 12, 2015 Regular Meeting Minutes. Motion carried by voice vote.

APPROVAL OF BILLS AND CLAIMS

Treasurer Kuriata reported the bills and claims for September 9, 2015. Trustee Moore moved, seconded by Trustee Glynn, to approve the following bills and claims in the total amount of \$58,522.26 as follows:

FROM THE GENERAL FUND	\$37,298.87
FROM THE INDIAN LAKE SEWER FUND	\$ 8,260.35
FROM THE PUBLIC SAFETY FUND	\$ 3,536.22
FROM THE PARKS & RECREATION	\$ 185.00
FROM THE BUILDING DEPARTMENT FUND	\$ 4,734.25
FROM THE INDIAN LAKE WEED CONTROL FUND	\$ 2,358.82
FROM THE MAGICIAN LAKE WEED CONTROL FUND	\$ 2,178.75

GRAND TOTAL OF DISBURSEMENTS:

\$58,552.26

The Supervisor directed the Clerk to take roll, and the motion carried by unanimous roll call vote.

READING OF COMMUNICATION

No communication to report.

POLICE REPORT

14 complaints; 9 warnings; 4 tickets; 1 arrest; 1 assist other police agencies; and 1 assist motorists and pedestrians.

HEALTH & SERVICE REPORTS

Indian Lake Fire Department: Chief Huggins reported 6 runs in August with 4 in Silver Creek Township; 1 in Pokagon Township and 1 in other areas. He reported that a fireman was hit by a car while performing his duty, and that people should be more careful and give them respect. He reported that fortunately the fireman was not seriously injured.

Sister Lakes Fire Department: June ó 3 calls within Silver Creek Township with an average response time of 9 minutes; July ó 12 calls within Silver Creek Township with an average response time of 5:75 minutes; August ó 3 calls within Silver Creek Township with an average response time of 8 minutes.

Pride Care Ambulance Report: 13 calls with average response time of 7:28 minutes. There were extended response times for two runs due to the distance. The crews took the correct routes and did not advise of any further incidents. There was an extended response time for one run according to central dispatch there was a language barrier that made it difficult to pinpoint the location.

TOWNSHIP ATTORNEY'S REPORT

Attorney Magyar reported one case in litigation and that he has received an answer to the complaint.

BUILDING/ZONING INSPECTOR'S REPORT

Building/Zoning Inspector Todd Herter reported seven building permits with a projected cost of \$621,927.00; and four zoning permits at \$335.00.

BLIGHT ADMINISTRATOR'S REPORT

Patrolman Kenneth Wray reported 4 blight complaints; 4 blight checks; 4 blight complaints notified; 6 blight in non-compliance status; 3 blight in partial compliance; 7 blight complaints now in compliance. He did 6 liquor inspections with no violations.

APPEALS BOARD REPORT

Jerry Donley reported that a ZBA hearing was held on August 19th at 7:00 p.m. on a zoning variance and it was approved.

PLANNING COMMISSION REPORT

Walter Lehmann provided the planning commission report indicating the commission met on August 26th. They continue to work on the Capital Improvement Plan. The board voted to adjourn the September 23rd meeting in order to attend the Michigan Lakes and Streams Conference being held on the same day.

STANDING INSPECTORS REPORT

Electrical Inspector: 5 permits
Plumbing Inspector: 1 permits
Mechanical Inspector: 5 permits

TREASURER'S REPORT

Treasurer Kuriata reported fund balances as follows:

General Fund	\$314,251.44
Indian Lake Sewer Maintenance Fund	\$193,922.65

OPERATIONAL REPORTS

Indian Lake Sewer: Treasurer Kuriata reported that the SLAUA Board met on September 8th. They have one lawsuit in litigation. She asked if the manhole cover at Indian Lake has been taken care of

Jerry Donley responded that it had not been.

Trustee Moore and that it should be fixed soon.

Sister Lakes Sewer: Treasurer Kuriata reported that Schaffer & Layher presented their audit report and the board approved. They discussed the additional expense due to our portion of the City of Dowagiac Upgrade. She noted it would be considered an expense and not a capital asset. The sewer is being extended from CR 690 to include the fire station and M-152.

Parks and Recreation Committee: Trustee Moore reported that the parks and recreations committee will meet on September 17th at the township. Supervisor Saunders reported that the Dedication of Russom Park will be held on Saturday, September 12th at 11:00 a.m.

Public Safety Committee: Trustee Moore reported the public safety committee will meet on October 20th at 7:00 p.m.

UNFINISHED BUSINESS

None.

NEW BUSINESS

MOTION TO APPROVE PAYMENT TO WILLIAMS A-1 EXPERT TREE SERVICE

Trustee Moore reported that Silver Creek Township has the largest ash tree in State of Michigan but is dead due to the Ash Bore Beetle. The Parks and Recreation Committee would like to take the bottom log out of the tree and put it on display, similarly to what Russ Forrest has on display. He contacted Danny of A-1 Expert Tree Service and was given a price of \$1,500 to cut limbs off the tree and cut it close to the ground. We will have to do the cleanup.

He went on to report that further down the road, they would like to build a small pavilion on the southwest corner of the township property with a metal roof, open sides, cement floor, with something to hold up the log. His estimate for budgeting is \$15,000.

Clerk Runyon questioned whether that should be part of the Capital Improvement Plan and what time frame they were looking at.

Discussion was held that it should be done sooner than later, possibly next year.

Trustee Moore was questioned on who would be doing the cleanup. He indicated that people needing wood would cut it up. Clerk Runyon questioned the township's liability. Attorney Magyar did not see it as a problem.

Supervisor Saunders asked if the road commission had been contacted.

Trustee Moore reported that he had spoken with the road commission. He stated that Tim Watson owns the property and the tree it sits on. He's spoken with him and that he agrees with everything they plan to do. Trustee Moore asked if he should get something in writing.

Attorney Magyar indicated that it was necessary.

Continued discussion followed.

Trustee Moore moved, seconded by Treasurer Kuriata, to authorize Supervisor Bill Saunders to sign a contract with A-1 Expert Tree Service to remove the Ash Tee from the Corner of Townhall Road and Topash and approve payment of \$1,500.00. Motion carried by unanimous roll call vote.

MOTION TO APPROVE LINE ITEM AMENDMENT

Treasurer Kuriata moved, seconded by Clerk Runyon, to transfer \$3,450 from 996-998 Contingencies and place it into 265-930 Building and Grounds. Clerk Runyon explained that it would be for the payment of \$1,500 to A-1 Tree Service and \$1,950 to Arndt Asphalt to re-seal the township parking lot. Motion carried by unanimous roll call vote.

RESOLUTION R15-17

Supervisor Saunders moved, seconded by Clerk Runyon, to approve Resolution R15-17 as follows:

**RESOLUTION R15-17
SILVER CREEK TOWNSHIP, CASS COUNTY
SCHEDULING HEARING ON ASSESSMENT ROLL FOR
MAGICIAN LAKE WEED CONTROL SPECIAL ASSESSMENT DISTRICT**

WHEREAS, the supervisor and assessing officer of the township has, in accordance with resolution of the township board and the laws and statutes pertinent thereto, prepared a special assessment roll in the total amount of \$67,260.00 covering all the parcels of land in the Magician Lake Weed Control Special Assessment District, according to the relation of the benefit to each parcel of land to the total benefit to all parcels of land in such special assessment district and has affixed thereto his certificate required by said resolution for the first year and \$17,260.00 for each year thereafter for 4 years.

NOW, THEREFORE, BE IT HEREBY RESOLVED as follows:

1. That said special assessment roll shall be filed with the township clerk and shall be available for public examination during regular working hours of regular working days from the present date until the public hearing upon the same and shall further be examined at such public hearing.
2. That the township board shall meet at 6:30 p.m. on Wednesday, October 14, 2015, at the township hall located at 32764 Dixon Street, Dowagiac, Michigan, to review such special assessment roll and hear any objections thereto.
3. That the township clerk shall cause notice of such hearing and filing of such assessment roll to be published twice in the Dowagiac Daily News, a newspaper of general circulation in the township prior to the date of the hearing with the first publication being not less than 10 days prior to the hearing and shall further cause notice of such hearing to be mailed by first-class mail to all owners of or persons interested in the property within the Magician Lake Weed Control Special Assessment District as shown on the current assessment roll of the township also at least ten (10) days prior to said hearing, all in accordance with law and statute provided.
4. All resolutions and parts of resolutions insofar as they conflict with the provisions of the within resolution are hereby rescinded.

Resolution carried by unanimous roll call vote

RESOLUTION R15-18

Trustee Glynn moved, seconded by Trustee Moore, to approve Resolution R15-18 as follows:

**RESOLUTION R15-18
SILVER CREEK TOWNSHIP, CASS COUNTY
MAGICIAN LAKE WEED CONTROL ASSESSMENT DISTRICT
RESOLUTION TO COMPLY WITH MCL 41.732**

WHEREAS, the five year special assessment district for the Magician Lake Weed Control Assessment District has been completed, and

WHEREAS, \$90,608.00 remains after completion, and

WHEREAS, said sum exceeds 5% of the original roll.

NOW, THEREFORE, BE IT HEREBY RESOLVED that \$90,608.00 shall be refunded according to the above noted statute.

Resolution carried by unanimous roll call vote.

RESOLUTION R15-19

Clerk Runyon moved, seconded by Supervisor Saunders, to approve Resolution R15-19 as follows:

**TOWNSHIP OF SILVER CREEK
CASS COUNTY, MICHIGAN**

**RESOLUTION R15-19
APPROVING APPLICATION FOR FARMLAND AGREEMENTS
SUBMITTED BY STEVE AND SALLIE BAERG**

Whereas, Steve K. Baerg and Sallie L. Baerg, 31171 Swisher Street, Dowagiac, Michigan submitted five (5) Applications for Farmland Agreements under PA 116, on August 13, 2015, as follows:

Application 15-01 ó Property ID No. 14-130-011-001-01 ó Section 11, Silver Creek Township, Cass County, Town No. 5 South, Range 16 West.

Application 15-02 ó Property ID No. 14-130-017-016-00 ó Section 17, Silver Creek Township, Cass County, Town No. 5 South, Range 16 West.

Application 15-03 ó Property ID No. 14-130-027-007-00, 14-130-014-012-00, 14-130-015-015-00, 14-130-022-026-00, 14-130-023-002-00, 14-130-027-001-00 ó Sections 27, 14, 15, 22, 23, Silver Creek Township, Cass County, Town No. 5 South, Range 16 West.

Application 15-04 ó Property ID No. 14-130-008-037-02 ó Section 8, Silver Creek Township, Cass County, Town 5 South, Range 16 West.

Application 15-05 ó Property ID No. 14-130-033-016-00 ó Section 33, Silver Creek Township, Cass County, Town 5 South, Range 16 West.

Whereas, on August 19, 2015 the township clerk forwarded said applications to the Cass County Conservation District and the Cass County Planning Commission for their review and decision;

Whereas, on September 1, 2015 the township clerk received notices of approval from both the Cass County Conservation District and the Cass County Planning Commission;

Whereas, under PA 116 after receipt of said applications the township board has 45 days to take action before forwarding said applications to the Michigan Department of Agriculture, Farmland and Open Space Program for their final review and consideration;

NOW, THEREFORE BE IT RESOLVED, that Application Numbers 15-01, 15-02, 15-03, 15-04 and 15-05 submitted by Steve K. Baerg and Sallie L. Baerg be approved by Silver Creek Township and forwarded to the Michigan Department of Agriculture for final consideration.

Resolution R15-19 carried by unanimous roll call vote.

MOTION TO AMEND AUGUST BILLS & CLAIMS

Clerk Runyon moved, seconded by Treasurer Kuriata, to amend the August 12, 2015 Bills and Claims to reflect a total payment of \$75,194.47 with \$41,321.49 from the General Fund. Clerk Runyon noted that this was to correct an error from August. Motion carried by unanimous roll call vote.

OTHER BUSINESS

Supervisor Saunders reported another successful trash day.

PUBLIC COMMENT

None.

ADJOURNMENT

The meeting was adjourned at 8:00 p.m. by call of the Supervisor.

Barbara Runyon
Silver Creek Township Clerk
Dated: September 9, 2015
To be approved at the October 14, 2015 Regular Meeting