

TOWN of MAY
WASHINGTON COUNTY, MINNESOTA
OFFICIAL SPECIAL TOWN BOARD MINUTES
November 16, 2022

The Board of Supervisors of the Town of May convened a special board meeting on Wednesday, November 16, 2022, at the Town Hall, 13939 Norell Ave. N. Marine on St. Croix, MN 55047. The meeting began at 1:00 p.m.

Those present included:

Supervisor John Adams
Supervisor Steve Magner
Supervisor John Pazlar
Clerk Bobbi Hummel
Engineer Mark Erichson
Town Attorney Dave Snyder
Attorney David Sienko (Respondent)
Attorney Michael Hirak (Respondent)
Attorney Devon Holstad (Petitioner)
Property Owner Jim Hoy (Respondent)
Property Owner Andera Jungmann (Respondent)

Notice was posted on the township's website and at the Town Hall more than 72 hours prior to November 16, 2022 for the public to attend.

The sole purpose of this special meeting was to determine initial damages of a proposed cartway.

John Adams called this special meeting to order at 1:00p.m. Establishing damages to a cartway.

Attorney Snyder indicated this is the second portion of this meeting for the purpose taking further information for establishing initial damages of the proposed cartway. This damage estimate would then be required to be posted prior to further action on the petition.

The prior meeting was left at the juncture of the petitioners claim that if the town board requires modification, improvements, or reconfiguration of the cartway those costs must be borne by the township. Petitioner agrees that the previous minutes speak for themselves about this topic. Attorney Snyder has reviewed the case in referenced by the petitioner in the previous meeting (Heggemeyer-vs-Spalding Township) and he has concluded that they do not support that any modifications of the cartway as directed by the township would trigger a shift of costs to the township. Costs would be the responsibility of the petitioner unless the township agreed it would pay the costs and take on that responsibility. It is Attorney Snyder's recommendation, based on the statute and the law, that any improvement that be requested or ordered by the town Board, can be and will be borne by petitioner, not the township. For purposes of determining an initial damages figure, a posting of security, he does not believe it is necessary for the township to include

those costs in line #1, but can instead focus on the impact to the neighboring property. The costs of actual construction might not be included in the initial request.

Attorney Holstad believes Attorney Snyder's statement on the law is incorrect. The cost of construction can not be part of the damages that be assessed by the town.

Attorney Sienko (referencing line item #1) notes that there was no contrary testimony or evidence from the petitioners on the change in value of \$234,600.00 to the respondent's property.

Petitioner's have not participated in these meetings and it is asked why they are not here. Attorney Holstad states that they are represented by counsel here and he believes this matter will end up in a court. They have to be represented by counsel only at these meetings.

Appraisals by the petitioners will be submitted before the hearing but they are waiting to hear if the respondents have an appraisal as well. If this matter goes to a final damage hearing the respondents will have an appraisal available.

It is recommended that if any damages are established today that the security be in cash, rather than a bond. Bonds are inefficient securities and as a practice the township has not accepted bonds as security. Petitioner request the security not be limited to cash only as the statute indicates alternatives to post security. Difficulties with bond include additional costs that are not refundable and to collection on a bond can call for a lawsuit to get funds. Historically, letters of credit or cash escrows have been the townships approach on securities.

Engineer Erichson presents high level cost estimates. The submitted worksheet is attached to these minutes. Estimates on the Engineers cost do not include the actual building, design, or construction of the cartway should this process proceed. This estimate includes costs to get through the hearing only.

Attorney Sienko asks the following of Engineer Erichson in relation to the memorandum dated November 15, 2022. Engineer costs near the bottom estimate costs range between \$259,535.00 - \$355,730.00. Erichson explains that that is for the full design of the improvements. Based on if it is a 16-foot wide paved roadway or a 24-foot wide paved roadway. These numbers include the \$11,000.00 initial costs. The attachments are standard driveway detail, STR-02 outlines May Townships Road Standards. The other detail is a lesser standard that the Township may be able to accept. The estimates include a paved surface. Schedule A is a surface improvement to a 16-foot wide cartway, schedule B, being a 24-foot wide cartway. Mr. Erichson notes one is not recommended over the other but they are rather highlighting two options that would be discussed with the town Board. From an engineering standpoint Mr. Erichson thinks the 24-foot wide roadway is always safer than a 16-foot wide roadway however, there are other factors to consider in this situation. The typical longitudinal slope recommended for a town roadway/residential street is 8% - 10% maximum. However, circumstance exist where that is not able to be achieved -there are exclusions. Attorney Sienko presents the Town of May code regarding shared driveway standards. It states that access driveways must be constructed and maintained to a width and base material sufficient to support by emergency vehicles and that driveways with 6% or steeper grades shall be blacktopped with 1 ½ inch thickness as far as necessary to prevent washing of the gravel

surface onto the town road or in the ditches. Mr. Erichson notes that the estimates provided does provide for paving of the cartway. Mr. Erichson confirms that if the petitioners wanted to build a new driveway they would have to comply with the standards in the town code and the same is true if this was a shared driveway. The proposed cartway is estimated to be about 1600 feet. A 1600-foot-long driveway that is 33 feet wide is approximately would create a paved land surface of over an acre. Mr. Erichson recommends that the town adopt either the 16 foot wide paved roadway or the 24 foot wide paved roadway.

Attorney Holstad asks Mr. Erickson how many times the word “cartway” is mentioned in the Town Standards. Mr. Erickson states that cartway standards are not identified in the code and the word “cartway” is not seen in the codes. In Mr. Erichsons’ memorandum there are no code standards, it includes the two detail estimates, the estimate does not mention the word “cartway”. If the town approved the cartway with no improvements (as requested by the petitioner) WSB’s further costs would be estimated at \$13,000.00. \$10, 000.00 of that would be to get a topography of the existing alignment of the driveway and legal description. If the petitioner chooses to hire an alternative Engineer to complete the project, WSB would still be involved with the review and the cost would be difficult to determine but conservative estimates are about \$1,500.00. Petitioners are not asking for any improvements however, Mr. Erichson believes improvements are necessary for the public interest.

Attorney Snyder recommends the Board to review the resolution worksheet and that the Board specify that the security be posted by cash escrow not more than 30 days from today. It is recommended that the Board identify the damages estimate today as a way to protect the process. In the absence any new information today it is suggested to split the damages estimate between the petitioner’s estimate of \$10,000.00 and the response estimate of \$234,600.00.

Next steps, at the final damages hearing, WSB will be able to provide a high-level survey. The numbers at the final hearing would be a feasibility study and numbers presented would not be final costs. It will be more refined than what is presented today, but not based on any final plans or specifications. More funds (greater than the estimated \$11,000.00) would be required to get to the point of a determining actual costs. Petitioner’s notes that perhaps we are getting ahead of ourselves as the petitioner may request other engineering companies to complete the work if they are required to pay for it.

In the absence of any new information to estimate damages the board estimates the following:

1. Estimated damages to neighboring properties. **\$122,300.00**
2. Estimated cost of the time for Board Supervisors, Town Clerk and Treasurer. **\$1,500.00**
3. Town Attorney fees. **\$15,000.00**
4. Surveyor costs. **\$10,000.00**
5. Engineer costs. **\$11,000.00**
6. Filing and recording fees. **\$500.00**
7. Miscellaneous expenses (such as postage, mileage). **\$5,000.00**

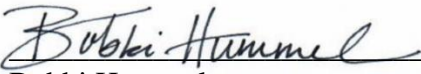
Total cash initial damages estimate to be collected is \$160, 800.00. To be paid in not more than 30 calendar days.

Supervisor Pazlar notes that the Board may need more time on this matter and suggests to extend the final hearing date out past January 5th, 2023.

Motion is made by Supervisor Pazlar that the petitioners, Jody Johnson Holstad and Brice Martin Holstad post cash escrow of \$160,800.00. This amount must be posted before the Board take any further action on the petition. And further, that these proceedings are stayed until the security is posted. The cash security must be posted no more than 30 calendar days from today. Seconded by Adams. Motion passed.


Meeting Adjourned 2:12 p.m. without objection.

Submitted:



Bobbi Hummel
Clerk/Treasurer

Approved:



John Adams
Board Chair