

**TOWN of MAY  
WASHINGTON COUNTY, MINNESOTA  
OFFICIAL TOWN BOARD MINUTES  
July 7, 2022**

The Board of Supervisors of the Town of May convened their regular monthly meeting on Thursday, July 7, 2022, via virtual telephone/video conference. Those present included: Board members John Adams, John Pazlar, and Steve Magner. Clerk/Treasurer Bobbi Hummel; Deputy Clerk/Treasurer Marsha Olson; Town Planner Nate Sparks; Engineer Katie Koscielak; Attorney, Dave Snyder and those with business before the Town. Chair Adams called the meeting to order at 7:03 p.m.

**MINUTES**

Adams moved, seconded by Magner to approve the minutes for the June 2, 2022 Board Meeting. By Roll Call Vote: Adams: YES, Magner: YES, Pazlar: YES. Motion Passed

Magner moved, seconded by Pazlar to approve the minutes for Resolution 2022-03, Extension of the Conservancy Moratorium. By Roll Call Vote: Adams: YES, Magner: YES, Pazlar: YES. Motion Passed.

**CHECKS AND TREASURER'S REPORT**

Olson presented the Treasurer's report, showing total cash investments of \$1,273,793.05 of which \$713,213.21 in investments. Property tax form Wash. Co. was received, which is included in the total cash investments. We also received the second payment for ARPA on July 1<sup>st</sup>, however, that is not included in these numbers. The amount from ARPA is \$159,496.61.

Supervisor Adams questioned a check for DEHN Oil and noted two payments for the exact amount. Olson will check into this.

Check approval of #21243 - #21280 and EFT #0722F, 0722S and #0722B. Adams moved, seconded by Pazlar to approve the above checks for payment. By Roll Call Vote: Adams: YES, Magner: YES, Pazlar: YES. Motion Passed.

**PLANNING COMMISSION**

Nothing to report.

**201 SEWER SYSTEM**

The 2022 Sewer budget was presented for \$84,240.00. Costs continue to climb and future repairs are upcoming. The cost will be approximately \$991.00 per connection. Magner moved, Pazlar seconded to approve the 2022 sewer budget. By Roll Call Vote: Adams: YES, Magner: YES, Pazlar: YES. Motion Passed.

## **ROADS AND ENGINEERING**

Engineer Katie Koscielak presented the updated costs for striping on Lynch Road, costs were .02 higher per foot than the original quote. Work has been completed. The total cost was approximately \$1800.00. An invoice from Washington County has not been received. Supervisor Adams will follow up with the county about the invoice.

Repair of Ostlund potholes hope to be completed soon. Drainage issues are currently being addressed. Quotes have been requested to extend the pavement. Funding sources need to be identified. A low point in the ditch has been filled and it is now difficult for water to get off the road. Engineer Koscielak will be working to get that cleared out.

144<sup>th</sup>/Racine project is still in progress. Miller excavating will be supplying gravel and will be moving forward with the project. Improvements will come out of the gravel budget, no additional funding sources needed.

Richwood Acres spillway project. Engineer Koscielak requested a second quote from Miller Excavating that quote came in close to \$9,000.00. However, they honor the original quote that was closer to \$4,000.00. Hoping to complete this project in early fall.

First application of calcium chloride has been completed. The application total is lower than expected. She is optimistic that the final total will come in closer to the anticipated yearly costs.

## **VIOLATIONS/COMPLAINTS**

Nothing to report

## **OLD BUSINESS**

### ***Arcola Mills Event Proposal***

Supervisor Pazlar stated that Arcola Mills presented a list of four planned events for this summer. Included were open gate events on July 31 and August 21, an anniversary party for the site on September 18, and an anniversary party for the Wild & Scenic designation on October 25. Arcola is hoping to host these events as a waiver of the moratorium, as they do not currently have a conditional use permit to host events. Pazlar also mentioned other events at Arcola Mills hosted by Wahoo Adventures that were not included on the original list Arcola presented that were being requested. He stated representatives of Arcola explained that these events are not Arcola affiliated, Wahoo adventures is only utilizing the Arcola property. He stated that they reported they had a verbal "OK" from the Town Planner to use the property for these events. Pazlar stated that these types of events are not permitted in the township and that the zoning at Arcola Mills would potentially need to be changed in order to allow this type of activity. Supervisor Pazlar asked Arcola Mills Board members in attendance how Wahoo Adventures operates and if they knew about these events. He would like to find a way to allow them to operate but would need to somehow limit the use to the original four requested events only. Noting concerns over misuse and disruption of neighboring properties.

Town Planner Nate Sparks stated that he did not approve of any commercial events at Arcola nor does he have the authority to do so. Sparks said regarding the four requested events, the Town Board could state that these types of events would not be allowed, as hosting the general public on property in this Zoning District requires a conditional use permit, which the site does not have. The Town Board could possibly view these as special events and allow a limited use of the property for specific dates only. Future considerations for the board would be to have a CUP amendment upon completion of the moratorium.

Attorney Dave Snyder questioned what documentation would be necessary to allow the original four dates to proceed. The current township code does not allow this but could either tie these events back to the original CUP or create a special event permit that gives the township the ability to approve these four events.

Supervisor Magner is receptive to approving the original four events as exceptions or perhaps with a special event application. He has concerns about the other activities with Wahoo Adventures operating without approval. Magner also noted that anything that falls outside of the approved events needs to be allowed under the current zoning of the property.

Arcola Mills Board Member Rolf Dittman stated that Kerri Kolstad operates Wahoo Adventures and reported that she had approval to run activities through the National Park Service and this was not a deliberate deception on Arcola's part. He stated that the Wahoo events were not on the original list because they are not Arcola sponsored events. Supervisor Pazlar stated that the previous CUP took a lot of time to put together and May Township is again finding out about events that are occurring outside of their parameters and finding out about them after the fact. These events are not allowed on the property and are outside of their current zoning. The township will follow up with the National Park Service about allowed commercial events on the river. It has been his impression that the park service has been clear that these events are not supported. He will ask Nate Sparks to follow up with the park service about Wahoo Adventures.

Kolstad stated that she has worked closely with the National Park Service and the DNR to obtain permission to run these events, she said she has a commercial user permit with the National Park Service and Arcola Mills is an approved launch on the river. Wahoo Adventures sells tickets for the event and then Kerri donates yearly to Arcola for use of their launch. Arcola is aware of the Wahoo Adventures events and explained that it is used to expand the ability to get the community on the river to enjoy wildlife in the area.

There are nine Wahoo Adventure events scheduled for this year. Kolstad presents the planned events with the Arcola board each year for approval. She has been on the board for 3 years. Supervisor Pazlar noted that events such as these need to be known by the township as well and side deals with other business were not allowed under their previous permit. He would like to see more transparency with all events. Kolstad acknowledges that she does have to provide details to the National Park Service about her events on the river and states it would be easy to disclose that to May Township in the future.

Attorney Dave Snyder states that the possible existence of a launch permit through the National Park Service over property does not pre-empt local zoning or control the land use activities going

on at Arcola. At a minimum a two-part process would be necessary. First, coordinating park service to get permits. Secondly, confirming and getting authorization from May Township.

Supervisor Pazlar made a motion to approve Arcola's request for the original four events presented only, with the caveat that any other events are suspended for the remainder of the 2022 season. Also, the board will work with Planner Nate Sparks and Attorney Dave Snyder to create a document to categorize this approval.

Supervisor Magner would like to amend the language to make it clear that May Township will only approve these four dates for the specific activities listed and only for the listed number of people. No other activities/events are allowed. Magner also encouraged Arcola to re-submit a new event list that would include all the other activities. Kolstad noted that Wahoo events are typically sold out ahead of time. July 31<sup>st</sup> and August 21<sup>st</sup> are combination events with Arcola. If they resubmitted, she is wondering if it would not be approved until August. Supervisor acknowledged that approval would not be until the August meeting. The original four events may be approved quicker than the commercial ticket sales (Wahoo Adventure Events) as Arcola Mills is in a conservancy zone with no CUP, this is a more complex decision and might take time to research.

Motion is seconded by Magner. By Roll Call Vote: Adams: YES, Magner: YES, Pazlar: YES. Motion Passed.

Supervisor Pazlar, as a follow up, stated that with this approval for these four events it does not preclude Arcola with coming back with a new request for additional events. Kolstad thanked Supervisor Pazlar and acknowledged that they would submit a request for more events. Rolf Dittman also thanked the board.

## **NEW BUSINESS**

### **Increase of Assessment fee**

Supervisor Adams reports that the assessment fee is set at \$3.00 and it is set by the county, therefore we can not change it. But we can change the percentage of interest that is charged. Supervisor Magner believes that the county establishes the rate of interest and municipality is allowed to set the rate of administrative costs to process the assessment. Supervisor Adams will look into this prior to moving forward on this matter.

### **Resolution 2022-14. Election Judge List**

Adams motioned to accept resolution 2022-14 as written. Seconded by Magner. By Roll Call Vote: Adams: YES, Magner: YES, Pazlar: YES. Motion Passed.

### **Cartway Petition**

Dave Snyder informally received a Cartway Petition on or about June 23<sup>rd</sup>, 2022. A Cartway Petition is a request that is made by a landlocked property owner to invoke the condemnation powers of the town board. The owner does not have a reasonable access to their property and would like the town board to implement a solution and locate a cartway or path to allow access to the property. The property is on the St. Croix River. The obligation of the township is to scrutinize

the petition and verify its accuracy, then set a hearing on the cartway petition within 30 days. The hearing will take testimony from the petitioner and effected neighbors and explore the impacts of the cartway, ultimately making a decision about whether it is the appropriate access point or if there is a reasonable alternative. As well as setting a damage figure to be paid to the owner whose property is taken in part for the cartway. Mr. Snyder proposes a hearing for January of 2023. This allows time for the board to gather all necessary information.

Mr. Snyder would like to clarify the inapplicability of the 60-day rule statute, he would like everyone involved including he affected property owners to engage in the process. Also, clarify what is orderly framework for submission of information. He encourages informal resolutions between all the affected property owners.

After a ruling, any party that is aggrieved by the ruling has a right to appeal to the district court and can question the townships judgement and propose alternatives.

Mr. Snyder requests a waiver of the 60-day rule from the applicant so we can have the hearing at a time that is not plagued with claims about the 60-day rule.

Mr. Holstad (applicant) would like a hearing date in October or November, noting a November date is about 140 days from the date of original submission. If the township decides a January date is best, he is ok with that and will say for the record if that is what is decided they will waive any objections based on the 60-day rule. He wishes to be cooperative with the town and will be fully transparent. He is committed to working with the board and Mr. Snyder to come to a reasonable resolution.

The three issues/questions that need to be addressed with the establishment of a cartway. First, is the property entitled to a mandatory cartway under MN Statute 164.08. Second, whether or not the proposed cartway is a reasonable one and finally, the damages to the effected neighboring property owner. Mr. Holstad is more than happy to discuss a resolution with the property owners that would take this off of the townships plate. To date, communication to the other property owner has not been reciprocated.

Dave Snyder prepared and sent a draft order to the board that establishes a cartway hearing for January 5<sup>th</sup>, 2023 at 3:00 p.m. This order requires that the petitioner posts an escrow of \$20,000.00 and that it be maintained at a level of not less than \$6,000.00. If accepted by the township, this order must be presented to all the affected property owners by Mr. Holstad and Mr. Snyder.

Supervisor Magner asks if there is a possibility that the property owners could reach a civil easement that could be recorded with the county rather than use a cartway. Mr. Snyder confirmed, if the applicants are able to reach an alternative solution, the township does have provisions for joint easements that could be refined to location and size and to governance documents. To date, Mr., Holstad stated that there have been attempts to talk with the affected owners for decades and up to as recently as last Friday and they have not had any luck with negotiations. Mr. Holstad again said he would be happy to discuss any solutions to this if the affected property owners change their minds and want to negotiate.

Dave Snyder would like to include his direct dial phone number for anyone who would like to contact him in regards to this matter. His desk phone number is 651.464.7348.

Supervisor Pazlar would like to stick with the January date and take a look at the property in late fall/early winter to evaluate the proposed pathway and also gives time for the party's to potentially work out a resolution.


Motion is made by Adams, seconded by Pazlar for supporting the order to set a formal hearing on January 5<sup>th</sup>, 2023 at 3:00 p.m. requesting the establishment of a cartway, consistent with staff recommendations. By Roll Call Vote: Adams: YES, Magner: YES, Pazlar: YES. Order Adopted.


**Additional Comments**

Supervisor Pazlar bought up ditch mowing - Adams comments that Tommy is taking care of it.

Supervisor Pazlar brought up the Jutz property issue and any asked for updates. We need to keep moving forward on it and move it up on the priority list and come to a resolution in a reasonable amount of time.

Meeting Adjourned 9:02 p.m. without objection.

  
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Bobbi Hummel  
Clerk/Treasurer

  
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John Adams  
Board Chair