

**M403 ELM STREET**  
**TOWN BOARD MINUTES**  
**June 13, 2016 7:00 PM**  
With Corrections

The meeting was called to order at 7:00 p.m. by Chairperson Carolyn Opitz.

The Pledge of Allegiance was recited.

**Roll Call:** Debbie Derfus, Dave Swenson, Carolyn Opitz, Gary Franz, Joe Burger – All present

**Visitors: Jon Trautman, Schenck Audit Presentation**

Jon Trautman of Schenck SC presented the Town's Annual Financial Report and Management Communication Document with his focus on the management communication document. To summarize the audit, Jon stated the unmodified opinion is the information is materially correct and users can rely on statements. A deficiency was noted with relation to the preparation of the annual financial report. Jon further stated that most small to mid-sized municipalities do not hire a CPA to complete the financial report due to budgetary restrictions. The recommendation of the auditors included receipting procedural changes, breaking out FICA expenses by departments, standardization of general accounts, formalizing 1099 procedures, and wage rate authorization documentation. Jon also discussed the representation letter stating that all records were provided and he is not aware of any documentation that was not provided to auditors.

**Treasurer's Special Project Report:** Steve Katona read his report, typed on Saturday June 11, 2016. (A copy is hereto attached.) Summarily, the Town Treasurer's findings concur with the police investigation and report, as well as the auditor's reports and audits; that no evidence of fraud exists.

Gary Franz questioned the report stating the Treasurer's investigation only covers the year of 2010. What of the other request? Steve stated the written request was subsequent to the request he was investigating. Carolyn further explained that Scott Swid of Swid Law was invited to address the open records request of June 3, 2016.

Scott Swid explained that the request was a permissible request, although ambiguous and that the records being requested were undeterminable. He sent correspondence to the requestor asking for more communication and to date had not received a response. Scott noted the request also requested the Town to respond within 5 days. The law states a reasonable response. Scott explained the request of records from 1999 onward is vague and ambiguous and therefore the Town is unable to respond efficiently. After he receives a response to his correspondence he will continue to advise the town on how to respond. Scott further stated the request is legitimate, however duplicit. He further advised through the Town's open records policy, to bill for copies and actual time to locate documents requested; with legal review.

**Comments from Audience:** None

**Approval of Minutes:**

Debbie/Gary moved to approve the minutes of the May 9, 2016 meeting. Roll Call: Debbie, Dave, Carolyn, Gary, All Ayes. Joe – abstain. Motion carried.

**Reports:**

Plan Commission – John Bujalski – Hanson CSM Plan commission voted to approve the CSM as presented by Tim Vreeland. Joint Plan Commission followed with a meeting where they didn't approve because Tammy Lane is not dedicated as town road and there was not enough documentation to meet the approval for future roadways to connect. A request was made to Mr. Redetzke to update Tammy Lane. Joe stated the Town can't approve if the road isn't accepted. John stated the end of Tammy Lane would need a cul de sac for emergency access, and recommends the Board table their decision. – Joe/Dave moved to table the approval/disapproval of Hanson CSM. All Ayes. Roll Call: Debbie, Dave, Carolyn, Gary, Joe - Motion carried.

John mentioned two upcoming public hearings regarding the CIP and Chapter 17 zoning code, where the intention is to present changes and asked constituents for their opinions; one hearing during the Planning Commission Meeting on June 27<sup>th</sup> and two hearings on zoning tentatively in August & September.

Fire Department – EMS Calls – 4 medical calls; Fire Calls - 1 House fire; 2 Motor Vehicle Accidents. For the interim the Officers have elected to make Amy Segalle a Lieutenant. She is a probationary officer until the elections in September. MABAS worked very well for the fire on STAADT Ave. The MABAS box was called early and the fire was put out with great team work by everyone who responded. All hose testing is almost completed. At the monthly meeting we will be finishing up the LDH. All the rest of the hose has been tested. EMS Update: The state has given the okay to start writing the operational plan for the service upgrade. Lorrie has started this with the help of Dr. Mickel. Once the plan is completed it will be sent to the state for final approval.

Debbie asked the tenure to become a Lieutenant. Rod stated four years, which is why the position is probationary. Two others qualified for the position but have turned it down. The department will revisit this in September.

Gary asked why the entire concrete slab in front of the fire department building was replaced. Rod stated due to a tripping hazard and with cracks in several places it was cheaper to replace the entire area rather than cut out sections and repair. The project came in under budget.

Library – Ruth Voss – There are several reading programs available during the week for children as well as upcoming events at the library including puppet show, sidewalk art, comedian, and fitness walk. More information is available online or at the library.

Supervisors: Carolyn Optiz – garbage, ordinances, newsletter – Carolyn stated she’s part of steering committee for the rural health initiative. The funding for this program was available however it’s been disbanded. She will attend a meeting June 27<sup>th</sup>.

Dave Swenson – Highway – Dave stated Base course has been applied to Drake Ave North of C, our portion of Eau Pleine west of Staadt and all loads of Cal Chlor have been applied. The crack sealing is completed and ditches are being mowed.

Debra Derfus – Buildings & Grounds, Website – Debbie stated the tanks for three buildings were inspected with cameras and found the garage pipe broken. It’s been replaced and new rings put in. Further, she’s called John for the website and hasn’t heard back. Parks been worked on by gazebo, flowers, new seeding, mowing and spraying.

Joe Burger – IOH Permits – Town Hall Maintenance – Marathon County Addressing – Joe explained he went to second meeting of the County Addressing Committee. The goal is to not have two roadways in the county with the same name which doesn’t include villages or cities unless they opt into the program. The addressing is not a matter of if, but when new addresses will be implemented. The expectation of the system done and ready to implement is the year 2017. Don’t expect to start the re-addressing at the earliest of 2018. County speaking with company in Madison regarding signs which would look like the current fire numbers. They have \$1.2 million assigned to paying the towns in some fashion possibly \$20 - \$25 per address. The county will send a letter to town chairs of a list of all roads in township that are duplicates to other roads in other townships. Boards will need to start thinking about who’s going to keep the name of a duplicate roadway. More information can be found at [www.mymarathoncountyaddress.org](http://www.mymarathoncountyaddress.org)

Gary Franz – Newsletter – Town Hall Maintenance – Lock replaced on Treasurer office door. Nothing on newsletter.

Clerk – Approval of Checks and Financial Report - Financial Report for the Month of May 2016

Beginning balance of \$691,579.78. Total receipts were \$35,550.59. Total disbursements were \$202,229.37. Ending balance of all accounts totaled \$524,901.00.

Approval of Checks – The check register from May 10<sup>th</sup> through June 13<sup>th</sup> total disbursements is \$98,312.66 and is comprised of checks 14177 - 14241 including electronic checks 89-92 & 91ACH.

Debbie/Dave moved to accept the financial report and checks as presented. Discussion: Questions were raised regarding Complete Office and Northway Communication. Roll Call: Debbie, Dave, Carolyn, Gary, Joe – All Ayes. Motion carried.

Treasurer – Financial Report

CHECKING ACCOUNT BALANCE, BANK	39,549.61
LESS OUTSTANDING CHECKS	-4079.85
PLUS OUTSTANDING DEPOSITS	0.00
RECONCILED CHECKING ACCOUNT BALANCE	<u>35,469.76</u>
TAX SAVINGS ACCOUNT	399,319.09
PARK FUND SAVINGS ACCOUNT	8,951.26
VOLUNTEER FIREFIGHTERS FUND SAVINGS ACCOUNT	33,132.74
FIRE DEPT EQUIPMENT CD (9/12/2016)(.015 %)	20,120.17
PUBLIC WORKS REPLACEMENT APPARATUS CD (7/20/2016)	<u>27,907.98</u>
	<u>524,901.00</u>
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Citizens State Bank of Loyal Loan (2002 Fire Truck)	<u>113,392.76</u>

Debbie/Joe moved to approve the Treasurer’s report as presented. Roll Call: Debbie, Dave, Carolyn, Gary, Joe – All Ayes. Motion carried.

Unfinished Business – Appointment of Plan Commission Members – Had on agenda for last meeting, wanted to speak to members first. Appointing Deb Davis and John Pappé for 3 years.

New Business – Approve/Disapprove Online Banking Access – Steve would like the ability to download the statements every month, make transfers which is provided with online access. Debbie/Joe move to approve the online banking access for Treasurer. . Roll Call: Debbie, Dave, Carolyn, Gary, Joe – All Ayes. Motion carried.

Approve/Disapprove LRIP TRI Program Substitution for Project 14077 TRIP Mann Street – Plan Commission recommendation is to not do any further black top until the roads we have are repaired. Galvin is a big project and work needs to be done on Mann St. where the traffic count is thought to be around 2500 a day. Going to substitute the grant for Birch to Mann St. Debbie/Dave move to apply for TRI program substitution of grant from Birch St to Mann St. Discussion: Joe anything done with Birch to alleviate the issue with stones. Dave talked about changing materials. Gary asked if there a new study of which roads need attention. Carolyn responded we have the CIP but Mann needs attention. Roll Call: Debbie, Dave, Carolyn, Gary, Joe – All Ayes. Motion carried.

Approve/Disapprove Hanson CSM - Joe/Dave table the approval/disapproval of Hanson CSM. All Ayes. Motion carried.

Approve/Disapprove Liquor Licenses for Resource Recovery Team, LLC & Belvedere Supper Club LLC/Dale Leffel – Debbie/Joe move to approve the liquor licenses – Discussion: All the checks have been done? Clerk responded affirmatively. . Roll Call: Debbie, Dave, Carolyn, Gary, Joe – All Ayes. Motion carried.

Dave moved to adjourn the meeting at 9pm. Debbie second. All in favor. Motion carried.

Respectfully submitted,

Patti Rahn

Saturday, June 11, 2016

### **Why the investigation**

State Assemblyman Bob Kulp, an acquaintance, called me on a Friday afternoon in May 2016 to request a meeting between myself and seven or eight citizens that suspected a previous Clerk / Treasurer of committing fraud while in office. I agreed but advised Mr. Kulp that I would have to notify the present clerk and town chair of the meeting. The town board decided to conduct a special town meeting. As a result of the meeting I was charged with investigating the charge of fraud. At that meeting, the suspicion seemed reasonable.

### **Parameters**

The year 2010, account 51020396 at Pioneer Bank (Firefighters Fall Fest Account), with the focus on money orders.

### **Methodology**

An electronic copy (a spreadsheet) was made at the special meeting from copies provided by a complainant. Those copies were a complete record of the money orders drawn on that account for the year in question and can be traced to the bank statements. There were nine money orders issued during the year. The disbursements were as follows:

Alert All Corp	2,010.32	17%	Coloring Books, . . .
Bendlin FD	4,592.00	40%	Rescueaire II
Christine Mickel	425.00	4%	Silent Auction items
City of Mfld	800.00	7%	Cascade Air System
Schenk-Huegel	3,792.25	33%	Uniforms
Total	11,619.57	100%	

If there was a fraudulent disbursement in this account in 2010, it is listed here.

### **Business Environment**

In most business or not-for profit entities, the act of spending and disbursing are kept separate to reduce the possibility of misfeasance or malfeasance. Where those activities are combined in one person, the possibility of fraud is more likely that when those activities are separated. For example, a town supervisor may request a plumber's services for the town. The subsequent invoice is received and presented to the town board by the clerk for review and approval to disburse. The board has spent and the clerk has disbursed and the duties are segregated.

The net proceeds of the annual Fall Fest would come to reside within the account in question. All deposits were made to the firefighters saving account. Most disbursements for the event were made from the Town checking account throughout the year with reimbursement made annually from the fire department to the town checking account. The December 29, 2010 transaction of \$13,050.70 is reflected on the fire department's saving account as a decrease in the account balance and is reflected on the town checking account as an increase in the account balance.

### **Money Orders vs Checks**

I would not have established cash accounts as they existed in 2010 and agree with the auditor's suggestions that resulted in the current cash account environment. I do not know who established the account structure as they existed then. However, if an accountant has only an interest bearing savings account to disburse from, money orders are the only way I know of to accomplish that. The method or tool of disbursement is not pertinent to the issue of fraud. Fraud lies within the nature of disbursement.

### **Policy and Governing Authority**

There exists a written policy within the fire department that suggests that the governing authority over the fall fest savings account resided with the officers of the fire department. The officers of the fire department validated that policy by acting on it and did so for years. The clerk / treasurer also validated that policy by disbursing from the account as directed by the governing authority and did so for years.

### **Secret Account**

Fall fest is a community sponsored event held annually to benefit the fire department. A large segment of the community was active in the event. Sponsors made donations. The entire fire department was active in the event. Receipts were deposited into the savings account. The account was reconciled monthly and the results of cash operations were reported to the governing authority by the clerk / treasurer routinely. The account shows up on the annual balance sheet as published in the annual audited / reviewed financial statements. In December, a deposit from the account was made to the town checking account and there is evidential matter to suggest that the board was informed of the deposit in 2010.

Therefore, the claim that the account was secret is false.

### **Unintended Consequences**

1 Complainants may themselves have committed something like fraud by willfully and knowingly claiming a suspicion of fraud in the aftermath of a formal criminal investigation and an aggressive financial audit. There seems to be a complete lack of reasonableness to the claim of fraud. Presented to a prosecutor, it may be actionable.

2 Whatever "standing" or basis Donna Siltala may have had for a libel or slander lawsuit before the public claim was made in 2016, that basis for a successful lawsuit is strengthened given that the recent claim was subsequent to previous investigations that found no evidence of fraud.

### **Finding**

I concur with the police report and financial audit. I found no evidence of fraud. I believe that the 2016 charge of fraud to be absent any element of reasonableness.

Respectfully submitted,

Steve Katona, Treasurer, Town of McMillan