

TOWN of MAY
WASHINGTON COUNTY, MINNESOTA
OFFICIAL TOWN BOARD MINUTES
August 3rd, 2023

The Board of Supervisors of the Town of May convened their regular monthly meeting on August 3, 2023, at the May Town Hall. Those present included: Board members John Pazlar, Steve Magner, and Don Rolf; Clerk/Treasurer Bobbi Hummel; Deputy Clerk/Treasurer Marsha Olson; Planner Nate Sparks; Engineer Katy Koscielak; Attorney David Snyder; and those with business before the Town. Chair John Pazlar called the meeting to order at 7:01p.m.

MINUTES

Magner moved, seconded by Rolf to approve the minutes from the July 6th, 2023 Board Meeting. All in Favor. Motion Passed.

CHECKS AND TREASURER'S REPORT

Olson presented the Treasurer's report, showing total cash and investments of \$2,120,784.20 of which \$710,916.28 is in investments. \$1,594,022.17 is committed. \$526,762.03 is non committed.

Pazlar moved, seconded by Rolf to approved the Treasurers Report. All in Favor. Motion Passed.

Olson requests approval for checks #21731 to #21760 and EFT0823B, EFT0823F, and EFT0823S.

Pazlar moved, seconded by Rolf to approve the cash control statement from 7/1/2023 to 07/31/2023. All in Favor. Motion Passed.

PLANNING COMMISSION

Eugene Stifter Subdivision

Mr. Chad Nelson presents the recommendation of the Planning Commission on Eugene Stifter's subdivision application. The only note from the Planning Commission is to ensure there is documentation of the shared driveway on record. Approval from Washinton County is pending on access to the most southern lot.

Magner motions to approve Resolution 2023-18. Approval of Preliminary Plat for the Stifter Farm. Seconded by Rolf. All in favor. Motion Passes.

201 SEWER SYSTEM

Magner reports that the radio communication systems on the pump stations is failing. The receiver is not functioning and the technology is outdated. Finding parts and fixing it may be difficult and there is no guarantee they would work. Magner recommends replacing the radio communications

with new cellular connections. It would be \$45.00 per month in addition to the upgrade of \$4843.00 plus tax. Funds are available and will be paid for by the users of the systems, not expending any township funds. Magner motions to approve the quote from Total Control for \$4843.00 to upgrade the system and start the \$45.00 monthly fee. Rolf seconds. All in favor. Motion Passed.

ENGINEERING AND ROADS

Plowing Private Roads. Panorama

Catherine Solheim (13310 Panorama Avenue N.) is present tonight to follow up on the snow plowing of Panorama Ave. The township was unable to review the situation in detail for the meeting tonight and it was removed from the agenda. Written options and a legal recommendation will be provided to the Board next month. To date, the township has reviewed documentation, Supervisor Magner and Attorney Snyder have visited the site, and the Engineer has also reviewed the road. No determination has been made.

Scott Miller (13288 Panorama Ave. N.) is present and would like to also state issues with the water quality on Big Carnelian. Residents are working with the watershed trying to divert storm drains on 133rd. The Board is aware of the project and the length of time it has been ongoing. Mager notes that the project is 100% in the hands of the managers of the watershed district. The township has committed funds for the project and is prepared to contribute those when requested. The project started small but has become quite large. Mr. Miller is concerned that the lake quality is going to start impacting the tax payers.

VIOLATIONS/COMPLAINTS

Planner Sparks reports a code violation complaint that was sent out recently, initial letters have not resulted in compliance. Planner Sparks will discuss next steps with the Attorney and advise the Board at the September meeting.

OLD BUSINESS

Cartway Hearing continued

Pazlar moves to re-open the recessed cartway hearing, seconded by Magner. All in favor. Motion passed.

A set of findings of fact and conclusions has been presented to the Board for review and potential adoption. The petitioners and respondents have also submitted proposed findings for Board review. Staff recommendation is to adopt the findings that have been furnished by staff. The petitioners and respondents are asked for any final comments.

Attorney Holstad (petitioner) states that the statute does not give the Board the power to require construction as a condition of the cartway and the statute does not allow the Board to include damages that that township may incur, such as future potential attorneys or engineer fees.

Attorney Sienko (respondent) has nothing further to add.

Regarding town costs, Attorney Snyder states that the Board will not spend town funds on the cartway. However, if the cartway moves forward the town will inevitably spend money. Mainly the oversight by the town Engineer and town Attorney.

Findings are presented by Attorney Snyder. The first question is to determine if the requirements for a cartway are met. Based on the findings and evidence presented it is recommended that the Board agree that it does meet the requirements for establishing a cartway. Specifically, it is less than 5 acres and it does not have reasonable vehicular access.

There are three suggested routes for the cartway. First, that the cartway follow the exact path, configuration, and condition of the existing driveway that has served the cabin by the river for roughly 100 years. The first route is the demand of the petitioner he maintains that there is no alternative that the Board can select. It is indicated that if another route is selected the petitioner will litigate the decision. The second, a route that also follows the exact path of the existing driveway with required improvements in the interest of public health and safety. Building a road that is at least 2 rods wide and allow for 2-way traffic and emergency vehicle access. The third, an alternative route suggested by the town Engineer. This route utilizes the initial approach of the driveway but cuts the cartway access north, breaking away from the entire length of the driveway. Findings indicate that this third alternate route would eliminate the need for bluff land cutting, grading, and filling. The route avoids the most sensitive areas and reduces impact on the respondent's cabin. Staff recommendation is that the Board select the third (Engineer alternate) route.

The respondent's do not want a cartway, but if a cartway is established, it should be at least 2 rods wide and build to ensure public safety, allow 2 way traffic, and emergency vehicle access.

Another component is to determine damages for the Jungmann/Hoy property owners if the cartway is established. Appraisers' estimates range from \$11,000.00 (petitioners' appraisal) to \$153,000.00 - \$202,000.00 (respondents' appraisal). The damages estimate takes into account the benefits as well as the detriment a cartway will create and arrive at a total damage figure. The task is to determine which appraiser was most credible and set damages, keeping in mind it is not bound by an appraisal. It is not uncommon to make a different ruling. Findings should be based on your own knowledge and common sense, as well as knowledge from the appraisals.

Does the petitioner's property meet the threshold for a cartway? Staff recommends that it does. All Board members agree that after hearing evidence that it does meet the criteria to grant a cartway.

Determining a route. A cartway is a conveyance that is open to the public. The existing driveway has significant slopes that are in some locations greater than 42%, the initial construction was accomplished with a team of horses and a pickaxe, it is heavily wooded and has ravines on each side that are extremely steep. There are concerns about vehicle loss/slippage, passing traffic, and emergency vehicles that would not be able to access either parcel without substantial improvements. In an effort to identify a viable cartway route the Engineer found a path that involves less disruption to the natural environment, allows safe 2-way traffic, and address the concern of public safety, health, and wellness.

Pazlar would be hard pressed to approve a cartway over the driveway in its existing state, it invites liability for the township, and unsafe travel for the general public. Rolf agrees, public safety is an issue and finds that Engineer's Alternate route the best solution. Magner agrees. The alternate route as proposed by the town Engineer is chosen for the cartway.

Engineer Koscielak states that the existing condition of the driveway does not meet any sort of public roadway she would ever consider allowing for public use. To be able to bypass the steep area and bypass the bedrock area of the driveway plus have a safe opportunity to allow 2-way traffic is the best option. The existing access to the cabin, as it is, does not meet current requirements for a driveway.

Damage estimates range between \$11,000.00 and \$202,000.00. Both appraisers agree that the current property value is \$1,000,000.00 or more. Both appraisers did not feel their damages estimate would change if the alternate route was selected. Attorney Snyder reminds the Board the matter of property damages and valuations is an opinion, supported by fact. It is the Board's obligation to consider the appraisals, use their own views, knowledge, and understanding to make a determination about a number that seems reasonable, given what you know about the values of property and the intrusions created by a cartway or the claimed lack of traffic. The appraiser's numbers are meant as a guide. Ultimately, it is an opinion of the appraisers and your personal opinion based on these findings. If you deviate from the appraisals the Board is encouraged to state your reason for deviation. State your opinion based on fact.

Chair Pazlar notes his familiarity with this area of the St. Croix and real estate in general, and notes the high premium and uniqueness of this particular property. In his view, listings and sales in this area are driven by the amount of privacy, something not found often in this area. He supports numbers closer to the respondent's appraisal. Supervisor Rolf agrees. It is a unique piece of property and there is a definite impact with a public cartway. Supervisor Magner comments that the respondents are being forced to sell the privacy of their parcel. The alternate route allows the respondents to keep some privacy but he still supports higher damages as the impact is substantial.

Supervisor Magner recommends \$200,000.00 based on the testimony and on the need to complete road improvements on the property. An \$11,000.00 damage estimate seems unreasonable for a parcel valued at 1 million dollars, this will be a blemish on the property and that needs to be accounted for. Pazlar is supportive of that figure, at a minimum. Having watched property along the river over the past 20 years, the premium is on privacy. The Board does not find any benefits of the public cartway. \$200,000.00 is awarded to the respondents as damages.

There are no damages identified to neighboring properties.

Town's damages, including Attorney fees, Engineer's fees (oversight) and finance fees. Attorney Snyder suggests a realistic number for township damages might be just above \$90,000.00. The bulk of those fees are for the town Engineer fees and assumes this will proceed without litigation. Based on the information, Magner suggests \$95,500.00. Pazlar and Rolf agree. A \$10,000.00 escrow will be required, not to fall below \$5,000.00 for town damages.

Board accepts Engineer's Route and adds exhibit A-1 into the resolution/order.

Pazlar asks about performance standards and if there is an expiration date on completing construction. Snyder points out that the town damages and the damages to the respondent are appropriate to deal with an incomplete project, should that occur. A time limit is not typical for a cartway petition, but one has been utilized where a township was repeatedly petitioned over the same cartway. Based on where this cartway request is in the process Attorney Snyder does not think there would be enough to include an expiration date on construction. Noting, that previous owners of this property had inquired about a cartway several years ago.

Supervisor Magner motions to approve Resolution 2023-17, Resolution Establishing Cartway and Awarding Damages-Final Cartway Order. Seconded by Rolf. By Roll Call Vote: Magner YES, Rolf YES, Pazlar YES.

Paradise Road Issue

Mitchell and Rochelle Louks (14957-130th St. Ln. N). Rochelle is here tonight to present the following to the Board in response to last month's complaint about additional access points to their property off of Paradise Road. Her attorney has found no evidence that Paradise Ave. N. is a private road and they have not given up access or usage rights that prevent them from using their private property. In addition, the private road agreement presented at last month's meeting is actually a grant of easement and maintenance agreement. Their parking pad and driveway off Paradise were installed in 1990. A letter stating that from the previous owner is presented to the Clerk. Ten years later the 3 homes on Paradise wanted to update the road to a higher standard than what the township could provide and her understanding is that the township gave the maintenance to the other three neighbors, not the road. Which land locked them on the driveway. This year, they had a retaining wall replaced on the second driveway and states that no sand was placed or left on Paradise Road. Pictures are presented to the town Clerk. Their driveway off 130th was put in in 1950. A second driveway off of Paradise leads to the back of the property to an accessory structure/garage. A parking pad, with a separate entrance, is located to the right of the second driveway off Paradise. When they purchased the house in 2020 it had 3 entrances.

Supervisor Magner clarifies that generally a municipality only allows one access off of a public right of way to a parcel. It is very rare to have 3 access points.

The town Board is not in a position tonight to adjudicate or make decisions on the complaint tonight. Currently, staff is monitoring the situation. For clarification, Dave Snyder states that finding the existence of a public road easement is not the same as finding a public road. Any establishment of driveways/access points needs to be reviewed by the Building Official (Jack) and Planner (Nate) in advance of any improvements, rather than after the fact. This is the best way to avoid conflict. Expansion of those areas, introduction of businesses, or large-scale storage are all included in the town code. The township is still in the process of information gathering. If there is a need for the town Board to handle the matter formally, notice would be sent to all interested parties.

Staff is directed to gather information on the current status and present a written update at the September meeting.

Field Site at Manitou-River Grove School

Township officials have received complaints that there is a planned school to operate at the Warner Nature Center. Tents are being erected on the property and according to a newspaper article school will be conducted on site. A school representative has assured Planner Sparks that there is no plan to conduct school at the site and it will only be used for field trips. Upon review of the CUP for Warner, operating a school on the property is not permitted. If there is a desire to operate on site, it would require study, perhaps an environmental assessment, and other actions that have not been conducted. Representatives from the school had planned to be in attendance at the meeting, but none are present. Planner Sparks asks for further review and, if operation outside the allowed uses is occurring, a discussion with the land owner is warranted. Furthermore, he requests approval to take action prior to the next Board meeting, if needed, given the time constraints with the start of school. The CUP allows school field trips but does not allow the operation of a school. Even if temporary, having a school on Warner property a zoning violation.

Magner opinions that based on the size of the tent structures, it appears they need to have a permit. Social Media posts suggest there are several more of these large tents on order intended for school assemblies. If the structure is unpermitted, the township has the responsibility to enforce the state building code.

Stillwater Log Run

The 12-mile start is at Square Lake Park, the 10-mile start appears to start on the side of the road. This is a clear example of why the township needs to have an ordinance around special events.

The race is approved. The Clerk will notify the applicant.

CITIZEN CONCERNS

None

NEW BUSINESS

Minnesota Catholic Youth Partnership

Several weeks ago, Chair Pazlar, Attorney Snyder, and Planner Sparks met with an attorney and representative of the Minnesota Catholic Youth Partnership (MCYP) at the request of MCYP. The informal request was to discuss the process for evaluation requests and to seek input from the township. It was understood this was a one-board member meeting. No commitments were given and none were asked for. This meeting was an initial introductory meeting about processes and theoretical plans. The outcome was a request by the town for a comprehensive plan for the Wilder Forest space. MCYP asked for direction about the process, requirements, and obstacles to the establishment of a religious youth camp. Some information was exchanged, MCYP supplied master plans related to Wilder and more recently, MCYP requested more specific information from the township so they can consider how to proceed. It was made clear that the town evaluates all

plans/proposals/applications in a public setting. All future discussions will be in the form of a public meeting.

A letter by the MCYP was received, intensions were stated in a letter along with some historic documents. One question is whether or not the historic conditional use permit allows for the operation of a camp. Another is how the previous approvals on the site fit with the general/narrow requests that have been made. The MCYP letter discusses a camp for 250 campers and what that exactly means is unclear because the language of the older CUP's is stated as "people per day", "people days", or outline it as "over a period of days". The MCYP letter also includes utilizing unused and unbuilt square footage identified in the master plan of the 1992 CUP. Based on what Planner Sparks has reviewed there are some potential inconsistencies in the details, for example, the number of campers and what the building square footage will be and if the modifications proposed would require a CUP. It is difficult to evaluate at this time as the details have not been received. It would seem likely that an amendment to the existing CUP would be necessary or at minimum further discussion needed. The 1992 CUP incorporates the master plan, the addendum states building additions were postponed indefinitely and are no longer part of the master plan. Also, the CUP has statements that indicate any reconstruction requires an amendment to the CUP. Noting that the existing CUP for Wilder property does allow for a camp, but has since been removed from conservancy district.

Tim Healy from MCYP – their mission remains the same. MCYP would like to re-do all the dormitories and upgrade bathrooms. The two buildings that were postponed indefinitely in the master plan are the meeting center and the retreat. The existing CUP does allow for a meeting house and lodge expansion, and those are the buildings MCYP is proposing for the additional square footage.

A letter dated June 15th, 2023 was presented to the town and included a conceptual plan for the camp. The letter was intended to be responsive and start to outline what MCYP proposes for the site. The purchase agreement allows them to purchase property, buildings, and the land use rights that run with the property. Attorney Bill Griffith (MCYP) references a 1980 land use permit for Wilder to develop a forest, the 1992 CUP, and the master plan. They each reference each other so they must be looked at together. The master plan is a statement of the property owner's intent to operate and expand within the stated parameters. The CUP is written in the form of a binding agreement between the town and the property owner. Wilder has held up the requirements of the agreement and are in good standing on what was outlined in the CUP. It also states "the town will issue permits for the improvements identified in the master plan." The intent of MCYP is to understand what is allowed within the documents and fit within them. If, in the future, expansion beyond the parameters of the documents is wanted, MCYP will submit an application for an amended CUP, including a public hearing. The rights on the property run with the land and MCYP will utilize those rights in a cooperative way. MCYP is seeking to operate within the language of the existing CUP and want to know what the process is to renovate buildings at this time. They would like to combine 2 current buildings on-site into one. They would like direction on how move forward without delay. MCYP intends to follow all of the outlined conservation, preservation, and environmental education outlined in the CUP/Master Plan. It is part of their mission. 88% of the Wilder property will not be disturbed. All of the septic will be completely replaced. Buildings will be upgraded so they are fully accessible and have lifesaving provisions. Finally, the camp experience will benefit many kids' lives. They are ready to work with the township but will not give up on the rights that Wilder bargained for in 1992. It is a binding agreement that runs with the property and they will respect that.

Attorney Snyder comments that the last permit that dealt with the camp as a whole is dated in 1991. That was a Wilder day camp, with provision for about 136 overnight guests, plus other provisions dealing with roads and costs. Around 1999 some of those costs were eliminated. There are some incongruencies between what may be proposed by the MCYP and the 1991 permit. An outline/matrix may be helpful to understand the differences in what is proposed and what may naturally be expected to develop compared to the 1991 permit. The 1991 permit does not directly correlate to what is proposed now. Snyder suggests that staff work with the applicant to design a matrix with the future intended uses, then evaluate the impact of that use on the permit as it exists to see if any amendments are required. The communication with MCYP has been positive and open, but it is important to note both entities would benefit with a comprehensive review of what exists today and what is proposed for the future. The matrix and future communications are predicated on the assumptions, belief, and conclusion that the existing 1991 CUP is still valid and confers rights to operate a camp within the terms of the permit on the site. It is Attorney Snyder's recommendation to direct staff to work with the applicant and identify in more detail what information they need and return to the Board to illustrate what a long-term plan might look like and what considerations the Board could have regarding an amendment.

The Board would like to get more detail from MCYP. Planner Sparks would like a broader discussion. It is difficult to understand/fit language from a 1991 CUP into a 2023 request for a new owner seeking somewhat different activities than what the CUP was written for. Staff is directed to return in September with an opinion as to whether or not a CUP amendment is a necessary requirement to any activity on the site, and an outline of long-term plans with as much detail on future needs as possible. This gives the public a chance to hear more and ask questions on the details. Community interest is high and this could be a chance for a more productive meeting.

Magner motions to instruct staff to work with MCYP to develop a matrix and get clarity/detail on future plans for a proposed camp in the Wilder Forest. Seconded by Rolf. By Roll Call Vote: Magner YES, Rolf YES, Pazlar YES. Motion passes.

Meeting adjourned at 10:10 p.m. without objection.



Bobbi Hummel
Clerk/Treasurer



John Pazlar
Board Supervisor, Chair