

Minutes of the regular Board meeting of the Town of Normanna, Minnesota, St. Louis County, held in the Normanna Town Hall, on Monday, August 20<sup>th</sup>, 2018 at 7:00 p.m. The meeting was called to order by Chair Daniel Johnson at 7:00 p.m.

**Members Present:** Chair-Supervisor Daniel Johnson, Supervisor Dennis Gunsolus, Supervisor Tammy Courrege, and Clerk/Treasurer Ellen Hanson.

**Others in Attendance:** None.

**Pledge of Allegiance:** The Pledge of Allegiance to the Flag of the United States of America was recited.

**Approval of Agenda:** Johnson presented the agenda. Motion by Johnson to accept the agenda as presented, seconded by Gunsolus. Motion carried unanimously.

**Approval of Board Minutes:** The Board of Supervisors meeting of July 16<sup>th</sup>, 2018 minutes were presented and reviewed. Motion by Johnson to approve the July 16<sup>th</sup>, 2018 Board minutes as presented and seconded by Courrege. Motion carried unanimously.

**Approval of Board Minutes:** The Board of Supervisors special meeting of August 8<sup>th</sup>, 2018 minutes were presented and reviewed. Motion by Johnson to approve the August 8<sup>th</sup>, 2018 Board minutes as presented and seconded by Gunsolus. Motion carried unanimously.

**Normanna Fire Department (NFD):** Johnson received an update from the fire department. There were four medical calls since the last meeting and they received four sets of gear.

**Normanna Land Use Committee Report:** Gunsolus reported there was nothing new to report.

**Buildings and Grounds Report:** Courrege reported the beaver are gone from the river. Johnson reported he has been mowing.

**Fire Department Liaison:** Johnson reported there was nothing new to report.

**Road Report:** Johnson reported the turn around at Lookout Road has been completed. There is a need to grade that road as well. Motion by Johnson to purchase two magnetic signs for up to \$60 for his use when he is driving the roads, seconded by Courrege. Motion carried unanimously.

**Clerk's Report:** Hanson reported on the primary election. Normanna had 123 voters in this election.

### Old Business

**Duluth Urban Water Shed Advisory Committee:** Courrege reported there was nothing new to report.

**Cloquet Valley Internet Initiative (CVII):** Gunsolus reported there was nothing new to report.

**Cemetery Regulations – natural burials:** Nothing new to report on the regulations. Johnson presented a draft sign (18x24) that would be hung on the fence at the cemetery. Motion by Johnson to spend up to \$65 to purchase a cemetery sign, seconded by Gunsolus. Motion carried unanimously.

### New Business

**Normanna Rummage Sale:** Johnson reported on the July 21, 2018 rummage sale.

**Normanna 5K Run/Walk-October 13<sup>th</sup> – 9 a.m.:** Johnson presented the flier and registration form for this event. It will cost \$20 with a tee shirt or \$15 without a tee shirt. It will be coordinated with the fire department open house. A letter will be sent out to local businesses for sponsorships.

**Halcyon Dell Road:** Johnson reported a realtor is representing owners of parcels off of Halcyon Dell road. This road is not a maintain road, it is 66 feet wide and it has not been vacated by the township. The property owners on Halcyon Dell have a structure on the paper road. The township asked the town attorney for an opinion on whether the west end of Halcyon Dell road is a legal town road. Also, whether the town has any obligation to open and maintain the west end of the road and/or whether the town has any obligation to remove, or require an owner to remove obstructions located within the west end of the road should the affected landowner desire to physically construct the rest of the road. The attorney's letter is attached to the end of these minutes. Motion by Johnson to send the town attorney's opinion letter to the title company, seconded by Gunsolus. Motion carried unanimously.

**Noxious Weeds Meeting:** Johnson reported on the meeting he attended at Lakewood.

**Treasurer's Report:** Clerk Hanson distributed the Cash Control Statement, Net Pay Account Distribution Report, and Claims List for approval to the Supervisors. The claims list is attached and the other reports are in the Clerk's book.

Beginning Balance –7/1/2018-\$54,693.31

Total Receipts - \$38,697.13

Total Disbursements - \$4,603.39

Outstanding Checks - \$36.76

Total per Bank Statement –7/31/2018 - \$88,823.81

August claims 2547-2554 totaled \$4,048.04 were presented for approval.

August payroll checks 3083-3086 totaled \$943.67.

Motion by Johnson to pay the August claims as presented and accepted the July cash control statement, seconded by Courrege. Motion carried unanimously.

**Petitions from the Floor:** None.

**Newsletter:** The next newsletter will go out after the next meeting.

Checks were signed.

Correspondence was read.

Motion by Johnson to adjourn the meeting at 8:05 p.m., seconded by Gunsolus. Motion carried unanimously.

Respectfully submitted,

Town of Normanna

Claims List for Approval

8/19/2018

Date Range : 8/1/2018 To 8/31/2018

Date	Vendor	Description	Claim #	Total	Account #	Account Name	Detail
08/20/2018	Minnesota Power	2018:June & July Electric	2547	\$196.58	100-41940-381- 225-42280-381-	General Government Buildings and Plant Fire Stations and Buildings	\$92.89 \$103.69
08/20/2018	CenturyLink	2018:July Telephone	2548	\$36.70	100-41940-321-	General Government Buildings and Plant	\$36.70
08/20/2018	Forum Communications Company	Inv.C-32010471:Notice of Public Accuracy Test	2549	\$57.00	100-41410-351-	Elections	\$57.00
08/20/2018	Fire Safety USA, Inc.	Inv.113102 & 113121:10 Helmets with retrak & 10 Lights with brackets	2550	\$3,112.50	225-42220-240- 225-42220-240-	Fire Fighting Fire Fighting	\$2,420.00 \$692.50
08/20/2018	Jan Simpson	Election Judge Service	2551	\$71.50	100-41410-103-	Elections	\$71.50
08/20/2018	Clark Peterson	Election Judge Service, Training, & Mileage	2552	\$204.10	100-41410-103- 100-41410-331-	Elections Elections	\$198.00 \$6.10
08/20/2018	Lone Cooke	Election Judge Service, Training, & Mileage	2553	\$127.21	100-41410-103- 100-41410-331-	Elections Elections	\$121.00 \$6.21
08/20/2018	Vivian Hanson	Election Judge Service, Training, PAT, Set-up, & Mileage	2554	\$242.45	100-41410-103- 100-41410-331-	Elections Elections	\$220.00 \$22.45

Town of Normanna

Claims List for Approval

8/19/2018

Date Range : 8/1/2018 To 8/31/2018

Date	Vendor	Description	Claim #	Total	Account #	Account Name	Detail
Total For Selected Claims				\$4,048.04			\$4,048.04

  
\_\_\_\_\_  
Daniel R Johnson Chair, Town Supervisor 8/20/18  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Dennis Gunsolus Vice Chair, Town Supervisor \_\_\_\_\_  
Date

  
\_\_\_\_\_  
Tammy J Courge Town Supervisor 8/20/18  
\_\_\_\_\_  
Date

Town of Normanna

Cash Control Statement

8/19/2018

For the Period : 7/1/2018 To 7/31/2018

<u>Name of Fund</u>	<u>Beginning Balance</u>	<u>Total Receipts</u>	<u>Total Disbursed</u>	<u>Ending Balance</u>	<u>Less Deposits In Transit</u>	<u>Plus Outstanding Checks</u>	<u>Total Per Bank Statement</u>
General Fund	\$18,913.18	\$7,830.49	\$1,623.59	\$25,120.08	\$0.00	\$36.76	\$25,156.84
Road and Bridge	\$9,681.77	\$13,265.56	\$2,692.50	\$20,254.83	\$0.00	\$0.00	\$20,254.83
Building	\$11,208.68	\$0.00	\$0.00	\$11,208.68	\$0.00	\$0.00	\$11,208.68
Cemetery	\$2,063.19	\$530.01	\$0.00	\$2,593.20	\$0.00	\$0.00	\$2,593.20
Fire Department	\$12,672.29	\$16,958.91	\$287.30	\$29,343.90	\$0.00	\$0.00	\$29,343.90
Impress Fund	\$154.20	\$112.16	\$0.00	\$266.36	\$0.00	\$0.00	\$266.36
<b>Total</b>	<b>\$54,693.31</b>	<b>\$38,697.13</b>	<b>\$4,603.39</b>	<b>\$88,787.05</b>	<b>\$0.00</b>	<b>\$36.76</b>	<b>\$88,823.81</b>

*W.A. Dunder*  
*Tammy Cooney*  
*[Signature]*

HANFT FRIDE  
A PROFESSIONAL ASSOCIATION

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August 16, 2018

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RICHARD R. BURNS\*, Of COUNSEL  
CHARLES H. ANDRESEN, Of COUNSEL  
DAVID C. LINGREN, Of COUNSEL  
\*ALSO ADMITTED IN WISCONSIN

Mr. Daniel Johnson  
Board Chair  
Normanna Township  
6472 French River Road  
Duluth, MN 55804

Re: Legal Status of Halcyon Dell Road

Dear Mr. Johnson:

It is my understanding that Kurt Johnson of Gables & Ivy Real Estate has requested that the Town certify as to the existence, width and length of Halcyon Dell Road. The reason for Mr. Johnson's request is that he is working with a landowner who wishes to list for sale land located adjacent to the unopened and unmaintained portion of Halcyon Dell Road. Mr. Johnson understands that the Town does not maintain the existing road, and that the Town will not open or maintain the west end of the road, which has never been built or used.

You have asked for my opinion whether the west end of Halcyon Dell Road is a legal town road. You also want to know whether the town has any obligation to open and maintain the west end of the road and/or whether the town has any obligation to remove, or require an owner to remove, obstructions located within the west end of the road should the affected landowner desire to physically construct the rest of the road.

You have provided me with copies of the following documents: (1) Supervisor's Road Order dated October 29, 1908 (establishing a new road); (2) Letter from the town clerk to the county auditor dated March of 1918 (referencing a name change from Dam Road to Halcyon Dell); and (3) Letter from the

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county auditor to the town clerk dated June 30, 1937 acknowledging receipt of a final town board road order widening the road from 33 feet to 66 feet.<sup>1</sup>

In rendering this opinion, I have assumed (but did not independently verify) that the documents provided accurately reflect the town orders referenced therein and that the orders have been recorded with the county auditor. Furthermore, I have relied upon your representation (but did not independently verify) that the Town has taken no formal action to vacate or abandon the road.

Based upon the foregoing and the laws of the State of Minnesota, it is my opinion that:

1. Halcyon Dell Road is a town road that was established under the authority of the Town. The road is 66-feet wide. It begins at the quarter post between sections 32 and 33, on the road known as Tischer Road, and runs one mile in length on the quarter line to the quarter post between sections 32 and 31, all in the Town of Normanna. The road, as established by the Town, includes the west end of the road (which has never been physically constructed as a road).

2. The Town has not formally vacated or abandoned any portion of the road. However, the Town's interest in the west end of the road may have been extinguished under the doctrine of equitable estoppel or the Marketable Title Act because this portion of the road has never been built or used as a road.<sup>2</sup>

3. The Town has no duty to open or maintain the west end of Halcyon Dell Road, and may be prohibited from doing so, because no maintenance or construction has been conducted for 25 years or more.<sup>3</sup>

4. The Town does not have a duty to remove, or require an owner to remove, obstructions located within the west-end of the road in the event that a landowner desires to physically construct the rest of the road. In this situation, the town may actually be estopped from doing so.<sup>4</sup>

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<sup>1</sup> At one point, Mr. Johnson asked the Town to verify in writing that Halcyon Dell Road has been "platted" to the affected landowner's property, but there is no evidence to suggest that the road was ever platted.

<sup>2</sup> *Village of Newport v. Taylor*, 30 N.W. 2d at 592 (Minn. 1948); *Wolfson v. City of St. Paul*, 535 N.W.2d 384, (Minn. App. 1995); Minn. Stat. § 541.023. In *Wolfson*, the court of appeals held that abandonment arises where there has been: (1) long-continued nonuser by the town; (2) affirmative or unequivocal acts of the town indicative of an intent to abandon, and inconsistent with the continued existence of the easement; (3) possession by private parties in good faith and in the belief that its use as a road has been abandoned; (4) the erection of valuable improvements thereon that the town has knowledge of and to which it does not object; and (5) the town reclaiming the land would result in great damage to those in possession.

<sup>3</sup> If the Town is asked to open and maintain the west end of the road, under the 25 Year Law, the issue can be submitted to the electors at its annual meeting. At the meeting, the electors may pass a resolution to allow the Town Board to determine whether the road will be opened and maintained. If the electors decide not to pass the resolution, the Town Board would be prohibited from spending town funds to maintain the road. See Minn. Stat. § 365.10, subd. 11.

<sup>4</sup> In the case of *Rochester v. North Side Corporation*, the portion of the road in question had not been opened or used as a street in its 83 years of existence. Over the years, the adjacent owners built several permanent buildings in the

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5. The alternative for the owner(s) who need access is to petition for a cartway.<sup>5</sup>

Based on the foregoing, I recommend that the Town certify that Halcyon Dell Road was established by authority of the town in the location, width and length set forth above, as requested. I further recommend that the Town advise Mr. Johnson that although the Town has taken no formal action to vacate or abandon the road; the Town may have lost its interest in the west end of the road by abandonment or under The Marketable Title Act. In either such case, the alternative for the owner(s) who need access is to petition to establish a cartway.

Due to the possibility that the Town's interest in the west end of the road may have been extinguished by such a long period of nonuse or lack of maintenance, the Town should not certify that the owner in question has legal access to his property.

Very truly yours,



Jennifer L. Currey

JLC

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unused right of way with building permits from the city. The buildings were kept and maintained in that location for over 40 years. The city filed suit to require the owners to remove the buildings from the platted right of way. The court held that the city was estopped from asserting its interest in those portions of the right of way. *Rochester v. North Side Corporation*, 1 N.W. 2d 361 (Minn. 1941).

<sup>5</sup> See Minn. Stat. § 164.08.