

From: [Andrew Gasser](#)
To: [Kirk Allen](#)
Subject: FW: Regarding this Wednesday's meeting
Date: Wednesday, August 14, 2019 2:39:41 PM

From: Rachael Lawrence <rlawrence@algonquintownship.com>
Sent: Sunday, August 11, 2019 4:16 PM
To: Andrew Gasser <agasser@algonquintownship.com>
Subject: Regarding this Wednesday's meeting

Dear Andrew,

I sent this individually to the trustees, so I thought it only fair that you be aware as well:

I wanted to send this email out to each of the board members individually in advance of Wednesday's meeting so that no one is surprised during the meeting about an ongoing issue I have reconsidered after new events and giving it serious thought and research. I encourage you to do the same.

The Compass Minerals bill for road salt: As we know, this bill has consistently been pulled and refused payment **based upon the belief that the board was unable to legally pay for a bill generated from a contract believed to be void.** I had previously believed and been counseled that the contract was void and thus, as Attorney Kelly had advised the board, we had denied payment in part to avoid any wrongdoing on behalf of the board potentially wrongfully approving a bill. On the other hand, I also recall Attorney Kelly stating to the board in open meeting when being asked if the board was able to pay the bill or not, that it "is up to the board" or "the board's decision." I say this to remind each of us that, while we retain counsel to assist the Board in our decisions, it is ultimately still the Board's decision.

Ever since State's Attorney Patrick Kenneally made his public decision that the Road District's failure to abide by proper bidding laws in this case did not, in his opinion, rise to the level of criminal conduct or warrant any prosecution thereof, I have been taking another look at the feasibility of paying this bill. Mainly spurred by the fact that, **if the act itself of purchasing no-bid salt was not a prosecutable offense, I do not believe that the Board's approval of payment therefore also could be. Thus, my main concern of the Board of committing an unlawful act is eased.**

The SA's opinion, coupled with conversing with other individual trustees, has caused me to ultimately believe that it is in the best interests of our constituents to pay the bill.

Further, I have looked in detail at the three-page opinion provided by Attorney Kelly and its cited precedents. The cited cases, although partially relevant, do not address the specificity of this exact situation. The cited cases from 1908, 1925, 1938, and 1982 in Attorney Kelley's letter, as was pointed out to me and confirmed by my own research, do not directly align with this case in which the Highway commissioner did, in fact, fail to utilize competitive

bidding, resulting in a much higher cost, but in this case, funds were appropriated to the purchase and the entity did have authority to make the purchase even if the proper procedure was not followed.

Lastly, after concluding that the Board is likely no more culpable than the Road District itself in its failure to follow bidding laws, there is still more reason to now approve this bill. Commissioner Gasser has already publicly admitted his oversight as a mistake, and he seemed to take at least one action to attempt to correct it, months later when he put out another request for bids. As a direct result of his oversight/mistake, his request for bids only attracted one bidder: the same company which had already delivered the salt without a bid. Even that one bid was contingent upon the backpayment of over one hundred thousand dollars in material already delivered. Another natural consequence of Commissioner Gasser's oversight/mistake is the new information that the necessary salt procurement for the '19/'20 Winter may be at risk due to vendors' unwillingness to do business with the Road District without exorbitant prices per ton of material.

Discussions between Trustees and CMS/vendors have determined that the exorbitant prices demanded of the Road District for procurement of this winter's salt supply may be negated by the payment of this bill. I am informed by one trustee that, once back payment is made, the Algonquin Township Road District may be once again eligible for bids much lower, potentially saving taxpayer funds in the six-figure range.

When all of these factors are considered as a whole: the State's Attorney's decision, Andrew Gasser's admission of his errors and attempt to correct them, the lack of precedent in this exact situation, the existing and future consequence of Mr. Gasser's mistakes, etc., I now believe that the consequences to our constituents of NOT paying this bill greatly outweigh any potential liability risk to the Board. While I am not happy to be paying the bill at a significantly higher rate than could have been acquired through competitive bidding, given new information, I believe it is the right thing to do in order to avoid any further negative consequences to our constituents and their tax dollars. For all these reasons, I will be voting to approve the Compass Minerals bill in its entirety, and I encourage you to do the same.

Please feel free to contact me with any questions.

Sincerely,
Rachael Lawrence
Algonquin Township Trustee