

**TOWN OF MAY
WASHINGTON COUNTY
OFFICIAL TOWN BOARD MINUTES
August 6, 2009**

The Board of Supervisors of the Town of May met at their regular monthly meeting on Thursday, August 6, 2009, at the May Town Hall. Those present included Bill Voedisch, Board Chairman; John Pazlar, Supervisor; John Adams, Supervisor; Peter Kluegel, Building Inspector; Dave Snyder, Town Attorney; Christine Eid, new attorney with Eckberg Lammers; Linda Klein, Town Clerk; Cheryl Bennett, Town Treasurer, and residents of the Town of May. Absent: Diane Hanke, Town Engineer. Chairman Voedisch called the board meeting to order at 7:00 pm.

Voedisch moved, seconded by Adams, to approve the minutes of the July 2, 2009, Town Board meeting as presented with handwritten edits from Adams. All approved.

Voedisch moved, seconded by Adams, to approve checks #15651 through 15682, including EFT transfer 809 to IRS. All approved.

Pazlar moved, seconded by Adams, to move \$350 from General Fund to levied Park Fund. All approved.

Adams moved, seconded by Pazlar, to approve the Treasurer's report as presented. The report is attached to these minutes and serves as the official record. All approved.

St. Croix Fiber Networks (SCFN)

Brian Estrem

Brian Estrem, representing SCFN, appeared before the board for support of SCFN's proposal to provide broadband fiber network to homes in May Township. He clarified this would be fiberoptic Internet access, without video capability. They have letters of support already from several other municipalities in the area, including Marine, Stillwater and Scandia. Snyder stated that if the board provides support, he suggested additional verbiage for the support letter and would draft those words for the board. Voedisch moved, seconded by Pazlar, to provide a letter of community support for SCFN using the template as provided by the applicant and amended by the Town Attorney, and signed by the chair. All approved.

Planning Commission

Public Hearing

Chris & Tara Thompson Variance

Chris and Tara Thompson have submitted an application for a variance to construct a detached accessory building closer to the front lot line than the principal building. The property is located at 13381 177th Street North, is 17.5 acres in area, and is zoned Rural Residential. The proposed building would be 1,152 square foot (32 by 36 foot). According to the County, the parcel is 17.5 acres in area. Currently, the property contains a single family home and a 96 square foot detached accessory building/shed. A 17.5 acre site is allotted two (2) detached accessory buildings (up to 2,500 square feet total), along

with one single story shed of up to one hundred twenty (120) square feet. Therefore, this application meets the accessory building number and size regulations. According to a site visit, given the terrain, locating the accessory building behind the home does not appear plausible. The proposed location appears to be well away from the septic drainfield, would not be seen from the road, and is a reasonable location for the building.

Planning Commission Chairman John Arnason provided an overview of the application and the planning commission discussion and decision. He stated that the commission decided this is the only good location to construct this building, given the terrain of the property. Pazlar wondered why building materials must match the house, given that the building and house are not visible from the road anyway. Adams moved, seconded by Pazlar, via Resolution 2009-09 and the attendant Findings of Fact as recommended by the Planning Commission, to approve the variance for Chris and Tara Thompson to construct an accessory building closer to the road than the primary dwelling at their property address of 12811 177th Street, Marine on St. Croix, MN. On a roll call vote: Voedisch, yes; Pazlar, yes; Adams, yes. Motion passes.

Old Business

Roth Violations

Chairman Voedisch brought the board up to date on recent inspections at the Roth property and the status of current violations: (1) too many vehicles (at least 9 plus various car parts, etc. as opposed to the 7 approved vehicles); (2) construction of an 8 foot fence; an addition of a lean-to on the garage; and an addition to the machine shed, all without a permit; and (3) the possible ceasing of operation of an auto salvage business. (Voedisch's notes attached to these minutes). Mr. Roth asked to be treated the same as any other township resident, specifically related to asking which vehicles are personal or commercial. Attorney Snyder stated that the discussion of number of vehicles is pertinent to this case, regardless of personal or commercial, since the number of vehicles on site is an important determinant of whether or not the auto salvage/repair small business is still operating. If more than 7 vehicles are on site, this represents a violation from the resolution passed in May 2009.

Resident Peter Nord wondered at what point the Board would take action or put "teeth" into the fact that Roth is in violation of Town ordinances. Attorney Snyder stated it would normally be a civil lawsuit, if the property owner does not comply with the Town's orders. Bill Robinson stated that, if given the opportunity to have 7 vehicles, the property owner can rotate different vehicles on and off the site, thus allowing him an opportunity to continue his business.

Snyder pointed out a pattern of after-the-fact requests from the applicant to the Board as a way of balancing concerns and working out problems. The Board's attempt to enforce ordinances has historically resulted in the property owner ignoring such requests and continuing to operate status quo. Snyder advised the Board that it is not cost effective to spend an inordinate amount of time crafting intricate requirements when dealing with the property owner's unwillingness to play by the rules. Snyder recommended viewing the

violations in a global fashion rather than enumerating every individual infraction.

Voedisch summarized that, although he believes the auto salvage business has ceased, that is questionable given the number of vehicles and assorted parts still on site. Pazlar agreed with Snyder's summary and stated it is time to address all the violations. Snyder reiterated his advice to address all the violations collectively as opposed to addressing them individually. Voedisch stated he would want the fence removed, the addition to the machine shed should come down, but perhaps the lean to off the garage could stay. Snyder once again stated that the situation should be viewed globally as opposed to picking and choosing which infractions are acceptable and which are not.

Snyder supported his argument with the fact that the applicant willfully did not choose to get permits because he knew he would be in violation of Town ordinances. He reiterated that he wants the Board to authorize the attorney to take legal action regarding the list of violations and forcing the enforcement of same. Allowing all the cars and parts to remain on site, according to Snyder, is ultimately crafting a scenario that lets Roth run an auto salvage yard. Pazlar agreed and stated that it encumbers the Town to develop a plan where the Town must constantly be inspecting a person's property. Why should the Town need to take on such an obligation? Snyder pointed out that, through all this discussion, Roth has not come forward to say he is going to satisfy any of these violations.

Adams moved, seconded by Pazlar, to direct the attorney to prepare for enforcement action to resolve the following violations as read into the record by Voedisch, and to prepare a resolution memorializing the findings and revoking all approvals. The attorney shall also prepare a summons and complaint seeking action to satisfy the following violations as determined by the Board:

1. The total number of cars and various car parts are over the limit as permitted by the May Town Board resolution;
2. The auto salvage business has not been removed due to excess parts on site, and the auto salvage business must be totally removed, meaning parts inside or outside of buildings.
3. All building violations must be solved, i.e, 8 foot fence removed, addition to machine shed removed, lean to on garage removed.

The following documents are referenced as part of this motion: September 12 letter from Attorney Snyder to Roth; January 20, 2009, staff report; April 16 staff report; Resolution 2009-4A allowing carpentry small business, but denying the auto salvage business; Resolution 2003-11 allowing additional buildings, limiting additional buildings, and disallowing business on property. All approved.

Chapter 13 - "Fees"

Voedisch brought forward Ordinance 2009-03, which adopts a new Code Chapter 13, "Fee Schedule" for the Town, with a supporting 1 page memo from the treasurer summarizing actual planning action costs over the past few years. Voedisch proposed a fee schedule for grading permits of \$50 for a grading minor permit (issued by the Building Official) and \$200 for a major grading permit (issued by the Engineer). The ordinance will be published by the Clerk in the newspaper of record.

Small Business as Interim Uses rather than Conditional Uses

Chairman Voedisch introduced a discussion regarding the prospect of adopting an interim use permit for small, businesses rather than the current conditional use permit. Based on the Board's willingness to consider treating small businesses as Interim Uses, Voedisch brought forward a summary of code changes needed to accomplish this. The Board agreed that Voedisch should draft the ordinance to accomplish this change. Given the major administrative effort and expense to move all existing small business licenses and CUPs to an IUP, the Board decided that the IUP standard would apply only to new permits going forward.

Voedisch then advised that the Clerk is working with Deb Barnes to create a code book update set of pages covering all ordinance changes since the last code book "update page" project done in 2006, and posed the question that as of today, the last two ordinances planned for this update are the OWB ordinance and Ch 13, Fees. The board agreed that the CUP to IUP ordinance should also be included in this code book update.

Voedisch then suggested including any code "housekeeping" changes in the CUP to IUP ordinance and he urged the Board and the Attorney to offer up any code errors needing fixing. As an example, Voedisch noted that grading permits in the code book are defined as "Conditional" uses needing a CUP. All agreed this was odd and should be changed. Voedisch presented a grading permit form he designed for the Engineer's review.

Town Outhouses

Voedisch brought forward a new quote from Cates to add a passive ventilation system to the outhouses, at a cost of \$1685. He went on to discuss a multi-step approach to solving the odor problem. First, we make the outhouse tank a "water" tank so that excrement is covered by water. Currently, it is a dry tank. Adding water, waiting and then pumping out the tank is the first step. From then forward, water would be added to the tank after each pumping, and the tanks would be treated regularly with barn lime.

If this step is not successful, step 2 would be to hire Cates to do the passive venting system. Voedisch also observed that if the seat is left up, the smell can be bad but if the seat is left down the odor is hardly noticeable. He suggested adding signage asking people to put the seat down after use.

Harvey

No escrow has been posted by Mr. Harvey and no work has been done by the Town Attorney on his request.

Verizon Tower

Voedisch reported that the Town is close to having a CUP that all parties will sign.

Minnesota State Aid Cuts

As part of the State's budgeting process, Governor Pawlenty un-allocated the Market

Value Credit to local governments. The Town of May lost all of the Market Value Credit totaling \$11,218 for 2009. The Board and Treasurer discussed the loss, and after a review of the Town's current financial position, the Board determined that the levy should be increased by that same amount. The clerk will publish a notice, first reviewed by the Board before publishing, notifying the citizens of a special Town Meeting for the sole purpose of considering a levy adjustment from the levy approved at the March Annual Town Meeting. John Pazlar moved, seconded by John Adams to call a meeting of the citizens to vote on adding \$11,218 to the Town's 2010 levy. This meeting will be held on September 3 at 7 PM. The regular town board meeting will follow. All approved.

Tax Forfeit River Parcels

The Board took a cruise on Wednesday as their "continuation" of the July Board meeting, so that they could inspect the tax forfeit river lots. Pazlar suggested we give up any claim to these lots so long as they are given to the National Park Service and managed along with the rest of their holdings. All agreed. Hearing no further business, Adams moved, seconded by Pazlar, to adjourn. All approved.

ATTEST: _____
Linda Klein
Town Clerk

Respectfully submitted,
William K. Voedisch, Chairman