

Helga Township
Board of Supervisors
Minutes
July 24, 2012

PRESENT: Chairman Mike Smith, Vice Chair Mike Sherwood, Supervisors Jim Lyle, Bob Kleinschmidt, Steve Pemble, LUA Jim Baruth, Treasurer Marilyn Pemble, Clerk Shannon Skime, and Deputy Clerk Bobbi Fadness.

Meeting was called to order at 7:01pm. The pledge of allegiance was recited.

APPROVAL OF AGENDA:

The board reviewed the agenda. **Motion** to approve made by Bob Kleinschmidt, seconded by Jim Lyle, motion carried.

STATEMENT FROM THE BOARD

Township Attorney Troy Gilchrist and Mike Smith had prepared a statement for the board to review. **Motion** made by Jim Lyle to accept the statement as written, seconded by Bob Kleinschmidt, motion carried. Mike Sherwood then read the statement regarding the Board's position on the matter of excavating and removing rocks, top soils and mineral materials from property within Helga Township, the changes made to the land use ordinance in December 2011 related to such work, the Board's position regarding the pending litigation with Doug Crosby, and the requests for information made by Mr. Crosby. The statement also addressed additional compliance issues regarding Dirk Fisher and Silas Hooker. The statement is attached and hereby made part of these minutes.

Chairman Smith gave closing comments on the matter. Smith stated that this is not a public hearing on the ordinance. Because this is in litigation there will be no further discussion or comment on this matter tonight. There is a process for opening and considering changes in the ordinance.

Copies of the statement and the 2008-2009 external audit and management letter completed by Miller McDonald were distributed to those present by the deputy clerk.

DELIQUENT PROPERTY TAX REPORT

The Board had asked Smith last spring to inform them when the delinquent tax report was updates. The report has been updated and he obtained copies from the County Auditors office. Copies were distributed to the Board members. The public asked if they had access to them as well. Copies were distributed to those wishing to have one.

LUA UPDATE & CUP ISSUES

Baruth's report- Baruth reported that he had no new applications.
Fisher-No new information, item tabled.
Crosby CUP- Due to the ongoing litigation, there was no discussion.

TREASURER

Treasurer Marilyn Pemble stated that there are CD investments coming due on August 25th which is prior to the next meeting. She provided the Board with copies of the amounts of the CDs. As

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of today the rates aren't in effect, but she will need to take action before the next meeting.

Motion made by Mike Sherwood to give Marilyn Pemble the authority to renew the CDs with TruStar. Seconded by Bob Kleinschmidt, motion carried.

Marilyn also reported that we received the June settlement check this month in the amount of \$126,815.10, which she deposited.

REVIEW VOUCHER/CLAIMS

Motion made by Mike Smith to take a short recess to review the vouchers and outstanding claims, seconded by Mike Sherwood, motion carried. After reviewing the documents the Board resumed the meeting. Motion made by Mike Sherwood to approve the claims as presented, seconded by Bob Kleinschmidt, motion carried.

CONSENT AGENDA:

- 1. Claims Lists for Approval Checks 7491-7503 /Net payroll list Checks 7484- 7490**
- 2. Minutes of June 26, 2012 Regular Board Meeting**
- 3. Treasurers Reports**

Having reviewed the items, **motion** made by Jim Lyle to approve the consent agenda, seconded by Steve Pemble, motion carried.

ROAD ISSUES/UPDATE

July Road Review/Update—July 2nd storm damage, Road Signs

Smith commented that Bob Kleinschmidt and the other members of the Board went out after the recent storm and put in many hours clearing the roads, but none put in the amount of time that Bob did. He has gone out and reviewed the roads and has a plan to deal with the damage. Bob reported that shortly after the storm passed around 8 o'clock he went to assess the damage. A lot of the roads were impassable or down to single lanes. Several of the Board members as mentioned assisted in opening up the roads on the evening of the second and most of the following day. He was really impressed with the amount of folks who came out with chainsaws and tractors to help out and offered his thanks to anyone who helped out. On the third we had Vogt push the debris into the ditches so by the forth traffic was flowing on all roads. There is still a lot of debris out there, but it is the land owners responsibility, who ever owns the property from which the tree fell from needs to clean it up afterwards. He has a proposal for the Board on how to deal with the remaining debris. To remove it similar to what Hubbard County did, by pushing it further back onto the landowner's property. He has inquired as to whether there are any disaster relief funds available to offset the costs. There are none at this time. Sherwood and he also went to the intersection of 470th and 269th where they installed a stop, stop ahead and double headed arrow as it was a hazardous site. Chloride was put on Union Road on June 27th by the pipeline after it was used as a detour. The roads are getting washboard, since it has been so dry we were waiting for some rain. They will be bladed this week regardless. Bob asked if the township owned any type of barricades to use in the event of an emergency. To our knowledge they do not. In the past residents have borrowed them to the Township when needed and they were available. Bob will check into purchasing some so we are prepared in the event of an

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emergency. Bob also checked into sign replacement by the County. The Counties policy is if the Township stop sign is on the county right of way, they repair it as they go by.

Silas Hooker

Prior to the meeting Silas had asked to address the Board. Bob asked him if he wanted to address the Board at this time. The Chair reminded Silas that due to the amount of items on the agenda, he would be limited to three minutes. Silas says that driving around on the roads, they are rough. He has some information he could give to the township about the roads that would help. Silas did not have the information at the meeting to give to the Board.

Storm Damage/Tree Removal

Due to the recent storm there is a lot of debris and trees in the township road right of ways. Kleinschmidt drafted specification for a request for quotes for the tree removal for the Board to review. Bob read the draft. The Board discussed the recommendations. Bob added that he really had no idea how much it would cost. He also stated that we would not be taking any of the landowner's wood. The work needs to be done soon as the township should be having the ditches mowed by the end of July. Due to the storm damage the best we can do now is around mid August. The Board was concerned that we didn't know how much the quotes would come in at. Pemble asked that they add a request for an estimated total number of hours. After much discussion, **motion** made by Steve Pemble to seek request for quotes for clearing of the ditches with a maximum to spend of \$10,000 and allow two board members to receive the quotes and make the decision of who to hire, if it doesn't exceed the \$10,000. In the event the quotes are over \$10,000 the Board will call a special meeting prior to awarding the job. Motion seconded by Mike Sherwood, motion carried.

RURAL FIRE ASSOCIATION

June fire report

The report was read and copies were available for those present.

Resolutions:

Motion made by Jim Lyle to table the discussion of the resolutions, seconded by Steve Pemble, motion carried.

PLANNING COMMISSION

Open position:

Steve Pemble states that there has been no interest shown at this time. Anyone interested should send a letter of interest to the clerks email at info@helgatownship.com.

August Meeting

There is nothing on the agenda at this time and the meeting may be canceled if no new business presents itself prior to the meeting.

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CEMETERY ISSUES:

Headstones in need of repair.

The Board discussed the need to take care of the headstones that are in need of repair. Motion made by Mike Sherwood that we move forward with the repair with the idea that we note whose stones they are and we request a donation from the individuals families to got towards reimbursing the expense, otherwise the Township will absorb the cost. Seconded by Bob Kleinschmidt, motion carried.

Hillside Grave Sites

It has been determined that due to the slope of the sites the hillside grave sites will need to be either cremation burials or hand dug.

Lawn Mowing Town Hall & Cemetery

Jim Lyle will contact the contractor regarding the weeds and grass around the stones not being properly maintained.

Fencing:

No discussion.

TOWN HALL/GROUNDS

Wayne Hoff

Hoff has another group he wishes to bring in to show the building to that may be interested in preserving the building in the event that the Town votes to build a new hall. He will make arrangements with Sherwood for this.

MATIT consolidated insurance coverage

A representative from MATIT came to value the property. Mike Smith met with them and reported to the Board the results. We currently had the hall valued at \$105,000. They estimated the value of the building at over \$400,000 finding us significantly under insured. They have a clause that is called the agreed amount. We would have to agree to be insured at a lesser amount. The danger in that is in the event there is only a partial loss, sometimes the insurance copy will only pay out a percentage of the claim based on the partial loss. MATIT stated that even in the case of a partial loss the town would get full compensation. That being said Smith recommended that the Board set the insured amount for the hall at \$160,000 which would be appropriate to what the Town would need to spend to build a hall in the event of a total loss. Currently there is no personal property and content coverage for the hall. It is very inexpensive, \$116 for \$40,000 in personal property coverage with a \$250 deductible. This would cover items like the kitchen appliances, tables, chairs, office supplies, etc. In addition the picnic shelter and the bell tower were not listed on the policy and now have been added. **Motion** made by Mike Smith to change the coverage to \$160000 agreed amount, because in the event of a total loss we would not replace the building with a similar structure. \$160000 is more true to what we would build. And

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add \$40000 coverage for personal property and contents insurance in the building. Seconded by Bob Kleinschmidt, motion carried.

Smith also noted that there is a \$2000 limit on valuable paper, with a \$100 deductible.

Picnic shelter- clean up

The Board had asked Kleinschmidt to seek out contractors and quotes for the picnic shelter which would include installing a ceiling and cleaning up the tables. He requested quotes and received one back. Mike Balmer Construction provided a quote at \$2642 and proof of insurance. Motion made by Steve Pemble to accept the quote from Mike Balmer Construction. Seconded by Mike Sherwood, motion carried.

Informational meeting- remodel/new building

The Board will plan to schedule this meeting for October.

Clay Family Trust Property- adjacent to town hall, driveway/road issue

Smith has drafted a written response to the township attorney and has not received a response at this time.

ELECTION

Ballot Questions:

Smith reviewed the questions that are to be on the ballot, one dealing with the town hall and the other with the clerk's position.

ASSESSOR POSITION

Worker's Compensation:

The attorney has determined that the assessor position doesn't require workers compensation. There will be a statement added to the contract to address this.

LEVY

2013 Levy due to the Auditors Office by Sept 15th:

Motion made by Mike Smith to table this until next meeting. Seconded by Steve Pemble, motion carried.

FEE SCHEDULE

Correction to the fee schedule:

Skime reported that while reviewing some documents township attorney Gilchrist found a typo in our fee schedule. It was in the Minnesota statute number that was referenced. It has now been corrected and reposted at the hall and on the website. There has been no change to the fees.

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CORRESPONDENCES:

Land Stewardship Project

ANNOUNCEMENTS:

July 25, 2012 7pm Election Judge Training @ Helga Town Hall

Jul 31-Aug 14 Candidate filing period

Aug 8, 2012 7 pm Planning Commission Meeting CANCELED

Aug 14, 2012 7:00am-8:00pm Primary Election

Aug 28, 2012 7 pm Next Regular Board Meeting

Oct 10, 2012 8am-1pm training for LBAE at Hubbard County Courthouse

Schedule of Association Meetings: 7:30 pm

2012

Sept. 17th-Mantrap Township

Nov. 19th-Farden Township

2013

January 28th-Straight River Township (4th Monday)

March 18th-Hart Lake Township

OTHER ITEMS:

Skime requested that in the light of pending litigation if a need arises for additional clerk hours for research that the Board approve hours for the deputy clerk to work with her simultaneously as needed. Sherwood stated that he didn't see any problem with that. Also if the Board would approve payment for the deputy clerk for attending and helping with tonight's meeting. **Motion** made by Mike Sherwood to approve paying Bobbi Fadness the standard meeting fee for tonight's meeting and to approve hours needed in the event we are required to do any research per our attorney's instructions that we grant that as well. Seconded by Bob Kleinschmidt, motion carried.

ADJOURNMENT

Motion to adjourn made by Mike Sherwood, seconded by Steve Pemble, motion carried.

Meeting adjourned at 8:48 pm.

Respectfully Submitted

Shannon Skime, Township Clerk

Mike Smith, Chairman

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Statement / Press Release from the Town Board of Helga Township
July 24, 2012

We are issuing this statement tonight to review the Board's position on the matter of excavating and removing rocks, top soils and mineral materials from property within Helga Township, the changes made to the land use ordinance in December 2011 related to such work, the Board's position regarding the pending litigation with Doug Crosby, and the requests for information made by Mr. Crosby. This statement will be read and distributed, but no further discussion of these matters will be addressed tonight. This matter is currently part of an active enforcement action in litigation and as such will not be discussed on the agenda tonight, nor will the Board entertain any questions on this matter.

It should be noted that the Town held a number of meetings over a period of many months to discuss and review the revised land use ordinance. During that entire period the Town did not receive any comments regarding the provisions on the excavation or removal of mineral materials adopted in 2005 or how those requirements were being changed as part of the current ordinance.

Ordinances Compared

The land use ordinance adopted by the former Town Board in 2005 contained the following provision:

“Excavation of Mineral Materials: The use of land for the excavation or removal of mineral materials\or the excavation or removal of top soil, sand or gravel is not permitted within the township unless done pursuant to a conditional use permit. As a condition of granting the conditional use permit, the township may impose appropriate standards for reclamation of the land subject to the excavation so as to ensure its restoration to its original condition insofar as possible after removal of the minerals. To ensure this restoration, the township may require a performance bond, require the construction of roads and other conditions as it deems appropriate.”

This language required a land owner to obtain a conditional use permit for either the excavation or removal of mineral materials.

The language in the current land use ordinance adopted in December 2011 is as follows:

“Excavation of Mineral Materials: The use of land for the excavation and removal of mineral materials, top soil or gravel is not permitted within the Town unless done pursuant to an interim use permit. As a condition of granting the interim use permit, the Town may impose appropriate standards for reclamation of the land subject to the excavation so as to ensure its restoration to its original condition insofar as possible after removal of the minerals. To ensure this restoration, the

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Town may require a Performance bond, require the construction of roads and other conditions as it deems appropriate.”

The new language essentially made two changes, one of which limited the scope of the regulation from the previous ordinance:

1. The type of permit required was changed from a conditional use permit to an interim use permit to allow for projects of a shorter duration; and
2. Rather than needing a permit for either excavation or removal of materials, the current ordinance only requires an owner to obtain a permit if the excavated mineral materials are removed from the property.

The current ordinance is actually less restrictive than the previous ordinance and the Board finds it ironic that some of those criticizing the current language as being too restrictive were actually working for the Town when it adopted the more restrictive language in 2005. The Town Board limited the ordinance to only require a permit if the materials will be hauled off of the property as such hauling activities can negatively impact neighboring owners, public roads, and public safety.

Enforcement Action

Mr. Crosby has been engaged in hauling top soil and other mineral materials from his property starting last fall. When the Town learned of the hauling, it informed him of the need to obtain a permit for the hauling and to pay the after-the-fact permit fee. Despite Mr. Crosby having been informed of the need for a permit, he continued to haul materials from his property. The Town issued a Cease and Desist Order to both Mr. Crosby and Reiersen Construction and when the order was ignored, the Town Board had no choice but to act to enforce the ordinance.

The Board had originally contacted Mr. Crosby in response to a neighbor calling to question a mobile home that had been placed on Mr. Crosby’s property and a new home that had started construction. An inspection conducted on October 20, 2011 found that the mobile home had been placed on the property in June of 2011 without a permit and construction had started on a new single family home, also without a permit. Conducting these activities without a permit violated the land use ordinance as did having two homes on a single parcel.

Both violations were resolved at the Town Board meeting on November 22, 2011 with Mr. Crosby paying the after-the-fact permit fees and agreeing to remove the mobile home from the property no later than December 1, 2012.

Four days later, on November 26, 2011, the Land Use Administer received another call from a neighbor stating that there were many trucks removing top soil from Mr. Crosby’s property. The

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Town informed Mr. Crosby of the need for a permit to haul materials that day and again on February 28, 2012. The Town Attorney sent Mr. Crosby a letter dated December 12, 2011 once again informing him of the need to obtain a permit. Mr. Crosby attended many Town Board meetings throughout 2012 and was again advised that a permit was required for removal of any mineral, top soils gravel, etc. from the property. Mr. Crosby made it clear that he would not pay an after-the-fact permit fee and that he refused to get a permit.

On June 8, 2012 trucks began hauling again from the Crosby property. The Land Use Administrator made a verbal warning to both Mr. Crosby and Reierson Construction that the activity required a permit. On June 26, 2012 Jim Baruth issued a Cease and Desist Order to Mr. Crosby and Reierson Construction and the hauling continued the same day and for one or two days afterwards. The Town Board considered the matter at its meeting and directed the Town Attorney to initiate an enforcement action for hauling without a permit. The Town Attorney's office filed the necessary paperwork, on July 12, 2012 a hearing was held in Hubbard County District Court, and the judge granted the Town's request to issue a temporary restraining order to stop the hauling until the matter could be more fully heard by the court.

Request for Information

Mr. Crosby has made requests for information and documentation from the Township. The first request was by letter dated March 27, 2012 requesting copies of documents over a 10-year period. The Town Attorney responded by letter dated April 6, 2012 indicating even though the Data Practices Act and the Freedom of Information Act did not apply to the Town, it was willing to undertake the requested search of the documents and to make the requested copies once Mr. Crosby deposited the estimated actual costs the Town would incur to undertake the work. Because Mr. Crosby never provided the necessary deposit to cover the Town's costs, the Town did not attempt to search for or copy the 10 years' worth of documents.

On June 28, 2012, the Town Attorney received a letter from attorney James Peters requesting access to inspect all of the Town's files. The Town Attorney responded by email on the same day. As in the April 6, 2012 letter, the Town Attorney pointed out the Data Practices Act did not apply, but that the Town would be happy to make arrangements to allow for a review of the records.

On June 29, 2012, Mr. Crosby emailed the Town requesting a time be arranged to view all of the Town's records, recordings or other data. After an email exchange between Mr. Crosby and the Chairperson, who was out of state on vacation, the Chairperson responded by letter dated July 10, 2012 scheduling an appointment with the Town Clerk for Mr. Crosby on July 17, 2012 from 6:30 p.m. to 9:00 p.m. for the review and setting out the parameters established to protect the public records. As the appointment was not a public meeting, Mr. Crosby was limited to having no more than two people join him to enable the efficient retrieval and return of the requested documents.

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The day before the scheduled appointment, the Town started receiving information that individuals were encouraging the public to attend a meeting the same night as the inspection to discuss removing rocks and dirt from a farmer's field. Then on the morning of July 17, 2012 a letter to the editor appeared in the Bemidji Pioneer encouraging the public to attend the meeting at the Town Hall that night. Because of the attempts to convert the appointment to inspect records into a public meeting to discuss the enforcement action in violation of the parameters established for the inspection, the Town canceled the appointment. The Town Attorney emailed Mr. Crosby a letter the same day informing him of the cancellation and indicating that since the Town's efforts to informally provide him access to the records were not successful that he would need to use the discovery process as part of the current litigation to identify and obtain the documents he desires access to. Mr. Crosby responded by indicating the Town could have locked the doors to keep the public out and that he would seek sanctions against the Town's attorneys.

Additional Compliance Issues

The Board recognizes that two of the residents that have argued against the Town enforcing its ordinance have their own compliance issues. Mr. Dirk Fisher has two potential violations of the conditional use permit (CUP) issued for a triplex he built in 2004. The CUP process was highly contested by the residents of Helga Township. There are petitions on file with 143 signatures opposed to Mr. Fisher's project and five letters. The total of 148 people opposed to the project represents over 10% of the Helga Township residents at the time. In the initial round the CUP request was denied by the Board. Mr. Fisher appealed the decision. Even though such an appeal should have been made to the district court, the Board at that time reheard the matter and approved it.

Two of the provisions agreed to in the CUP remain open:

1. Combine parcels to equal 13.3 acres. It wasn't until the current Board came in that the matter was even addressed. Mr. Fisher combined parcels, but the total is only 12.5 acres, still .8 acres short of the parcel size required by the CUP. We have copies of the parcel data at the Town Hall.
2. Mr. Fisher was supposed to have created a driveway as the primary access for the triplex from County Road 36. There is an approach, but has never been used as the main access to the property as intended.

The Board also notes that certain past practices of Mr. Hooker when he was on the Board have raised questions regarding compliance with required procedures that have been turned over to the Hubbard County attorney's office for investigation. The information turned over relates to claims for payment from the Town that were unsigned and lacking sufficient detail to determine

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whether the amounts requested for payment were legitimate claims against the Town to be paid. There are also questions related to a conflict of interest associated with work Mr. Hooker did for the Town as a contractor. We have initiated a process to turn over all of the records associated with these issues to the State Auditor's Office and potentially the Minnesota Internal Revenue Service.

There is an established process in the land use ordinance for those who would like to see it amended. The bottom line is that the ordinance requires a permit be obtained from the Town for the excavation and hauling of mineral materials from properties. The ordinance does not require a permit to farm or to excavate minerals materials. It is only when those excavated materials are removed from the property that an interim use permit is required. This is a common sense requirement since excavating and removing mineral materials from property, especially as part of a commercial transaction, can have significant negative impacts on the public and are the types of activities that commonly require a permit. If someone wishes to seek an amendment to the ordinance to allow the excavation and removal of materials from property without a permit, they can submit an application for an amendment and work through the hearing process to advocate for the change. However, violating the ordinance, refusing to come into compliance, and then arguing the Town should not enforce the ordinance as written is not the proper way to bring about a change in the ordinance.

End of Statement of the Board

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HELGA TOWNSHIP

TREASURER'S REPORT

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TruStar Bank Bank Balance June 1, 2012 to June 30, 2012

Bank Statement Business Checking 6/1/12	\$ 112,424.58	
9 Drafts Cleared in the Amount of	-\$ 5,522.85	
Hall Rental	+\$ 85.00	
3 Land Use Permits	+\$ 250.00	
Cemetery Plots Purchased	+\$ 800.00	
Checking Dividend Deposit	<u>+\$ 23.15</u>	
Bank Statement Balance / Checking 6/30/12	\$ 108,059.88	
(Outstanding Checks	-\$ 25,645.64)	
Helga Twsp Checking Balance on 6/30/12		\$ 82,414.24
Money Market Savings		\$ 96,398.06
Savings Account		\$ 2,829.86
6 Certificates		<u>\$182,293.09</u>
TOTAL OF HELGA TOWNSHIP ACCOUNTS		\$363,935.25

Respectfully Submitted by:

Marilyn Pemble

Helga Township Treasurer

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FUND ACTIVITY FOR JUNE

CHECKING / MONEY MARKET

ENDING BALANCE	BEGINNING			
<u>NAME OF FUND</u>	<u>BALANCE</u>	<u>RECEIPTS</u>	<u>DISBURSED</u>	<u>OF</u>
CHECKING				
General Fund	(\$ 1,765.82)	\$ 770.57	\$ 10,002.84	(\$
10,998.09)				
Gas Tax Fund	\$ 37,163.12	\$ 0.00	\$ 0.00	\$
37,163.12				
Road & Bridge Fund	\$ 77,954.66	\$ 210.74	\$ 5,504.74	\$
72,660.66				
Fire Fund	(\$ 4,725.56)	\$ 129.85	\$ 16,096.85	(\$
20,692.56)				
Cemetery Fund	\$ 1,822.15	\$ 838.45	\$ 405.83	\$
2,254.77				
Town Hall Fund	\$ 1,941.34	\$ 85.00	\$ 0.00	\$
2,026.34				
Excess Funds (\$ Market)	\$ 96,291.22	\$ 106.84	\$ 0.00	\$
<u>96,398.06</u>				
TOTALS	\$ 208,681.11	+\$ 2,141.45	-\$	
32,010.26	\$178,812.30			

INVESTMENTS

ENDING BALANCE	BEGINNING			
<u>NAME OF FUND</u>	<u>BALANCE</u>	<u>RECEIPTS</u>	<u>DISBURSED</u>	<u>OF</u>
INVESTMENTS				
General Fund	\$ 89,637.36	\$ 389.55	\$ 0.00	\$
90,026.91				
Gas Tax Fund	\$ 0.00	\$ 0.00	\$ 0.00	\$
0.00				
Road & Bridge Fund	\$ 53,161.72	\$ 210.74	\$ 0.00	\$
53,372.46				
Fire Fund	\$ 29,879.12	\$ 129.85	\$ 0.00	\$
30,008.97				
Cemetery Fund	\$ 8,846.30	\$ 38.45	\$ 0.00	\$
8,884.75				
Town Hall Fund	\$ 0.00	\$ 0.00	\$ 0.00	\$
0.00				

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Center Board (Savings)	\$ 2,828.83	\$ 1.03	\$ 0.00	\$
<u>2,829.86</u>				
TOTALS	\$184,353.33	+\$ 769.62	-\$ 0.00	
\$185,122.95				

**TOTAL OF HELGA TOWNSHIP
ACCOUNTS \$363,935.25**