

## BALDWIN TOWNSHIP REGULAR MEETING

July 21, 2015

**Present** – Supervisors Jay Swanson, Brad Schumacher and Tom Rush. Supervisors Randy Atwood and Jeff Holm absent.

**Call to Order** – The July 21, 2015 regular meeting of Baldwin Township was called to order by Chairman Jay Swanson at 7:00 p.m.

**Pledge of Allegiance** – All present recited the Pledge of Allegiance.

### **Additions/Corrections to Agenda**

- Add 'Grant Writer for Sam's Club Grant' to Park Committee Report
- Add 'Approve/Disapprove JTO Services for Grading, Dirt Work, and Remove Concrete Slab for Basketball Court' to Park Committee Report
- Add '120<sup>th</sup> Street Repair' to New Business
- Add 'Quote of Busted Culvert on 120<sup>th</sup> Street' to New Business
- Add 'Approve/Disapprove Quote for Culvert; 278<sup>th</sup> Avenue' to New Business
- Move 'Approve/Disapprove Highlands Letter to Property Owner' to under Road Report
- Move '120<sup>th</sup> Street Repair' from under New Business to Road Report
- Move 'Quote of Busted Culvert on 120<sup>th</sup> Street' to Road Report
- Move 'Approve/Disapprove Quote for Culvert; 278<sup>th</sup> Avenue' to Road Report
- Add 'Update on 125 ½ Street' to Road Report

### **Approval of Regular Meeting Agenda With/Without Additions/Corrections**

Rush/Schumacher unanimous to approve the regular meeting agenda as amended.

### **Treasurer's Report:**

**July 2015 Preliminary Treasurer's Report** – The clerk reported receipts of \$161,442.64 and disbursements of \$66,474.69 (not including payroll), leaving an unaudited final balance of \$827,391.33.

### **Road Report:**

**Approve/Disapprove Calcium Chloride Quote** – Schumacher/Rush unanimous to disapprove the calcium chloride quote since it's so late into the year.

**Approve/Disapprove Knife River Credit Application** – Rush/Schumacher unanimous to approve the Knife River credit application.

**Approve/Disapprove Gravel Quote** – Rush/Schumacher unanimous to approve the aggregate proposal costs from Knife River of up to \$4,000 and to work with Livonia Township to spread it.

**Approve/Disapprove Highlands Letter to Property Owner** – Swanson stated that the letter will state that we will do the culvert and then basically we are done. We are working to our standards and that is it. John Boemer stated that the road ditches are not being kept clear and that is township property. He understands that the culvert pipe is his responsibility. Jess Hall took his ability away to go back to home seller to tell them he did not want this property. It was not disclosed and there were witnesses during that disclosure hearing that said this problem has been there previous to them purchasing the property. There was never a culvert pipe in there. The culvert pipe that is in there right now was installed by the township. He agrees with Jon's proposal. He will not relinquish any responsibility or sign off on anything with the road ditch. The road ditch is what carries this water and is not his property. Swanson stated that part of this proposal is to clean out the northeast part of the ditch. Bogart stated that it is subject to the TEP panel folks but feels it is reasonable as it things we do to maintain the ditch anyway. Mr. Boemer stated that the sediment and other foreign matter will create problems in the future and cause the pipe to plug. If we can keep the water down to TEP panel level then he thinks we will be fine. But I don't want to tell you that if that doesn't happen and the road ditch is not kept clear that I am going to be responsible for cleaning that out. Swanson stated that if the road ditch is clear and the culvert is working and does what it supposed to be doing and it still floods anyway because we get this monstrous rain comes then we will not be responsible. If you're good with that then we will write a letter and you will sign it and we will sign it. Mr. Boemer stated that we can look at all the statistical data and we have already done a study to look at how much water actually passes through that road ditch and that gradient is huge. Swanson stated that we also looked at maps from 1939 until today and the progression on how big that pond has gotten and now we have gone to the TEP panel and they say that we can only lower it to this which is not what it was in 1939. Mr. Boemer stated what the TEP panel told us is that if we can find the original drain tile and then we can reconnect that and whatever that drains the level of the pond down to they will be fine with that. Swanson stated that is all him as it is on his property. Mr. Boemer responded no, it is on your property, not mine and it runs into the road ditch. Bogart stated that he does not know the location of the tile. Mr. Boemer replied we do and I can show you a photo of where one end of it is and it right dead center in the road ditch. The only reason Jess agreed to put culvert pipe in there was the tile was plugged and was in township property. Otherwise he would have made me put in or the builder. Swanson stated that just the way the land lays you would have had to put a culvert in there. Mr. Boemer stated that may be what the requirements are today but back then that is not the way it was. The TEP panel can say whatever they want but I've looked at topographical maps from Beacon and can tell that the water level is much lower in the pond east of his property than it is today. If we get this drain tile back connected which the TEP panel said we could do, if we restore it back to the way it was then it will lower the water level and we won't even be talking about this anymore. Swanson stated that he had been told that this drain tile was disturbed by something else than township use. Bogart stated that a second driveway installed for the purpose of installing a septic system disturbed the drain tile. Mr. Boemer stated that is incorrect because the septic system was replaced in the spring after the driveway flooded. We bought the house in November and this happened in the spring of the next year and then we went to

arbitration after that because the whole front yard flooded. Swanson asked if the drain tile was totally in the township road right of way. Mr. Boemer responded that he can only tell him there is one end of it dead center in the road ditch on the west side of his driveway. He does not know where the other end is.

Swanson stated that the town is going to talk about a culvert and cleaning out the ditch. Mr. Boemer stated that he can guarantee that when you start to clean out the road ditch on the east side of his driveway that you will find the drain tile. Swanson stated then the problem is solved. Mr. Boemer stated yes. Swanson stated that culvert replacement and doing the drainage and what we need to do to make that happen does not necessarily digging up all the drain tile and fixing that. Mr. Boemer stated that if it is in the road ditch then it is the township's responsibility. Swanson stated that we will install a culvert under your driveway and dig out the ditch for the drainage. Mr. Boemer stated that the area that Chairman Swanson said that needed to be cleaned out and that should solve his problem that is where the pipe is. That is where that drain tile is. It goes into that little opening and out into that road ditch. There was never a culvert underneath the driveway when he bought the property. In order to fix the problem with the drain tile back at that time I was told by Bob, a representative for Bogart, Pederson that he thinks that an animal crawled up inside that 6 inch pipe and died and plugged it and that is why the water came over the driveway.

Schumacher stated that when he went out there and looked at it we talked about a resolution. It failed. Why would we do drain tile and have something else like that fail. We are putting in a bigger culvert and we are going to pitch it down at whatever grade that is necessary to not freeze and continue to flow and that is the best we can do. In mowing our ditches we just have to maintain it a little bit more so it doesn't get that extra growth. What is happening is that you are getting a little bit of growth in there and the growth is catching some sediment. Mr. Boemer reviewed some photos with Supervisor Schumacher. He said the problem they are having is ice sheets forming because the water cannot go through that pipe. I don't care how big you make that culvert pipe that is still going to happen unless you lower that road, lower that ditch and create a good pitch and good flow and drain that water into the wetland to the east of his property. Right now it does not retain anything. It rains and it runs right off and goes right underneath my driveway. Schumacher stated that this is what we are hoping to solve with that but what we are saying is that when we are done with this project we are done for good. We are never coming back until ditches need to be maintained. When this is done the culvert is yours, it is a gift. The culvert repair, the asphalt repair will all be yours and we are never going to come back out here again and we will just babysit and mow that ditch down so we can prevent the vegetation from growing up and sediment from going through.

Mr. Boemer stated that there is no vegetation in the ditch and hasn't been for five years because he keeps it clean. But the sediment is what creates that ditch to rise and it backs the water up to the east so it cannot retain any water. It has no retention properties whatsoever. Swanson stated that it is normal maintenance that we are willing to look at and do. If we do that and we replace this culvert and it is working to

our standards what we consider to be that water is flowing through then we are done. Schumacher stated he respectfully disagrees as there is vegetation in there and Mr. Boemer and him talked about it. Mr. Boemer stated that the only vegetation that is in the road ditch is in a piece of property that he owns that he bought at a foreclosure auction and technically he cannot do anything with it until it is paid for. Schumacher stated that we will just clean the vegetation that has slowed the sediment down and then gets built up and it has gone there. We are hoping that it is the resolution but it's a one time deal. Once and done. Mr. Boemer stated that he does not know if he can agree to that because this is township property. The road ditch is your responsibility. I went through this with Jess Hall back in 2003 and he accepted responsibility for the problem. He put a culvert pipe in when there was drain tile in there that was supposed to alleviate that water or lower that water level. We don't know today exactly where that drain tile goes and what that drain tile would do if it was operable. I can tell you that to the best of my knowledge it is on township property and not on his property. Rush asked if there were any meeting minutes addressing the issue. Mr. Boemer stated that there is some notes and asked the clerk. Mrs. Boemer stated the legal documentation shows he stood right there with the arbitrator and told the arbitrator Baldwin Township takes responsibility, it's the culvert, it's our responsibility, it's township property which took away our rights to tell the seller screw you we are done. He took the seller's responsibility away from the seller took it on the township and said it was our responsibility and we'll fix it. Otherwise we would have walked away. I had young kids at the time and I have 2 grandchildren right now. Mr. Boemer stated that we did everything we could do as residents of Baldwin to not turn this into a big to do. Mrs. Boemer stated we bought the house in 2002 in November. Mr. Boemer stated that he does not have any recourse. Now you are asking me to sign off on something that I don't know for sure that is going to work and neither does Jon. Rush stated that he is just asking if there is any documentation. Mr. Boemer stated that it is arbitration, State of Minnesota and there has to be documentation. Mrs. Boemer stated that they are left with a decision that was made by other individuals. Mr. Boemer stated that when it floods in my driveway he has to disclose that when I sell the home. And that is why I've been here since April to try to resolve this issue and as far as he is concerned this all occurs on township property and it does not occur on his yard. That is only an aftereffect or something that is created by this water not being able to flow through the road ditch. He cannot sign anything that he will be responsible from here on out. He is not in the position to be able to do that. Schumacher stated that the normal way that it happens is if a homeowner comes in and wants to put a driveway in and we give them a driveway permit they put the culvert in to our standards and they are responsible for it from the time they install it forever. You are not going to sign anything different. Mr. Boemer stated that you put the culvert in and if that culvert was adequate it would have done its job and we wouldn't be having this conversation. You are asking me to accept responsibility for something that you did, that you took, or the township took away my ability to go back to the seller and make them do it the right way. Schumacher stated that he cannot go back to then so we have a solution today with an engineer who is designing a culvert that with the pitch and the grade and telling us that this is going to work. Mr. Boemer stated that then you should have him sign off on it stating it is going to work. Swanson stated that there is a piece of this that is already happening. You

came in and said it was flooding and you showed us pictures and we don't dispute that fact. The point is that that pond east of you has grown bigger and holds more water and it takes less rain for this to happen. When it freezes or thaws you are going to have flooding there as he has flooding in his. (Mr. Boemer & Mrs. Boemer stated something inaudible as it was spoken together.) Swanson stated that he has had about enough. We are working with you here. Mr. Boemer stated that they will just hire a lawyer and fight it that way if that is the way you want it. Mrs. Boemer stated why don't you just buy our house then. Swanson stated then hire a lawyer and we can get to it that way. What we are telling you is we will work with you. We are going to put in a bigger culvert in. We are going to do some regrading then. Mr. Boemer stated then don't ask me to sign off on a solution (inaudible). Swanson stated so it works to what we believe the standard of a culvert in a township should work and if you still have flooding is from something that is above and beyond what we consider our culvert to be good for then it really will be your problem. Mr. Boemer stated he has looked through every cyclical thing through the past 12 years, of rainfall and less rainfall, snowfall and all of that and every year it is a problem. Swanson stated that if this is not going to be satisfactory, then yes, he would suggest hiring a lawyer. Mr. Boemer stated that you can do whatever you want with your road ditch to alleviate the problem but I am not going to accept responsibility for whether it is going to work or not. Swanson stated we will not put in \$3,000 worth of culvert in there and then you say it flooded again. The point is to do something, the right thing, and get it done. Mrs. Boemer asked about the confidence in Bogart's ability. Swanson stated he does have confidence in Bogart's ability. Mr. Boemer stated that he is telling us that he can't guarantee if it is going to work so why would he sign off on that? I want a solution. Not a band aid.

Schumacher stated that he would like to point out, as an example, over on 120<sup>th</sup> he has a culvert here that this is in the middle of the road and goes through and it was engineered and designed and the band came off of the culvert so the road is sinking in the middle and this is not the fault of any engineer, it is not of the town board and it is not the fault of the design of the road. It is just how it happened. Mr. Boemer stated that is not what we are talking about and understands about circumstances about a lot of snow and a lot of rain and he certainly understands about freezing and thawing cycles but that is not what this is about. He has been dealing with this since the first day after the township installed the culvert pipe. Schumacher stated that this township has been dealing with 120<sup>th</sup> and this culvert since the day we took over maintaining and building this road and through normal maintenance we have to fix this banding as it came off. Just like any other homeowner if their culvert came apart on their property they would have to fix that too. We are going to fix this today. And we'll probably fix it 100 years from now when the banding falls apart on this road. Not because Bogart engineered it wrong, not because Terry didn't maintain it, but through maintenance. Mrs. Boemer stated that then the wording will say normal wear and tear and normal maintenance but an act of God is not covered. Schumacher stated that he is not actually sure of how to word that one. Mrs. Boemer stated that the normal wear and tear that would happen that you would have to go out to another homeowner and fix their culvert you would do, correct? Schumacher stated that we wouldn't fix anybody's culvert as they belong to the homeowner. This one happens to belong to us only

because Jess Hall accidentally decided he was going to fix it because normally we wouldn't fix a culvert and we would not install a culvert so we accidentally own this culvert and we are never going to own this culvert again. Once we are done with this project so we'll never have to come back to do this because it will be under the responsibility of the homeowner. That is what we are trying to get at. We are trying to fix this problem once and then be done with it and then move on. Yes you, just like us, have to fix culverts when they fall apart just like we are fixing 120<sup>th</sup> tonight. Mr. Boemer stated that you need to go to the TEP panel. Rush asked if there was a way to get the TEP panel here or meet with them and you, the homeowners. Bogart stated he can ask if the TEP panel would be willing to meet but we may have to go down there as there are all sorts of people that come from all over the place but we can ask. Swanson stated that they said we could clean up the drain tile if we find the end of it. Mrs. Boemer asked if they said it would be fine if (inaudible). Mr. Boemer stated that it can be restored to the way it is. Swanson stated that we don't even know where it is and you (Boemer) has a picture of where one piece of it is but he does not know where it goes from there. I don't know if the whole thing is in the road right of way. I don't know if it goes through your property. Mr. Boemer stated that it goes in the road ditch. Swanson stated that the only thing we can do is the road right of way. If you want to talk to your neighbor and wherever it goes out there and you want to clean it up go for it. But I'm telling you right here and now we aren't nor will we ever be responsible for that drain tile. That is not what we do. We have never done this nor will we ever do. We will put a culvert in. Mr. Boemer stated that may be what you do now but that is not what you did back in 2003. Swanson stated that he can't help that. There is nothing he can do about that. He was not here in 2003. I'm telling you that this is what we are willing to do now. If you don't like it tell us you don't like it. We are going to move on here one way or another. If you don't like it then that's fine. If you want to hire a lawyer and if you want to bring this to the courts whatever you want to do. I'm telling you please by all means do that. If we get ordered by a judge to replace all that there now we can get in there and do it. But until then we rules and regulations that we need to follow. And part of them is that we can't even attempt to get into your yard. We can't start digging into your yard without your authority. Mr. Boemer stated you are not digging in my yard you are digging on township property. Swanson stated that he is right we will not be digging in his yard. We are going to stay on the road right of way and put in a larger culvert. Mr. Boemer stated that is all he is asking to do. Swanson stated that we will also clean out the ditch on the problem side of it. We said that. That is part of what this whole thing is. Mr. Boemer asked why is he being asked to sign something to relinquish something that is your responsibility. Swanson stated because once we are done with it....Mrs. Boemer stated something that is inaudible. Swanson stated that we will still own the ditch but we won't own that piece of culvert. Mr. Boemer stated that the only way that the problem is going to be resolved is if you take the water out of the ditch and put it somewhere else other than the front of my house. Swanson asked Bogart that it will flow through the culvert with Bogart responding "yes". This plan, as far as you can tell with your engineering will fix the problem we are talking about, correct? Mr. Boemer stated something about a frozen culvert with Swanson saying that was enough.

As Mr. & Mrs. Boemer left the meeting, Rush/Schumacher unanimous to disapprove the letter to The Highlands property owner.

**Quote of Busted Culvert on 120<sup>th</sup> Street** – Schumacher reported that the banding came off a culvert and the road has been pulled back. A ½ ton on the east side has washed. The culvert quote is from West Branch Construction and the overlay quote is from Rum River Contracting. It would cost approximately \$1,950 from West Branch Construction to repair the culvert. The overlay would consist of patching over it and not removing the alligatored road. Bogart stated that the township would get 3-5 years out of the overlay. Rush would like to see the asphalt part of it tabled until additional quotes are received. Rush/Schumacher unanimous to approve the culvert quote of \$1,950 from West Branch Construction.

**Approve/Disapprove Asphalt for 120<sup>th</sup> Street** – Schumacher/Rush unanimous to table until the August 3, 2015 regular meeting.

**Update on 125 ½ Street** – Even though the project may be a little behind schedule according to Jon Bogart, he is satisfied that a good job is being done. Work is being finished to install a storm sewer across 125 ½ Street. With reluctance of the contractor to disturb a large fiber optic line, permission is being asked to temporarily close the road. Schumacher/Rush unanimous to approve closing 125 ½ Street for ½ day starting in the early morning.

The contractor has started to put down gravel on 125 ½ Street as well as hauled in a few loads of new gravel on 316 Street.

**Road Report** - Schumacher provided information in order to send out for bids for crack sealing at Belmont Ridge, and chip sealing for 120 Street. According to Bogart the cost should be about \$18,000 per mile.

**Approval of Consent Agenda** – Schumacher/Rush unanimous to approve the Town Board Meeting Minutes of July 6, 2015 and to approve the Bremer Bank Pledge Substitution.

**CONDITIONAL & INTERIM USE PERMITS:** None.

**PLATS:** None.

**VARIANCES:** None.

**OLD BUSINESS:**

**County Planning & Zoning Report** – Bryan Lawrence reported that two developments came in for Livonia Township and Orrock. They approved the solar farm ordinance. The county board will decide on that August 4<sup>th</sup>. 1,000 foot setback from lakes recommendation. The county proposed not allowing on highways (169 and 10). That

was changed to allow. Area around airports the county may allow. He feels it should be permitted in those areas. As written right now it would not be allowed in airport areas. There was no discussion regarding at what point it becomes allowed by the Public Utilities Commission with no other municipality input. There was clarification that there is no need for an interim use permit if you install on your home.

They passed the lakeshore district. Township comments were printed and discussed and he feels that as long as Baldwin has a say to this then it shouldn't cause any problems. He has verified with staff that Baldwin has the option to say no. It is going to the county board August 4<sup>th</sup>.

He has one comment on Baldwin planning based on the meeting last week. A large part of the discussion was meeting nights. Technically we meet most times after this meeting. We have to change our by-laws. Discussion was maybe meeting the 3<sup>rd</sup> Monday of the month. That will get us the packet before your meeting and allow the board to look at their decision. It doesn't have to change this year but maybe in 2016. Rush stated that he was glad there was an email sent out as last month we paid Bridget and there was no meeting. Back in March or April he made a motion and then rescinded. Where are we at with Bridget? Comfortable to have these meetings without her? Lawrence responded that Bridget is a wealth of information. The committee is anxious to look at real work as it has been in existence for a long time. They are a good core group of people. Without Bridget there is no reason to meet without an issue.

**Park Committee Report** – Rush reported that proposed plans for Goose Lake Park are to stake out trails and to cut down a few trees as well as getting a parking lot. The committee has talked JTO Landscaping to do the handicapped ramp and some dirt work at Young Park if it's approved by the board. Several grants are being worked on for funding.

**Approve/Disapprove Agreement for Services, Shelli Urness Consulting**  
Rush/Schumacher unanimous to approve the Agreement for Services from Shelli Urness Consulting.

**Approve/Disapprove Sam's Club Grant** – Schumacher/Rush unanimous to approve adding the Sam's Club grant application with Shelli Urness and up to \$160.00 for looking at Mille Lacs Band grant as well.

**Approve/Disapprove JTO Services for Grading, Dirt Work and Remove Concrete Slab for Basketball Court** – Schumacher/Rush unanimous to approve up to \$500 for JTO Services to do grading, dirt work and concrete removal at Young Park for the basketball court.

**Baldwin Planning Commission Update** – An update was given by Bryan Lawrence during the County Planning & Zoning Report on the current Planning Commission activities as Supervisor Atwood is not present.

**TCI Baldwin Volunteer Corps Update** – Schumacher gave an updated report of the Baldwin Volunteer Corps' progress.

**SBA Update** – Supervisor Swanson said he has not heard anything yet from the township attorney, but that the township is going ahead with eviction.

**Discuss Current SBA Work on Tower** – Schumacher reported that work was done on the tower updating to a new antenna.

**Approve/Disapprove Highlands Letter to Property Owner** – See above.

**Legacy Grant Committee Update** – Supervisor Schumacher is still working on obtaining applicants.

**Trail Committee Update** – The first meeting will be held either July 29<sup>th</sup> or August 5<sup>th</sup> at 7:00 p.m., Baldwin Townhall with Supervisors Tom Rush and Brad Schumacher along with Rhonda Lewis and John Menter from Sherburne County Public Works.

**TABLED ITEMS:**

**Approve/Disapprove Selling Airpacks** – The Elk River Fire Department has agreed to purchase the airpacks for \$17,600 although it still needs approval from the Elk River City Council. Schumacher/Rush unanimous to approve the sale pending approval by Elk River City Council.

**Approve/Disapprove Dirt Work at Young Park Quote** – The quote will actually be for granite. Schumacher/Rush unanimous to table until the August 3, 2015 regular meeting.

**Approve/Disapprove Sale of Tax Forfeited Land** – Rush/Schumacher unanimous to approve the sale of the tax forfeited land.

**NEW BUSINESS:**

**Approve/Disapprove Resolution 15-11; Resolution Accepting Donation** – Wood chips and mulch were donated for the rain garden at Young Park from Aurandt Tree Service. Rush/Schumacher unanimous to approve Resolution 15-11; a Resolution Accepting Donation.

**ANNOUNCEMENTS:** None.

**ANY OTHER BUSINESS:**

**Approve/Disapprove Writing Letter to Sherburne County Commissioners**

Schumacher/Rush unanimous to table writing a letter to the Sherburne County commissioners saying that Baldwin Township approves having solar panels in airport districts as suggested to the August 3, 2015 regular meeting.

**Motion to Approve Bills for Payment** – Rush/Schumacher unanimous to approve for payment check numbers 19469 through 19519 and 5 EFT payments totaling \$59,163.80.

**Adjournment** – Rush/Schumacher unanimous to adjourn at 8:47 p.m.



Submitted By: (s/) Cathy Stevens  
Clerk/Treasurer  
Baldwin Township



Approved By: (s/) Jay Swanson  
Chairman, Board of Supervisors  
Baldwin Township

8-3-2015

Date

Attendees: Lester Kriesel, David Schuldt, Bryan Lawrence, Dick Marshall, Jon Bogart, John Boemer