

Town Board Meeting
July 11, 2013

Pledge of Allegiance

Present: Don Sitter, Mary Ann Sironen (Skipper), Mary Anne Daniel

1. Approve Minutes

a. Community Center Properties May 4, 11, 20, 2013

- Don Sitter made a motion to approve the minutes from May 4, May 11 and May 20, 2013. Dave Miller seconded. The motion was amended to approve the minutes from each meeting individually. Don Sitter made a motion to approve minutes from the May 4 Community Center Properties Meeting Dave Miller seconded. Motion passed.
- Don Sitter made a motion to approve the Minutes from the May 11 Community Center Properties Meeting, Dave Miller seconded. Don Sitter amended his motion to accept Dave Miller's amendments with the exception of Barb Crow's added comments Dave Miller seconded the amended motion. Mary Anne Daniel abstained from this vote. Skipper, Don Sitter, Dave Miller all approved. Motion passed.

** Dave Miller made amendments to the May 11th Community Center Properties Meeting. For a complete listing of the changes please see the attached sheet "Amendments to the minutes approved at the July 11, 2013 Town Board Meeting."*

- Dave Miller made a motion to approve the minutes from the May 20th Community Center Properties meeting, Don Sitter seconded. Dave Miller amended his motion to accept the changes Don Sitter seconded the amended motion. The motion passed.

** Dave Miller made amendments to the May 20th Community Center Properties Meeting. For a complete listing of the changes please see the attached sheet "Amendments to the minutes approved at the July 11, 2013 Town Board Meeting."*

b. Town Board Minutes June 13, 2013

- Don Sitter made a motion to approve the minutes as they were sent, Mary Anne Daniel seconded. Motion passed.
 - Correction to Carolyn Marino's name.

c. Community Center Properties June 22, 2013

- Don Sitter made a motion to approve the June 22nd meeting minutes as is, Dave Miller seconded. Motion passed.

d. Community Center Document Signing June 28, 2013

- Don Sitter made a motion to approve the June 28th minutes as sent, Dave Miller seconded. With the following change the motion passed.
 - Add "with the \$2,500.00 payment" to page one where Skipper states we can sign off on the purchase agreement.

2. Meeting Schedule

a. posted meetings

- i) July 15, 2013
- ii) July 29 2013
- iii) August 8, 2013

b. Additions

None

3. Concerns from the Audience

- Phil Strom: I delivered documents requested at a work session please note the documentation has been provided.

4. Approve Agenda

- Don Sitter made a motion to approve the agenda with the following amendments, Dave Miller seconded. Motion passed.

- Under Old Business add senior options
- Under Treasurers report table CD's until Barb Crow returns.

5. Treasurers Report

Beginning Balance: \$ 985,180.17
 Deposits \$ 194,090.06
 Expenses \$ 49,246.02
 Ending Balance \$1,130,024.21

- Dave Miller made a motion to approve the Treasurer's report Mary Anne Daniel seconded. Motion passed
 - Once the remaining flood damage repair from the June 2012 flood has been completed FEMA will release a check to the Township. Dave Miller will send in documentation of the repair.
- a. Review claims list for approval
 - Metro Sales (new copier) we have now made 3 payments, final payment will be in September.
- b. pay bills

6. Tabled agenda items

None

7. Department Reports

- a. Police report provided by e-mail.
- b. Fire
 - The old aluminum can cage will be removed this weekend.
 - Bob Rodda worked with Keith Darsow to repair the parking lot and road at Fire Hall #1.
- c. Planning and Zoning
 - Home based business request on Deer View Trail, the commission set three conditions.
 - The Planning Commission has asked a representative of the Metropolitan Interstate Commission and the DNR to attend a meeting and discuss trails from their perspectives.
 - Permits are steadily coming in.
 - IRRRB will soon have funds available for updating comp plans. Sue will find out sometime in August what funds will be distributed and who will qualify.
 - Bob Bruce a representative from the City of Duluth will meet with some members of the Planning Commission for a Congdon Trust discussion.
 - Communication agreement has been installed.
- d. Legal
- e. Roads
 - Chloride has been applied.
 - The Roads have all been graded at least once.
 - All of the boundary signs are up, one has already been stolen.
 - There is rumor of County Road "give backs" to Townships, discussion at the next DAT meeting.
 - Construction notification for North Shore Drive beginning in August, all culverts are to be replaced in 4 stages.
 - Stormwater. Nothing new.
- f. Community Center
 - i). Facility Report
 - J.R.Sundberg has begun the final work on the storage shed, it should be completed the last week of August.
 - ii). Community Center Planning Meeting reminders
 - a) Mid Month meeting Monday July 15th, 6:00 pm.
 - b). Closing Monday July 29th 6:00 p.m.
 - Phil Strom: At a special work session (no Town Board quorum) Skipper, Mary Anne Daniel, George Sundstrom, myself (Phil) and Town Attorney Tim Strom discussed a number of issues. Included in the discussion were the following: How to deed the

property; subdivided or intact and unacceptable collateral in a non-conforming sort of way. I was asked to produce documentation proving a loan could not be obtained on a non-conforming lot which I did produce. We were told we would be deeded two 20 acre parcels and were requested to not encumber one 20 acre parcel with debt. During our discussion on impervious surface I noted the impervious percentage would be over the amount permitted by our zoning ordinance if only 20 acres were considered which would make us non-conforming. When we remove the portables there will be a slab of about 5000 square feet which could be made into tennis or basketball courts. We are tentatively thinking the expansion will take place where the current greenhouse sits however this is subject to consideration by a design committee.

Discussion:

Sue Lawson: I'm not quite sure what the impervious surface amount is at this time. I know that when the parking lot was repaired it was mentioned that it was close to 7%. The impervious surface percentage would likely go up about 1.5 percentage points.

Skipper: we have signed both a Use and Purchase agreement that if financing is not available we can back out. We have a meeting on the (July) 15th where we will sit down and look at a different purchase agreement.

Tim Strom: We will have a status meeting it may be we will be talking about a 40 acre parcel.

Dave Miller: you are redrafting the purchase agreement to reflect the 40 acre purchase? What we agreed to is the ABC group was going to provide documentation according to these documents they will not be able to obtain a loan. The documentation has been provided.

Don Sitter: if it is not mortgage-able then we go back to square "0"

Dave Miller: unless we come up with a problem with the documentation I thought it would then be the full 40. I think in the minutes said that if ABC did the documentation then they would get the full 40 acres.

Don Sitter: I think it also said we would be back to square "0".

Skipper: Mary Anne Daniel did not see the first letter and the e-mail went to Don in a round-about manner (with the letter as a letter). National Bank of Commerce, you didn't read that letter as an absolute denial Tim?

Tim Strom: Tim read from the letter, he did not read it as an absolute but the issue would have to be considered.

Phil Strom: that consideration would be broken as soon as there is no common ownership. It throws the entire impervious surface onto 20 acres. There would no longer be common ownership.

Don Sitter: non conforming lots do transfer ownership.

Phil Strom: you asked for documentation Mary Anne which I have now provided.

Don Sitter: not even considering the value of the property?

Phil Strom: they (the banks) will insist on a first mortgage, it would have to be deliverable.

Don Sitter: let's say it is deliverable.

Phil Strom: but it isn't.

Don Sitter: I said "let's", take the impervious surface out of the conversation, based on the value could you get the loan. Would that create a problem for a mortgage?

Phil Strom: would it be grandfathered?

Don Sitter: yes it would be grandfathered. The variance would include a number higher than you would need.

Phil Strom: The variance would have to be based on percentage then the mortgage wouldn't be a problem.

Sue Lawson: Variance goes with the property, Article 4 of our Zoning Ordinance talks about non-conforming lots of record.

Phil Strom: would you be willing to write a variance for higher amount of impervious surface.

Sue Lawson: I wouldn't write the variance in terms of percent but I would write it to accommodate the possibility of 100 year storm.

Phil Strom: we have an ability to provide up to what the County has (in their ordinance) isn't that right? I'm pretty sure that would cure any heartburn I would have but I would have to see what the variance would say.

Don Sitter: The board voted unanimously to go with the 20/20.

Phil Strom: wait a minute the board didn't vote unanimously. Dave (Miller) you are on the board right?

Don Sitter: we did vote unanimously to sell the building.

Tim Strom: It is my understanding that it is the planning commission who would grant the variance not the town board.

Phil Strom: I am stating my position.

Sue Lawson: if the commission says no you appeal it to the Town Board.

Skipper: I am looking at it from a practical point of view I would like to have this done by the end of the month.

Sue Lawson: It would have to be advertised.

Skipper: we have a commitment from the Board to see this thing done by the end of the month.

Phil Strom: if we can get this done and get a deliverable title for the lender.

Mary Anne Daniel: what would it take to get this done?

Sue Lawson: We could have a special meeting possibly on the 29th or 30th with the planning commission. If the commission says no you would appeal to the Town Board.

Dave Miller: On June 22nd (page 3 of the minutes) Skipper said the wording would be "*1) developing a purchase agreement stipulating that the eastern 20 acres of the property remain unencumbered by debt as long as it doesn't interfere with ABC obtaining a mortgage.*" this is a much to do about nothing. What are you afraid of this is a moot point. I don't understand it, they have met all of their obligations, I don't understand it, it is complete imagination, I am getting very upset by this. What is your rational for trying to block this?

Mary Anne Daniel: I am thinking we need to read the communication agreement.

George Sundstrom: we said we were going to get written documentation.

Mary Anne Daniel: we discussed it.

George Sundstrom: you said you were going to get documentation because you didn't trust Phil.

Skipper: no that is not what happened, we wanted to make sure Phil understood the difference between non conforming and non marketable.

Don Sitter: I felt uncomfortable when Phil sent out an e-mail that said it could be a mistake going to the same banks he was going to, it might have created a problem for ABC to get a mortgage.

George Sundstrom: what did you as a board get as a sense of the community of the 4 options that were available, what did you as a board summarize from all of that input?

Skipper: I understand that people at open houses had a request for an immediate transfer.

George Sundstrom: they came and I want to know what the board thinks.

Skipper: we are getting kind of close to something that will work

Phil Strom: I am getting very technical

Mary Anne Daniel: I would like to respond to that; first of all you were getting second hand information, we never intended or talked about going to your banks, that was something we were never going to do.

Phil Strom: it had happened before in this process, Dave Mount called our sponsor which was absolutely inappropriate. It would be equally inappropriate for you to go to the banks.

Don Sitter and that is why we didn't.

Sue Lawson: you all worked so hard and you are now going back to you said they said, I feel as if I am back in grade school.

Phil Strom: is there a sense that the commission disallowed significant expandability for long term if they balked what would you do?

Don Sitter: I appreciate that and I feel we can move forward, we can get a determination pretty quickly. If you think the banks can loan you money.

Phil Strom: I think if it is iron clad. We need some upside in that provision is called blue sky.

Skipper: I think the rock solid has to be rock solid. Don is the board's representative to the Planning Commission.

Sue Lawson: I would need to talk to an engineer so that it is flexible and not tied down to a percent.

Phil Strom: I need to plan for future anticipated need.

Skipper: do we want to reschedule our gathering on the 15th? If we get the documentation do we need to change the documents?

Sue Lawson: The town will be asking the town if it can have a variance.

Tim Strom: the purchase agreement is signed ABC can ask to back out.

Discussion on non-conforming in the situation of grandfathering the property, this situation is the non conformity will not arise unless the mortgage fails.

Sue Lawson: you could ask for a variance from impervious surface.

Tim Strom: there are strong grounds for a variance it might be simpler for the school to apply for 35%.

Sue Lawson: put the outside of what you want

Tim Strom: the variance is in perpetuity, you can come back and say I got variance years ago and need to come back and ask for another. Whether it is accepted or not is up to the Commission. You may appeal but there is an appeal period, you must keep the appeal date in mind. If the appeal to the Town Board fails then there is an appeal to the Court. There are time frames set up in the ordinance a final decision would take 60 – 90 days.

Phil Strom: unless it is granted at the first meeting.

Skipper: you are in an ok position because your lease aid has been submitted. You have a little bit more cushion time wise.

Phil Strom: I did not talk variance with any of the bankers simply because it wasn't on the table and because variance based on common ownership of two twenties.

Skipper: that was the key piece Mary Anne and Don were concerned about.

Phil Strom: the bottom line with the lender is the property deliverability. As long as the variance does not hand cuff us with future consideration. With the establishment of a variance we would have a better conveyance. I have been as transparent as I can this is all set on the case of a default. It wouldn't serve the town purposes if in the case of a bankruptcy.

Don Sitter: who puts in the application?

Tim Strom: I've seen many times the person who has the interest under the purchase agreement put in the variance. You fill out the application Don will support it to the planning commission as best he can. I had previously shared a memorandum with the town board on why a variance would be a good option. If the Board doesn't object I could share that with ABC.

Dave Miller: what would be the time frame? 60 – 90 days so he could go back to his people and say you've got it?

Sue Lawson: we can have a special meeting of the commission. I don't know how far in advance Beth has to have it to get it in the paper.

Mary Anne Daniel: Tim will you send ABC the memo you sent us?

Skipper: is there any sense to meet on Monday night?

Tim Strom: it probably makes sense to meet Monday night. The other thing that would be worth discussing is where are we for July 29th as a closing date.

Phil Strom: would like to discuss Square one, Square one suggests that we are going back to the beginning. I would like to have the town board say that.

Mary Anne Daniel: I think we have said that we want the school to have the 40 acres but I would like to continue to deal with this as we are.

Dave Miller: would expect that if the commitment isn't made if the variance doesn't come through then we would go back to the motion amended by Skipper. (*"1) developing a purchase agreement stipulating that the eastern 20 acres of the property remain unencumbered by debt as long as it doesn't interfere with ABC obtaining a mortgage."*)).

Skipper: to Phil Strom, are you comfortable with this?

Phil Strom: all the lender is interested in is whoever ends up owning the paper is the State of Minnesota pledging a stream of payments and is it deliverable. If these things are done then I have no problem with that but what I have received from you is a "but for".

Mary Anne Daniel: we know to that Barb Crow will be back before the closing and we should have the answer of the variance.

Sue Lawson: Beth knows when she gets the article in the paper.

Phil Strom: Don you are the liaison would you please keep me in the loop.

5 minute break 9:00
Meeting resumed 9:05

Dave Miller made a motion that the ABC/School pursue a variance on the property and if the variance cannot be obtained to ABC's satisfaction and the Banks to obtain the mortgage then we would grant the whole title of 40 acres transferred to ABC Skipper seconded.

Don Sitter: I don't know why we are shutting the door on this one, why are we making this decision now?

Dave Miller: it has been stated if we interfere with the mortgage according to Skippers motion which I've read then we should move forward with the 40 acres.

Mary Anne Daniel: pursue the variance, I think we should just go for that. I whole heartedly support half of that motion.

Tim Strom: I think everyone understands Dave's intent with the motion but I think we would amend the Use agreement and the purchases agreement to include the entire 40 acres.

Dave Miller: I would like to table the motion but set a date.

Skipper: Barb won't be here.

Dave Miller: what about Tuesday the 16th would Barb be back?

Tim Strom: this route we are on I suspect will result in moving the 29th date back.

Dave Miller: I am willing to table the motion until Monday.

Tim Strom: We should have a title commitment which is a higher level of title search, the cost will be \$560.00.

Dave Miller: on the 15th we will visit the closing date?

Don Sitter made a motion to authorize \$560.00 for a title commitment, Mary Anne Daniel seconded. Motion passed.

iii) Community Education

No report

i.v.Recreation:

- The user agreement allows us to get money for property we don't own. The town can charge its users for its programs.
- Rental Policy for Recreation. Kevin Pettis handed out copies of the policy to the board. The purpose of this is to not make money the goal is to continue the current use we have in the gym and fields but not be dependent on funds which were once available. Non-profits would remain free.
 - This would be a recommendation to the use agreement.
 - Dave Miller made a motion to accept Kevin's policy as an amendment proposal for an interim fee schedule until the proposed joint use board evaluates and sets fees, Don Sitter seconded. Motion passed.
- Kevin has received a request from a NSCS teacher to purchase railroad ties. Don Sitter made a motion to authorize Kevin to sell the railroad ties for anything over \$3.00 he can get. Skipper seconded. Motion passed.

g. Town Hall

- Supervisor desks – Don Sitter will contact Dale Sohlstrom.
- West Door/handicap entry: Don Sitter will look into ADA compliancy, talk to Wayne Dahlberg, and has board authorization to spend money on a design.
 - The door will need to be at least 36 inches wide.
 - The decking will need to be extended.

h. Materials management

- Recycling: things are going along well.

- D/NSSD: Last month there was a report on contentions issues. They have dropped the idea of hiring a consultant. The business Eric Applewick works for was bought out by someone else as of right now things will continue as they have been.

i. Cemetery

- Things are going quite well. Mary Anne Daniel has been filling in for Molly who has been on vacation. Many Thanks to Molly for all of her hard work.

j. Communication: The newsletter is in its off month. Communication agreement is on the wall and looks nice. We will have to refer to the communication agreement somewhere on the agenda each month.

k. Personnel

8. Correspondence

9. Old Business

- Senior Housing: We would like to send out an 800 copy mailer for approximately \$650.00. At one time we had \$300.00 remaining from a former grant through Planning and Zoning but what wasn't spent was eventually folded back into general fund. Dave Miller made a motion to spend up to \$800.00 for a special mailing for senior options planning for explaining the project, Don Sitter seconded. Following a brief discussion the motion passed. The next senior housing meeting will be August 14th at the Town Hall.
- North Shore management Board: Both Don Sitter and Dave Miller attended and authorized a participation invoice of \$750.00 for the fiscal year 2014. North Shore Management Board is still waiting for grant money.

10. New Business

- A request to move a no-parking sign on Stoney Point was discussed. Stoney Point is a County Road not a Township road, the signs also belong to the County. Dave Miller will contact the people making the road sign move request.

11. Don Sitter made a motion to adjourn, Skipper seconded. Motion passed at 10:20 p.m.

Community Center Properties Minutes May 4, May 11, May 20, 2013
Amendments to the minutes approved at the July 11, 2013 Town Board Meeting

- Community Center Properties May 4, 2013
 - No amendments

- Community Center Properties May 11, 2013
 - Dave Miller would like to amend the minutes to move all of Lars Fladmark's comments from the May 11th meeting be moved to the Open House comments. Following a brief discussion it was decided to allow Lars Fladmarks comments to remain in the minutes of the meeting he attended.
 - Dave Miller would like to amend the minutes to replace "We agree on the 4 options" (found on page 7 of the Community Center Properties Work Notes of May 11) with "The 4 alternatives were accepted".
 - Dave Miller would like to add the following dialogue to the May 11 minutes after the 4 alternative paragraphs:
 - Why were the School Board members not aware of the alternatives?
 - Dave Miller and Supervisors: School Board members were present when the alternatives were developed on the flip charts.
 - I question the need for alternatives since we have been negotiating with the School Board for the last 2 months without alternatives.
 - Should have discussed alternatives when we started the discussion process.
 - Following Barb Crow's last comment on page 9 of the Community Center Properties May 11th Work Notes Dave Miller would like the following dialogue added:
 - I support the School Board position and the need to move quickly, before the end of June to get the lease aid agreement into the State and start process on replacing the portables.
 - Skipper: Mark do you have the letter from Wolf Ridge explaining their relationship with the school and position on the transfer?
 - Mark: I have tried to get it, but the person responsible has been gone for 3 weeks. I'll have it for you by the next meeting.
 - I don't know what the #5 and #6 relate to (Page 9 of the Community Center Properties Work Notes May 4, 11 & 20, 2013).
 - Insert: Dave Miller and add italics: to sentence "If there are other pieces of information needed, should make a list to answer those questions and have for next meeting.
 - On the Non-Binding Straw Poll correct to: Dave Miller – Option #3
 - Omit "ABC left the meeting".

- Community Center Properties May 20, 2013 Dave Miller would like to add the following amendments:
 - Omit the last sentence in the first paragraph: This is a posted meeting but not an open meeting the audience will not be invited to speak.
 - Following board discussion the minutes were allowed to stand as written. This was a work meeting for the Town Board not a public hearing however in the end the audience was allowed to speak.
 - On page 10 of the Community Center Properties Work Notes add following Don Sitters last comment but before the phrase "Intended use agreement":
 - Audience discussion ensued
 - On page 12 of the Community Center Properties Work Notes amend the bulleted note to read:
 - In an e-mail received from Dave Mount we now have the Wolf Ridge letter from May 14th, Wolf Ridge does not have a problem with what we are doing.
 - We also have an e-mail summary of Dave Mount's conversation that will need to be read.