

TOWN of MAY
WASHINGTON COUNTY, MINNESOTA
SPECIAL MEETING MINUTES
November 22, 2022

The Board of Supervisors of the Town of May convened a special meeting on Tuesday, November 22, 2022, at 10:00 p.m. the Town Hall. Those present included: Board members John Adams, John Pazlar, and Steve Magner; Clerk/Treasurer Bobbi Hummel; Planner, Nate Sparks, Attorney Dave Snyder.

Notice was posted on the township's website and at the Town Hall more than 72 hours prior to November 22, 2022.

The sole purpose of the special meeting is to discuss ordinance and comprehensive plan amendments within the conservancy zone.

Board Chair John Adams called the meeting to order at 10:00 a.m.

(The beginning 4 minutes of Andrew Davis's/Stinson statement was not recorded)...the amendments are aimed at making sure the future uses of the area are sufficiently limited. For example, the elimination of retreat and overnight stays is a direct correlation to limiting traffic and controlling development. Finally, the objections in response to the amendments do not hold up to scrutiny. The preservation of land is of the utmost importance to the Square Lake Association. Square Lake ranks in the top 1% of lakes for water quality. It is one of the cleanest and clearest lakes in the Twin Cities area. The Metropolitan Council estimates that the Twin Cities population will increase by half a million people in the next few decades. The increase in traffic volume will follow. Gravel roads are part of the rural character of the area, increased traffic makes maintaining the road more expensive and problematic. Paving creates more cost and invites more traffic, degrading the natural character of the area. Inevitably, increasing runoff water into the watershed, which will harm Square Lake. The other 3 lakes on the property are protected by the DNR and are wild. They can not be used as swimming lakes. The town can and should take measures to ensure these impacts do not occur. The town can and should enact limits of use in the conservancy district, and limits on traffic that ensures the natural character for future generations. Members of the Square Lake Association are passionate about protecting Square Lake and preserving the natural rural character of the conservancy district. SLA urges the town to adopt amendments with clear definitions aimed at preserving and protecting the conservancy district in accordance with the May Township rural preservation objective.

Brian Bell of Dorsey Whitney speaks on behalf of Manitou Fund. The Manitou Fund is the largest corner of property in the conservancy district and it has been in the community for around 50 years. It operated the Warner Nature center from 1967-2019. As the largest land owner in the conservancy district as well as having an environmental mission of supporting, preserving the environment, and promoting environmental education it is important that their comments be submitted for the record. Mr. Bell states it is not true that the conditional use permit that is in place for Wilder Forrest and the historical use as a camp will be allowed to continue even if a youth

camp is excluded from the future uses. He points to the second provision in the statute as rational for this, the statute does not prevent the town Board from changing the zoning control/classification. Also, the existing CUP would not be completely invalid with changes in zoning, if a use is existing on the date of the zoning amendment or a use that is already permitted- such as the school. The school would still be allowed to operate in the Wilder Forest despite a change to the zoning amendment. As a general rule a CUP runs with the land and is a property right, if the owner abandons the use, it no longer runs with the allowed uses. The third point is the suggestion to include the youth camp as this allows for some control or say over how the youth camp proceeds to operate. There may be other ways to control how a youth camp operates other than including it in the code. Such as building permits, grading permit, or certificates of occupancy. Those permits give the town leverage and control over the camp. It is Manitou's position that a youth camp is not appropriate for this site. An overnight camp would have too significant of an impact on natural resources, including ground water.

Questioned by Supervisor Magner about controlling the uses by a building permit, Mr. Bell admits that the building permit may not have a broad discretion but it would provide some leverage over the camp. He feels it would be difficult that a modern-day camp would be able to operate under the 1992 CUP without requesting amendments. At that point the Board would also have leverage. Magner suggest that a CUP has a lot more defining regulatory authority than a building permit. The CUP is more of a land use tool.

Mr. Snyder states that the building permits are not discretionary permits and building permits are not regulatory tools of a CUP. Also, abandonment has a specific set of rules that relate to zoning issues – you may abandon a structure – but a CUP is perpetual. For abandonment there must be a lengthy period of time of non-use combined with conduct that reveals an attempt to abandon the use, such as tearing down the building that would be needed for a specific use. In fact, abandonment does not really apply to CUP as statutes say that they are perpetual.

Comments from the public:

Mark Giesner, lives on Square Lake. Thanks the Board. There a lot of noise in the background for the board with deciding this issue. He states the Board has an obligation to represent the community and states the residents will stand arm and arm with the Board to the end. What do you want the legacy of this Board to be, May Townships objective is to maintain the rural community. Language in the plan needs to be in place.

Adam Niblick with Taft Law, representing Minnesota Catholic Youth Partnership shares that they have been monitoring this process from the beginning and it has become clear that the legislative process has been focused on his client as a user of the property. While they disagree with this, it has been revealed that there are missing sections about what our clients do and do not intend to do on the property. For this reason, an application was submitted for a CUP to the town as of November 21, 2022. It outlines what their intensions are for the property with the hope this will disavow all the misconceptions but also start a collaborative process with the town to be able to put the Wilder Forest to a use with for which it been put to for decades, a camp and retreat.

Ted Nesse, lives across from Ostlund Trail. We can see the future by looking at the past. Today's discussion is not about the CUP, but profoundly effects the CUP permit discussion. Five years ago, there was discussion about a concerned use of the Wilder Property that would exceed the use of the septic system. As of today, some of those systems have failed. Five years ago, we had discussion about the road traffic. Ostlund Trail was destroyed by traffic that far exceeds the roads capacity. Five years ago, the use for the school to operate was approved and over time the school has become a valued community resource, not only by the family, but by the neighbors. At this point the likely future use of the Wilder site is a community resource. The anticipated use brings serious concerns for traffic, noise, degradation of our natural resources and more. This time we need to do much better.

Jesse Kaufenberg, resident on Morgan Ave. Advises the board that they are not alone. The community is behind the Board emotionally, legally, and financially. There are financial resources to defend the Board against any legal action post decision and they are organized. He is quite confident this can be fended off.

Kate (resident). There has been ample discussion over the existing CUP on Wilder Forest. It could be argued that the CUP has been abandoned at this point. If not, the usage that it is allowed for it is 36 overnights per day on 1,100 acres. It is important to consider the 2016 report that was created about the lakes on the property. Water activities are what was most sought at by the potential buyers. Kate would like the camp usage removed as there would be a difficulty enforcing and controlling the CUP standards.

Supervisor Magner points to the 1996 document numbers in the CUP indicates 13 non-resident staff working at the property for 40 hours a week. There were 13,194 overnight visits and another 20,108 day visitors. Clearly Wilder Forrest was being used by their non-profit to bring individuals to May Township to enjoy the land. That CUP still exists and those numbers are still relevant. That does not go away with any action that happens today.

Attorney Dave Snyder offers the following: If the definition and use of youth camp is removed from the record and a new CUP was submitted (*by Manitou, for example*) and asked for something that was not allowed. If the Board did not have the authority to issue CUP's for camps under the zoning code and it did not reserve the right to expand/contract/address preexisting CUP's the Board would have no authority to authorize or deauthorize any particular thing under an existing CUP. An important question is "what's next"? There are two potential things that can happen in this scenario. First, the CUP holder can say they don't need approval and the current CUP is largely undefined and Manitou can proceed anyway. This vagueness goes against the townships ability to enforce it. Second, the owner of the CUP could proceed and further state they believe there may be some preemptive state and federal laws that allow us to expand. How can the township most closely, intricately, and aggressively regulate conservancy lands? Are you better to say camps and amendments for CUP's are not approved or not permissible and take what comes from the previously mentioned paths or are you better off to state something in the ordinance that says they are authorized and changes are authorized but that they are subject to specific performance criteria and restrictions in the ordinance? It is less of a question if camps are a good thing or a bad thing the question is what is the devise or pathway that leaves the town with the

ability to limit control to approve or disapprove uses in the facility. It is important to continue to keep asking “what’s next.”

Supervisor Adams makes a motion to accept the Planning Commission recommendation to drop “camps, youth” from conditional uses and direct that the most current document be so edited.

John Pazlar suggested that we use the 10 days remaining on the moratorium to create some alternative language that gives us a fall-back position if that motion passes. The recommendation made by David Snyder and Nate Sparks is spot on. It is the townships’ chance to control the uses of the land. He has never seen, in all the years on this board, the public come to meeting with so much passion either for or against something. Ultimately, it is our job to represent the community and what their wishes are. It extends the process, but ultimately the Board may be able to create a better document in the next 10 days.

Clarifying question to the motion is made. Is the motion by Adams is the accept the original staff amendments minus the term youth camp and any definitions of the youth camp? Or is he making a motion to remove youth camp entirely as the Planning Commission recommended?

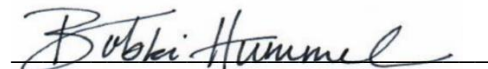
Mr. Sparks clarifies that the latest revisions include some additional language that was added to reference specific standards. The uses that were identified as conditional uses did not change. Performance standards were created for specific uses and general performance standards for all conditional uses within the conservancy district.

Motion fails.


John Pazlar motions to propose removal of youth camp but retention of the language as stated the most recent changes, with the goal over the next 10 days to further review and potentially include further parameters or framework in the document. Seconded by Magner. Motion Passes.

Meeting is continued to Tuesday, November 29th, 2022 at 1:00 p.m.

Submitted:


Bobbi Hummel
Clerk/Treasurer

Approved:


John Adams
Board Chair