

**TOWN OF MAY
WASHINGTON COUNTY
OFFICIAL TOWN BOARD MINUTES
September 1, 2011**

The Board of Supervisors of the Town of May met at their regular monthly meeting on Thursday, September 1, 2011, at the May Town Hall. Those present included Bill Voedisch, Board Chair; John Pazlar, Supervisor; John Adams, Supervisor; Cheryl Bennett, Town Treasurer; Diane Hankee, Town Engineer, WSB; Dave Snyder, Town Attorney and Kevin Sandstrom, Eckberg Lammers Law Firm; Pete Kluegel, Building Inspector; Linda Klein, Town Clerk and residents of the Town of May. Chairman Voedisch called the meeting to order at 7:00.

Minutes, Checks, Treasurer's Report

Pazlar moved, seconded by Voedisch, to approve the minutes of the August 4, 2011, Town Board meeting as presented. All approved.

Adams moved, seconded by Voedisch, to approve checks 16556 through 16583 plus EFTS911 and EFTF911 electronic funds transfer to the State and IRS, respectively. Pazlar moved, seconded by Adams, to approve the Treasurer's report as presented. The check register and report is attached to these minutes and serves as the official record. All approved.

AT & T Proposal for 9 New Antennas – Lynchburg Cell Tower

Paul Harrington, representing AT & T Wireless, came forward with a proposal to replace the existing six antennas on the Lynchburg tower with nine new 96 inch antennas (versus the current 80 inch antennas) using the same mounts, while placing an antenna in the middle of each set of cross arms. They also are proposing to add a surge suppressor related to the mechanism which allows the rotation of the antennas from the ground instead of needing a technician to go up on the tower and rotate them. The surge protector provides protection against a surge due to a lightning strike, etc. It is about 18 inches tall and 11 inches in diameter.

Voedisch moved, seconded by Adams, that the Town Board approve the proposal from Paul Harrington, representing AT&T Wireless, to increase the number of antennas on the Lynchburg tower from 6 to 9 and to allow them to be 96 inches in length, and the addition of an 18-inch surge suppressor, and that this can be approved administratively by the Board, as it does not rise to the level of being a substantive change requiring a formal amendment to the CUP, and that this motion will be reduced to a resolution to be acted on at the next Board meeting, and that the applicant will be subject to paying any administrative or recording fees that are required. All approved.

John Harvey – Subdivision Potential

Mr. Harvey came forward at the August Board meeting to discuss his ongoing desire to receive approval from the Town Board that his property is subdividable. He had a letter from his attorney supporting the validity of Mr. Harvey's easement. The basic problem is that in 2007 a DNR easement for a trail was placed over the same easement that Mr. Harvey has held for many years. The DNR easement is "exclusive" and is problematic as the Town considers the possible subdivision of Harvey's property,

since he does not have public road frontage/access to his rear (easterly) acreage. The Board eventually asked Mr. Harvey to return in September and also asked Eckberg, Lammers to provide an opinion on what the Town could do, short of requiring an application for subdivision, to provide Harvey with a statement that his land is subdividable.

At this meeting, Attorney Snyder basically stated the way to determine if his land can be subdivided is for Harvey to go through the subdivision application process where he would present a resolution to the competing easement problem, and thus make the land subdividable. In response, Harvey requested that the Board write a letter stating that Harvey has a valid easement and has subdividable property, without taking the DNR situation into consideration. Attorney Snyder stated that the DNR easement is on the record and would need to be considered when looking at Harvey's overall situation in relation to applying for a subdivision. Pazlar stated that the subdivision application process is a risk for all property owners, and the Board understands the additional difficulty of dealing with the DNR situation. He would be in support of helping Harvey to whatever extent possible. Snyder stated that the best possible action would be for the Town to assist Harvey in dealing with the DNR.

After considerable discussion, Voedisch suggested that perhaps Harvey should work with the Town attorney in drafting a strong letter to the DNR advising that a subdivision application is imminent regarding this property, and that the Township needs to assess Harvey's position and rights vs the DNR's position and rights relating to these overlapping easements, and that a timely response is imperative. Attorney Snyder was directed to work with Harvey to draft the letter, and to aggressively seek an answer.

Arcola Mills Proposal – Ray Marshall

Ray Marshall, Arcola Mills Board, and Chris Stein, National Park Service (NPS) came before the Town Board with a proposal where Arcola Mills will work with the NPS to conduct a one-month experiment using Arcola Mills as an NPS Visitor Information Center during October, 2011. Partnering with NPS allows Arcola Mills to get more exposure as well as develop more revenue-producing activities. The NPS would like to put up signs to advertise this to ensure every chance for a successful experiment.

Chris Stein addressed the board stating that the NPS has a mandate to use historic buildings to house part of their program activities. They are proposing a plan for a temporary NPS Visitor Information Center to be situated at Arcola Mills for the month of October. The office would be open 7 days a week, staffed by a park ranger and volunteers, and would be open from 9 to 5 every day. Jonathan Moore, NPS, presented the Board with an example of how the signs would look and where they would be located.

Marshall indicated that Arcola volunteers would also be present to give the "Arcola Mills story." He closed by asking the Board for approval to place the signs prior to October for this temporary activity. Depending on how the experiment works, they may come forward for additional requests. Marshall's goal is to get people to turn off the road and find their way to Arcola Mills during the month of October.

Since the proposed activity and signage are not currently allowed by the CUP, the Board would need to grant administrative approval for the one-month project to proceed. Pazlar suggested

that property owners near Arcola should be made aware of this experiment, and that the signs are for a one-month trial rather than an ongoing program. Voedisch asked that the staff keep track of all the people who come, including numbers of visits per day. Attorney Snyder advised that the signs are outside the boundaries of the Town's temporary sign ordinance, and if they are to become permanent, Arcola Mills will need to work with the Board regarding a potential deviation from the rules of the code.

Voedisch moved, seconded by Adams, to approve the 30 day experiment with the NPS including Highway 95 signs if approved by MNDot, along with a sign along Arcola Trail, and both Arcola Mills and NPS return with the results, and that this motion be turned into a resolution to be approved at the next board meeting. All approved.

US Cable Transfer to Mid Continent Cable Franchise

Attorney Snyder brought forward the proposed resolution transferring the franchise for cable service in May Township from US Cable to Mid Continent. Steve Johnson of US Cable provided the Board with information about Mid Continent. Johnson will transfer from US Cable to Mid Continent Communications after the sale. The goal is to extend their franchise agreement for one year, and at that time, a public hearing would be held to make it official that the franchise is changing ownership.

Voedisch moved, seconded by Adams, to approve a resolution consenting to and approving the assignment of the cable franchise system to MidContinent Communications and that the resolution will substantially conform to the resolution provided by the applicant, and will be executed by the Chairman and the Clerk in September. On a roll call vote: Adams, yes; Pazar, yes; Voedisch, yes. Motion passes.

Voedisch moved, seconded by Adams, to instruct the attorney to prepare an ordinance that will extend the cable franchise for one year. All approved.

Dangerous Dog Hearing

The owners of the two dogs involved in the dangerous dog incident initiated by the Washington County Sheriff's office appeared before the Board. The owner of the offending dog asked to appeal the determination of his dog being identified as "potentially dangerous." The WCSO identified the dog as "potentially dangerous," which is a less serious designation than "dangerous." If a future incident were to occur, the dog could be deemed to be "dangerous."

The owner of the dog Boo, Gus Ljungkull, read his statement to the Board. (This statement and all other background materials are on file in the office of the Clerk). He stated that the dog has never been aggressive and is usually on a tether outdoors or on a leash. The neighbor dogs run unattended, according to him, but he has known the other dog Rizzo since he was a puppy. His claim is that his dog, Boo, was provoked the neighbor's dogs continual roaming, peeing and barking when they visit. The claim is that Boo has been sensitized and aggravated by these other dogs through previous incidents.

The complainant stated that the attack was definitely unprovoked, and that Rizzo, the dog who was attacked, was walking away from Boo when he was attacked. The report from the

veterinarian showed that Rizzo had sustained very serious injury. Rizzo's owner claims the dog should be classified as "potentially dangerous." Attorney Sandstrom stated that Mr. Ljungkull needed to muzzle his dog prior to the hearing, but not after the hearing had been held.

Mr. Seidl, who was with the dog at the time, read a statement to the board. Mr. Seidl's statement is also included in the background material provided which he presented to the Board. The booklet also contained statements and letters from others supporting the dog.

Both parties agree that they are informing one another now about when the dogs will be visiting the Boss home, that the Boss dogs are more under control, and that they are working together to try and ameliorate the situation. The attorney advised that, given the fact that the Board has been presented with good information, they can make a decision either way and not be concerned about liability.

Adams moved, seconded by Pazlar, to rescind the designation of the dog as a "potentially dangerous" and accept the appeal, based on facts that it is a one time event, this was a first time difficulty with this animal, and the Board has been provided ample evidence from both parties that the problem occurred due to conflict between the Boss dogs and Boo and they are working together to make sure it does not happen again. Voedisch presented a friendly amendment stating that, if the dog should attack again, the Board can take both incidents into account when making a future decision. Adams accepts amendment. On the amendment, all vote in favor. On the total amended motion, the result was a split vote: Pazlar, yes;, Adams, yes; Voedisch, no. Motion passes on a 2-1 vote.

Resolutions for Actions Taken at Previous Meetings

Davidson Lot Line Adjustment

At the July Board meeting, Bill Selb presented a survey depicting a lot line adjustment between the Davidson's and Anderson's to create two new pieces of property, each one representing approximately 22 acres. No new net lots are created, there are no nonconformities and the Board noted that one development right is lost, but neither party raised an objection. New deeds will be created for both parcels with the new Davidson parcel will be combined on a single deed.

At that meeting, Adams moved, seconded by Pazlar, to approve the lot line adjustment creating two new parcels of 22.3 and one of 23.4, and the creation of new deeds for both parcels. All approved. A resolution will be created and brought forward at a subsequent meeting to memorialize the motion.

At this meeting, Adams moved, seconded by Voedisch, to approve Resolution 2011-13 approving the Davidson/Anderson ("The Parties") lot line adjustment. On a roll call vote: Adams, yes; Voedisch, yes; Pazlar, yes. Motion passes.

Verizon-Lynchburg & Highway 95 Cell Towers – MW Dishes

In July, the board approved the placement by Verizon of a 6 foot microwave dish on the Lynchburg (May Ave) tower to communicate with another Verizon tower in Scandia. However the board felt that the placement of 4 foot dishes on Lynchburg and the Highway 95 towers would interfere with the

placement of a 3rd set of antennas the Highway 95. tower. Rob Viera, representing Verizon Wireless, returned to the Board in August to present new diagrams for 4 the foot microwave dishes at new elevations on both towers. The dishes, which are to provide connectivity between the May Avenue and Highway 95 towers, were better placed but still appear to the board to prevent the ideal placement of a 3rd set of antennas on the Highway 95 tower and potentially, the May Ave tower..

At the August meeting, Voedisch moved, seconded by Adams, to give provisional administrative approval to place 4 foot microwave dishes at 147 feet on the Lynchburg tower and at 134 feet on the Highway 95 tower, and the Board could revisit this approval should a third carrier request to come on either tower, at which point the Town could reconsider their decision and direct Verizon to modify the height of their dishes, if that proved advantageous to the overall provision of cell service from these towers, and that this motion be reduced to a resolution to be drafted and brought forth at a future meeting to memorialize this motion. All approved.

At this meeting, Adams moved, seconded by Voedisch, to approve Resolution 2011-07 conditionally approving a request by Verizon Wireless to place microwave dishes on two cell towers in the Town. On a roll call vote: Adams, yes; Voedisch, yes; Pazlar, yes. Motion passes.

AT& T Additional Antennas – Highway 95 Cell Tower

At the August Board meeting, Steve Carlson brought forward drawings depicting the addition of three antennas placed between the existing antennas, bringing the total from 6 to 9, and that some of the 80 inch antennas would be increased to 96” on height. Voedisch indicated that AT&T had previously proposed a crow’s nest assembly to replace what was there, but a crow’s nest is not allowed by the CUP. Voedisch said the new antenna design falls within what is allowed by the CUP, and in his view meets the visual impact goals of this tower. The Board agreed.

At the August meeting, Voedisch moved, seconded by Adams, to administratively approve the AT&T request to add additional antennas to each panel on the Highway 95 (150th Street) tower as presented bringing the total antennas from 6 to 9, with the continued use of standoff mounting, with some antennas growing from 80” to 96” , that this change is not substantial enough to require a CUP amendment, that it still meets the visual impact goals required of this tower, and that this motion will be followed by a future resolution that embodies this approval. All approved.

At this meeting, Adams moved, seconded by Voedisch, to approve Resolution 2011-08 approving a request by AT & T Wireless for additional antennas on the 150th Street cell tower in the Town. On a roll call vote: Adams, yes; Voedisch, yes; Pazlar, yes. Motion passes.

Bohman Lot Line Adjustment

At the August Board meeting, Dale Hebeisen, Hult & Hebeisen, presented a proposed lot line adjustment for the Bohman property, located on Ostrum Trail, County Road 4. Starting with a 10 acre home parcel and an additional 105 acre adjacent parcel, it would shift 28.16 acres to the existing 10 acre parcel, leaving a remnant of 77.5 acres in the adjacent parcel, that the total acreage involved (115 +/- acres) will still only yield 11 development rights, no variances are needed and that the resulting lots would be conforming. Voedisch indicated that since the requirements of a lot line adjustment are met, this merits administrative approval. The Board agreed.

At the August meeting, Voedisch moved, seconded by Adams to approve the Bohman lot line adjustment to add 28.16 acres onto the existing 10 acre lot to be defined on a single deed, with a remnant parcel of 77.5 acres also on a single deed, and authorizing the Town Attorney to stamp and record these deeds, that the net lots for any future subdivision not yield more than 11 lots on the entire 115 acres, and that this approval will be reduced to a resolution and acted upon by the board at a subsequent meeting. All approved

Since the August meeting the parties decided to move 2 more acres from the larger parcel to the smaller parcel, which still resulted in a conforming lot line adjustment, however the request configuration needed to be approved again.

At this meeting, Adams moved, seconded by Voedisch, to approve Resolution 2011-14 approving the request by Clifton and Linda Bohman for a lot line adjustment. On a roll call vote: Adams, yes; Voedisch, yes; Pazlar, yes. Motion passes.

Science Museum Replacement Building

At the August Board meeting, Sharon Mallman, Science Museum, came forward to discuss building a new 3,400 sq foot maintenance building, which will replace two old buildings on the property of 600 and 1250 sq feet. This new building will be a simple pole building with cement floor and will be located on the opposite side of 152nd Street from the main building. It will also eliminate any maintenance traffic back onto Highway 95 to the current maintenance building, improving safety. Ms. Mallman also had a copy of the CUP which noted that that new buildings could not be added without a formal amendment to the CUP. Attorney Sandstrom noted that it would be a reasonable interpretation that two buildings being taken down and one new one going up is *not* an addition at all, but a replacement. The Board agreed and also stated that activity (traffic) is actually reduced, and that the new building is naturally screened while the Highway 95 building being removed has no screening and thus, this is a non-substantive change and could be approved by the Board administratively since this represents no expansion in usage, and no formal CUP amendment is required.

At the August Board meeting, Voedisch moved, seconded by Pazlar, to administratively approve the request from the Science Museum Research Station to construct a new 3,400 square foot building, replacing two older buildings of 600 square feet and 1,250 feet, at the location as shown in the diagram, and the structure will provide a safer location than the existing Highway 95 building, and that the attorney review the CUP to see if an amendment to a site plan is needed, and that this approval will be reduced to a resolution for a future meeting. Adams offered a friendly amendment that this represents no modification or intensification of use. All approved.

At this meeting, Pazlar moved, seconded by Voedisch, to approve Resolution 2011-15 approving a request by the Science Museum of Minnesota for site improvements. On a roll call vote: Adams, yes; Voedisch, yes; Pazlar, yes. Motion passes.

Engineering & Roads

Truck Sale

Voedisch said the latest information has the Town taking delivery of the new truck on September 17. The advertisements to sell the truck will not be posted until the new truck is delivered.

Hankee will do research to determine the most likely asking price for the old truck and report back. Our AD has an asking price of \$13,000 for our old truck.

Paved Road Projects – Update

Engineer Hankee brought the Board up to date on the current paving projects. Square Lake Trail Court N reclaim and paving project, and storm water control and paving on 131st Street (east of Panorama) have been completed. She requested that the first payment to Hardrives be approved. Voedisch moved, seconded by Adams, to approve Pay Voucher 1 in the amount of \$51,245.33 to Hardrives, Inc. for approximately ½ of the quoted cost. All approved.

Sign Reflectivity

The federal government removed the deadline for sign replacements under the new sign reflectivity mandate. Hankee advised that the sign inventory is almost complete and she will report back regarding needed signs, concentrating on replacements of poor signs..

Aggregate on Roads

Hankee reported that she has requested quotes from Miller and Raleigh for supplying gravel to the Town in 2012. She is waiting to receive both quotes before reporting back.

Old Business

Violations

Brad Smith

The containers are gone and the debris is cleaned up, but the large burn pile is still in place and cannot be burned, per the DNR, due to the construction waste that is in the pile.

David Johnson

After discussing the various problems regarding the garden plots on Johnson's property, the Board instructed the attorney to send a letter to Johnson advising him regarding the need to control structures being built, parking, sanitation and hours of operation. Voedisch said the letter should also cover required site clean-up. Pazlar requested that the board look at the letter prior to its sending.

New Business

Schedule Performance Reviews

All board members agreed to check their calendars and agree on a day and date to schedule performance reviews.

Hearing no further business, Voedisch moved, seconded by Pazlar, to adjourn. All approved.

ATTEST: _____

Linda Klein
Town Clerk

Respectfully submitted,
Bill Voedisch, Board Chairman