

**APPROVED MINUTES
COLDSPRINGS TOWNSHIP
REGULAR BOARD MEETING MINUTES
COLDSPRINGS TOWNSHIP HALL-COUNTY ROAD 571
MONDAY JANUARY 8, 2018, 7:00 P.M.**

Supervisor Hoffman called the meeting to order at 7:00 p.m. Pledge of Allegiance was said by all. Board members present at roll call were Supervisor Hoffman, Clerk Collins, Trustee Schaller, and Trustee Malott Treasurer Brenda Smith Absent. Fifteen members of the public were present also Deputy Brian Peacock.

Adoption of the Agenda: Supervisor Hoffman Would like to remove item E from the agenda County Commissioner Stu McKinnon would not be here tonight. The Clerk would like to add an item under Planning & Maintenance to seek bids for a generator. A **Motion** by Malott to Adopt the agenda as revised. **Supported** by Schaller. All in favor Motion Carried.

Establish any conflict of interest of items that are on the agenda:

None were presented.

Approval of Minutes from the December 11, 2017 Regular Board Meeting:

Motion by Schaller. **Supported** by Collins to approve the minutes from the December 11, 2017 Regular Meeting. All in favor. Motion Carried.

Correspondence was reviewed:

The clerk had received the crimes report from the Kalkaska Sheriff's office for the month of December with 24 incidents and a total for the year of 277. Also the inspection form for the Ole Soul both reports are on file in the clerk's office. The clerk also stated that she received a copy from the DEQ for a permit for riprap shore protection of 50 feet on Big Twin Lake. This DEQ Permit is on file in the clerk's office. The clerk had also received the minutes from the Road Commission and had e-mailed them to the board members. The minutes are on file in the clerk's office.

Assessor's report:

January, 2018 Assessor's Report to Coldsprings Township Board:

December was an extremely busy month with all of the tax bill questions, receiving the final ratios from Equalization, and December Board of Review that was held on the 15th. It is now time to take the Equalization studies and start working on the 2018 assessment roll. The residential class will not be changing a lot based on the study from the county, but there will be some ups and downs from the parcels we are visiting as well as some areas have increased slightly and others decreased slightly. It's a busy time of year for assessors with the tax bill questions and address changes to go along with the aforementioned work on the assessment roll. This concludes my January report.

Sincerely,

Mark Johnson, Coldsprings Township Assessor

Committee Reports:

(A)Planning & Maintenance – Trustee Schaller stated that the new carpet has been

ordered for the township. He also stated that we have a tree on our road ending that may have to come down and that he was going to check with Great Lakes Energy about having it removed. The clerk stated that she would like to look into having a generator installed at the township. When the power goes out we can do nothing and if the power is out for too long our pipes may freeze. Also if the power goes out on a day of an election we could have a large problem. A **Motion** by Malott to have the clerk look into getting a bid for a generator for the Township Hall. **Supported** by Schaller. All in Favor. Motion Carried.

(B)Fireboard –Supervisor Hoffman presented the minutes from the January 2, 2018 Fireboard meeting. The minutes showed that there were 13 Fire runs and 13 Rescue runs for the month of December. Frederic ALS had 37 calls, 9 transported to Kalkaska, 15 to Munson, 3 to Grayling, and 10 inter-facility transfers. A complete copy of the minutes are on file in the clerks’ office.

(C)Road Commissioners Meeting – Trustee Malott stated not much going on this time of year. He would like to report that the street light is out on 612 and Roger’s road. The clerk will contact Great Lakes Energy.

(D)Sheriff Department – Officer Brian Peacock is our Township liaison please contact the Township with any ordinance violations and officer Peacock will be notified. Or call 231-258-3350 to leave a message for Officer Brian Peacock. Officer Peacock stated that he handled 6 Civil complaints, 0 Township Ordinance, 12 Property checks, 0 Misdemeanors, and 0 Felony for the month of December. A copy of Officer Peacocks report is on file in the Clerks’ office.

(E)County Commissioner – Removed from agenda.

(F)Hospital Board – Supervisor Hoffman stated that he attended the Hospital Board meeting and everything is going well.

Treasurers Report:

Clerk Collins presented the monthly reconciliation report for the month ending December 31, 2017. The report showed that there was \$317,643.55 in the various Bank accounts, \$10.07 in the Forest Area Federal CU, \$10,717.11 in the Building Fund at Chemical Bank, and \$209,975.18 in the Tax account at Chemical Bank and \$100.00 in the Cash on hand Fund. **Motion** by Schaller. **Supported** by Malott to accept the Treasurer’s report as presented. All in Favor. Motion carried.

Old Business:

None

New Business:

(A)**Sign new law enforcement agreement** – The Supervisor and the Clerk needed to sign the new law enforcement agreement with the County of Kalkaska. This was voted on last month and this was only a formal signing.

(B)Clerk would like to purchase 6000 stamps-Motion by Hoffman to have the clerk purchase stamps for the Township at a cost of \$2,940.00 for 6,000 stamps. **Supported** by Schaller. All in Favor. Motion Carried.

(C)Look over Poverty Exemption Resolution #1 of 2018-The clerk presented to the board the poverty exemption for 2018 with the new federal guidelines in place. A **Motion** by Malott to adopt the Poverty Exemption Resolution #1 of 2018 as presented. **Supported** by Schaller. Roll Call vote Hoffman, yes, Schaller, yes, Malott, yes, Collins, yes, Smith, Absent. Motion carried.

(D)Guy Foss Private Road Ordinance/Elk Lane- Supervisor Hoffman stated that he contacted our Township Attorney about this matter and would like the Clerk to read the attorney's formal letter:

MICHAEL T. EDWARDS

ATTORNEY AT LAW, P.C.

* 522 West Main Street * Gaylord MI 49735 *

* (989) 732-5500 * Fax (989) 731-5782 *

* mike@edwardsatlaw.com *

January 5, 2018

Coldsprings Township

Att: Cheryl Collins

7875 Covert Road NE

Mancelona, MI 49659-8831

Re: Elk Lane (private road)

Dear Board:

I was asked by Supervisor Ray Hoffman to review an issue with a private drive known as Elk Lane. As I understand the facts, Elk Lane is a private easement, which serves as access to over 20 parcels of un-platted property. It runs in an east-west direction, with Barnhart Road at the east end and Partridge Lane at the west end. It appears that these parcels were sub-divided from a parent parcel some time after 1965 as part of a land development project known as Adams Campsites Association. I further understand that Elk Lane is NOT a public road, but a private easement. Finally, I understand that Mr. Foss, an owner that adjoins Elk Lane (as well as others) have concerns as to the location and scope of Elk Lane.

The first issue I was asked to opine upon is whether the Township's Private Road Ordinance grants the Township any authority or control in regards to determining the scope of the use, description or location of the lane. For the following reasons, the brief answer is: NO, the Township has no jurisdiction over the regulation or control of Elk Lane.

First, the Township's Private Road Ordinance only concerns itself with the design, construction and maintenance of private roads, not the use of such roads. In fact, the Ordinance limits itself to the construction of private roads that will be used by owners of "Lots." The term "Lot" is defined as a parcel or tract of land which is described and fixed in a "recorded plat." Because Elk Lane does not provide access to "Lots" in a recorded plat, (i.e. the property

development is not a platted subdivision) the ordinance is simply not applicable to Elk Lane.

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Second, even if the Township's Private Road Ordinance was applicable, the Ordinance does not grant jurisdiction or authority regarding the use of private roads. As stated above, the Township's Ordinance only concerns itself with the construction of such roads. In fact, paragraph number 8 found on page 6, entitled, "Notice of Easements" states that a notice of easement shall be recorded, which shall contain the following language, "Neither the County nor the Township has any responsibility for the maintenance or upkeep of any improvement across this easement." Therefore, the Township's Private Road Ordinance does not confer to the Township jurisdiction over Elk Lane or any other private road.

Third, Section 6 of the Ordinance, entitled "Nonconforming Private Roads" provides that the Ordinance is only applicable to private roads constructed after the adoption of the Ordinance, which was June 9, 2003.

I was also asked to address Section 11 of the Ordinance, entitled "Nuisance Per Se." Section 11 provides that a violation of the Ordinance is declared to be a *nuisance per se* and offensive to the public health, safety and welfare. Again, as stated above, because Elk Lane is not a private road constructed within a properly recorded and platted subdivision, and because it was constructed before June 9, 2003, it does not come within the jurisdiction of the Township. Thus the Township has no authority to declare it a public nuisance.

In summary, Elk Lane is simply a private easement established before June 9, 2003 for the benefit of private property owners. As a generally rule, Townships have no jurisdiction over private easements. Therefore, should someone believe that they are being wrongfully restricted from the use of a private easement, or that the scope of the easement is being used greater than intended or that the easement is in the wrong location, then that person's only recourse is to petition the Circuit Court for relief. Coldsprings Township Board is not the proper forum to bring these types of grievances. I recommend that any property owner along Elk Lane that feels aggrieved, should contact a competent real estate or road attorney to discuss the their rights in regards to prescriptive easements.

Should you have any further questions or other concerns, do not hesitate to contact my office.

Very truly yours,

/s/

Michael T. Edwards

Attorney at Law

Cc: file

Supervisor Hoffman stated that this is out of Townships hands and the people of this area will have to seek counsel for this problem and resolve it themselves in court. This is not a problem that the Register of Deeds or the Road Commission, or the Township office, or the County

Surveyor. This is a private road and the care of said private road is between its residents. After further discussion. The Supervisor also read a letter from the Register of Deeds and wanted it included in the minutes of record:

January 4, 2018

Supervisor Raymond Hoffman (via Email: rmhoffman44@gmail.com)
Coldsprings Township
6515 Co. Rd. 571 NE
Mancelona, MI 49659

Dear Supervisor Hoffman:

I understand there is a “fact-finding” meeting on Monday, January 8, pertaining to Elk Lane located in Section 2 of Coldsprings Township. I cannot attend the meeting; however, I would ask that my statement be included in public record. I have been contacted by numerous parties involving Elk Lane and have directed all parties to abstract companies and/or attorney’s. The Register of Deeds Office is responsible for recording documents and providing an index of where the documents are housed. It is not our position as an office or County to research the documents or provide legal opinions on any findings. There is a misconception that our office researched all of the records and provided all documents located within our office. I would reiterate that we have NOT researched the properties and there may be more information available in our office which would be retrieved by a title searcher/abstractor and interpreted by an attorney or Judge.

Please feel free to contact me with any questions or concerns.

Respectfully,

/S/

JoAnn DeGraaf
Kalkaska County Register of Deeds

CC: Cheryl Collins via email clerk@coldspringstwp.com
Coldsprings Township Board Members
Guy Foss via email loneeagle9209@gmail.com

After More Discussion from the residents. Supervisor Hoffman again read the last paragraph of the letter from our Township Attorney which states:

In summary, Elk Lane is simply a private easement established before June 9, 2003 for the benefit of private property owners. As a generally rule, Townships have no jurisdiction over private easements. Therefore, should someone believe that they are being wrongfully restricted from the use of a private easement, or that the scope of the easement is being used greater than

intended or that the easement is in the wrong location, then that person's only recourse is to petition the Circuit Court for relief. Coldsprings Township Board is not the proper forum to bring these types of grievances. I recommend that any property owner along Elk Lane that feels aggrieved, should contact a competent real estate or road attorney to discuss their rights in regards to prescriptive easements.

Should you have any further questions or other concerns, do not hesitate to contact my office.

Very truly yours,

/s/

Michael T. Edwards

Attorney at Law

Cc: file

So in closing this is something that needs to be resolved in circuit court and not at the Township level. Supervisor Hoffman thanked everyone for coming concerning this issue and he hopes they can resolve this issue in the near future.

Approval of Bills:

Bills were reviewed. The total of bills to be paid is \$25,810.42 including the purchase of stamps and the Great Lakes Energy Bill. **Motion** by Malott to approve paying the bills as presented.

Supported by Schaller. Roll call vote Schaller, yes, Hoffman, yes, Smith, absent, Collins, yes, Malott, yes. Motion Carried.

Public Comment: Started at 7:47 – A resident asked why she can't be notified about things that are on the tax bill since she doesn't receive a tax bill because she is a Disabled Veteran. The Clerk said she'd check with the treasurer and see if a bill can be sent if no tax is due. I also told the resident that she could watch for our annual newsletter and the information would also be included in it. She said that she didn't get our newsletter either. I told her that if she didn't get one by the end of April to please give us a call and I would send one to her. She also complained that the County had a tire clean-up and she was unaware of it. I told her the County puts an AD in the paper and yes they did have it on the tax bill. Again I told her I would ask the Treasurer if there was anything we could do about this issue.

Adjournment:

Motion to adjourn at 7:51p.m. by Malott. **Supported** by Collins. All in Favor.

Cheryl Collins

Coldsprings Township Clerk