

Town of Duluth
Town Board Meeting December 8, 2016

Call to order: The meeting was called to order at 6:00 p.m. with the Pledge of Allegiance. Barb Crow, Wendy Gustofson, Travis Stolp, Dave Edblom and Dave Mount were present.

Motion to approve November minutes: Barb made a motion to approve minutes from the November 10 and November 22nd meetings, Travis seconded. Motion passed unanimously.

Motion to approve the agenda: Barb made a motion to approve the agenda with the following additions; charging for rental space for classes at the town hall and an announcement about a generous donation made to the town, Wendy seconded. Motion passed unanimously.

The Treasurer reported a beginning balance of \$591,463.10, deposits of \$158,206.59 and expenses of \$55,296.52 for an ending balance of \$694,373.17. The Cutting Edge, MN Fire Chief's Association and Hanft Fride statements were reviewed, with those reviews all bills were approved, the Payroll Net Pay Account distribution and Claims List were signed.

- Question: have all of the promised funds been paid out of the Community Center budget? Answer: no.
- Barb made a motion to add Melinda Peulen and remove Janet Johansen from the bank accounts effective January 1, 2016, Wendy seconded. Motion passed unanimously. Bank papers were signed removing Janet's name and adding Melinda's.

Public Comment: There were no public comments made at this meeting.

Department Reports

Police

- Joint Powers Agreement renewal between the State of Minnesota and the Duluth Township PD: Dave Mount made a motion that the town board approve resolution 120816a approving the State of Minnesota Joint Powers Agreement with the Town of Duluth on behalf of its Police Department covering township use of the applicable criminal justice data communications network pending review and approval by supervisor Crow. Dave Edblom seconded. Motion passed unanimously.

Fire

- Wayne Dahlberg is working on the final elevation of the new addition and will have them ready for review at the next Fire Department meeting. If accepted by the fire membership they will be brought to the January Town Board meeting.
- Travis questioned Fire Department funds set aside for the fire bay addition.

Planning and Zoning

i. Storm Water

ii. Directors Report:

- Variance hearing at the last Commission meeting.
- Greenhouse removal status was updated the owners are in discussion with the City of Duluth to move the greenhouse next spring.
- There will be no December meeting the next meeting will be January 26, 2017 with a variance.

Legal: At the special meeting on November 22nd the proposed amendment to the Joint Use Agreement was approved in concept until Attorney Tim Strom had a chance to review the documents. Tim e-mailed the Board's concepts which he had put into legal language for tonight's meeting. Barb made a motion that the board approve resolution 120816b regarding expenditure of community center funds and amendment of joint use agreement. Wendy seconded. Discussion: Dave Mount read a prepared statement and requested it be entered into the minutes. Barb made an amendment to the motion to strike paragraph #17 (page 3) "The Town Board believes it is reasonable to assume that there will be a variety of community center uses of

Town of Duluth
Town Board Meeting December 8, 2016

the 2015 addition's classrooms (which currently are the only air-conditioned classrooms and the only ones containing "adult-sized" furniture), conference rooms, and washrooms during that forty-year period. The Town Board believes it is reasonable to assume that there will be occasional use of the entire property, including the 2015 addition, for emergency relief shelter purposes during that forty year period. In any event, the Town Board believes the availability of the 2015 addition, and the availability of the property as a whole for emergency relief shelter purposes, has value." Vote on the amendment: Amendment passed. Vote on resolution 120816b, Dave Mount voted No, Wendy, Barb, Dave Edblom and Travis voted yes. Motion passed with a 4/1 vote.

"I place great value on having the North Shore Community School in our township, and I am grateful to all the community members who put in their blood, sweat, and tears to make it a reality and a success.

When I was Town Board Chair from 2008 to 2013, I voted for and signed the checks for well in excess of \$1M for repair and improvement projects at the facility.

In roughly 2010, when the NSCS came to the Town Board requesting more portable classrooms, I pushed instead to invest in brick and mortar construction, which we did.

Earlier this year, I pushed for and organized a meeting among the ABC and NSCS boards to try to identify joint projects the Town could support.

I believe that the funds the Town has remaining in the Community Center funds were provided originally by the State of Minnesota with the intent that they be used in ways that support the kinds of functions associated with schools, including many of the types of facilities and activities supported by the Town as having supported use of the facility as a community center. I support continuing to expend the community center funds in a way consistent with that intent. In fact, had I been on the Board at the time, I'm not sure I would have supported using Community Center funds to supplement the costs of the Town Hall addition.

I hope it is clear that I am not "anti-school." However, I'm likely to be labeled as such because that has become the social currency used by some in our community to denigrate those that won't accede to their wishes.

There's a proposal before the Board tonight to pay NSCS's affiliated building company \$80,000 in return for granting the town use (under the terms of the Joint Use Agreement, JUA) of the additional floorspace built in 2015, and for an agreement that ABC will make the facility available to the Town for use as an emergency shelter should it be needed. As part of this, ABC would agree to provide emergency services such as generator power, internet access and access to "adult-sized" furniture.

This all might sound reasonable on the surface. However, there are some important details:

1. The 2015 addition was designed and built explicitly with NSCS's needs in mind. To my knowledge, there was no attempt made to consult with the Town to consider features or facilities that would provide added utility to the facility from the Town's perspective. The idea that it serves important Town needs is, in my opinion, a post-hoc justification.
2. To my knowledge, since the completion of the 2015 addition, there has been no use, or even request for use, of the addition space for activities that would qualify as "community center" activities; all such activities could be accommodated within the original structure in place at the time the JUA was originally signed.
3. The amendment indicates the \$80,000 is in part for access to adult-sized furniture and wi-fi internet access. However, the Town has already agreed to provide \$13,000 for the purchase of adult sized furniture, and has agreed to fund 50% of the cost (roughly \$10,000) of upgrading the wi-fi services at the facility. In essence, the Town is being asked to pay for access to services the Town itself is purchasing.

Town of Duluth
Town Board Meeting December 8, 2016

4. The amendment indicates that the \$80,000 is in part to provide the Town access to a generator power in the event of an emergency. However, a separate request forwarded to the Town Board says that ABC and NSCS do not have the resources to make their generator capable of providing the specified power supply, and that the Town is being asked to contribute \$36K toward the work necessary to make it so. I'm not at all against the Town paying for reconfiguring the emergency generator to be able to serve the Town's needs in an emergency. But I don't see the justification for the Town paying via the JUA for services it is already purchasing. I can see considering one or the other, but not both.

Given these additional circumstances, the payment in the proposed JUA amendment feels to me like a cash transfer without commensurate community benefit, which the Town is not empowered to make. It is important to note that while the Town's attorney has indicated the legal form of the JUA amendment is, in his opinion, within the Town's power, it is still subject to the test of commensurate community benefit, which I believe the circumstances do not justify. I believe that instead, the Town needs to continue to work to find alternate projects and vehicles to expend the remaining Community Center funds in ways that better meet the community benefit standard, as we already have for several previous projects.

If the proposed JUA amendment passes tonight, I will ask that the Town Clerk include the entirety of my statement in the meeting minutes to establish a record of my objections."

Supervisor Dave Mount

Roads

- Beck Road: Roger Beck provided a written statement to the Board Chair asking that it become part of the minutes. Roger Beck, Julie Beck, Jim Snell and Sheryl Alvar spoke on the issue.
 - Dave Mount has been in touch with the County and two divisions of the MPCA.
 - Clarification: The Town's Zoning ordinance does not include land disturbance language, land disturbance issues are covered under the Town's Storm Water ordinance.

"12-8-2016

Town of Duluth Board

Mr. Chairman,

If this is the way your Planning & Zoning Department and the Town Board of Duluth Township deal with constituents as demonstrated by the recent visit to us by Travis Stolp. And the negotiating by bulldozer tactics that the Hagglund's employ---there will be no easement granted by us to the Hagglund's. Period!

Attachment:

Our recollection of the exchange with Travis Stolp at our door in the late afternoon of 11-22-2016.

Attachment:

Hagglund site entry document "and" what actually was done.

Signed

Roger and Julie Beck
1650 Beck Road
Duluth, MN 55804"

Joint Use Committee: Generator Proposal tabled until January

Town Hall

- Insurance: Dave will review the documents.

Town of Duluth
Town Board Meeting December 8, 2016

- Weed Inspector: No action taken
- Long term Town Hall rentals: Barb would like to make the following motion: Whereas the Town Hall Community Room, Clover Valley Room and main hall are available for rental; Whereas instructors can rent the rooms for ongoing classes; It is resolved that the charge for the rental will match the rental charge at the ABC Community Center for similar services. Wendy seconded. Motion passed unanimously.
- We received an anonymous donation of a 55" smart flat screen tv to be mounted on the wall of the Community Center Room.
- Hunt Electric Recycling Shed power: Wendy made a motion to grant Hunt electric not to exceed \$2000 to add electricity to the recycling shed. Dave E. seconded. Motion passed unanimously.
- Dave Edblom rescheduled the one year inspection of the new addition with Dan Holm and Melissa Graaftas until after the New Year.
- Septic tank holding tank permit has been sent.

Materials Management

Emergency Planning

Cemetery

Communications

Personnel

Old Business

New Business

Correspondence

- Community Foundation newsletter 2016
- MAT Financial report
- ARDC Grant opportunity
- SLCAT newsletter
- DNR Grant opportunity

Calendar Events and Meeting Schedule

- Town Board Meeting 7:00 p.m. January 12, 2017

Adjournment: Motion to adjourn 8:00 p.m., all seconded. Motion passed unanimously.