

Town of Duluth

Town Board Meeting November 9, 2017

Call to order: The meeting was called to order at 6:32 pm with the Pledge of Allegiance. Corlis West, Rolf Carlson, Dave Mount and Travis Stolp were present, Barb Crow was absent.

Motion to approve the minutes:

- Bille Appeal September 7, 2017: Corlis made a motion to approve the Bille minutes with the following amendments, Rolf seconded. Motion passed
 - Page 1 Sue: change “existence” to “manner”.
 - Page 2 Scott: replace with “may modify an appealed order, requirement”
 - Page 2 Scott: replace “is” with “the” add “e” back to rational.
 - Page 4 Dave: change “has changed I’m not saying whether that is true or not I’m just saying”. To “hasn’t changed –I’m not saying whether that is true or not, I’m just saying if”
 - Page 5 Dave: “in to” to “into”.
 - Page 5 Dave: change “it might, the current” to “it might if the current” and change “if it was done here” to “if it was done there”
 - Page 5 Mr. Bille: change “president” to “precedent”
 - Page 5 John Bowen: change “partials” to “parcels”.
 - Page 6 Sue: change “their combining those and” to “their variance was combining those, and”
 - Page 10 Wayne: “and that areas is” change to “and that area is”
 - Page 10 Corlis: change “If want to change” to “if we want to change”
 - Page 11 Dave: change “taking” to “taken”.
 - Page 11 Dave: “it’s very decent people who disagree” to “its very clear reasonable people can disagree”.
 - Page 11 Carol Bille: change “has a penny” to “has lost a penny”. Change “nothing by our variance” to “nothing to lose by our variance”.
 - Page 11 Mr. Bille: change “size home unmarketable” to “size home and is unmarketable”; add an “s” to say and remove “I don’t know how to debase that”.
 - Page 12 Dave: Add an e to rational
 - Page 12 Mr. Bille: add an “e” to “we”. Change “prairie style we are” to “prairie style. We are”
 - Page 13 Dave: change “agencies preview” to “Agencies purview.
 - Page 13 Corlis: change “I” to “If”
 - Page 13 Dave: change “ordinance then it would have been an illegal subdivision so” to “ordinance, then it would have been an illegal subdivision, but it wasn’t, so”
 - Page 13 Travis: change “is” to “isn’t”. Add “(property rights) after “right to build”.
 - Page 13 Rolf: add colon after his name.
 - Page 14 Dave: change “house and compare with the Walls with the 3 foot overhang it is roughly ½ the size if you” to “house is and compared with the walls. With the 3 foot overhang it is roughly ½ the size as shown if you”
 - Page 14 Mr. Bille: change “there” to “their”
 - Page 14 John Bowen: change “commission this” to “commission, this”
 - Page 15 John Bowen: change “that’s what shoreline management was for” to “that’s what the shoreline management plan was for”
 - Page 15 Carol Bille: change “comes in come back” to “comes in that we should come back”.
 - Page 15 Dave: correct “proportionality” to “proportionally”; change “short saying” to “short of saying” and change “would not alter the character for the town to not grant” to “would alter the character for the town to grant”
 - Page 15 Dave: change “proportionality to me” to “proportionality. To”
 - Page 16 Dave: add the e to “rationale”

- o Page 16 Dave: change “could we suspect the” to “could we suspend the”
- o Page 16 Barb: change “if I’m interpreting the comp plan” to “if I interpreted the comp plan”
- Town Board meeting October 12, 2017: Rolf made a motion to approve the minutes, Travis seconded. Motion passed. Corlis abstained from the vote.

Approve Agenda

- Corlis made a motion to approve the agenda, Travis seconded. Motion passed unanimously.

At 8:30 p.m. or when the regular board agenda has been completed the Town Board will close this meeting for a closed meeting conference call. **CLOSED SESSION:** Pursuant to Minnesota Statutes, Section 13D.05, subdivision 3(b), the Town Board will meet in a closed session pursuant to the attorney-client privilege to engage in confidential attorney-client communications and litigation strategy related to the action recently initiated in St. Louis District Court entitled: *John Schulz, Rebecca Norine and Jack Nelson vs. Town of Duluth, Charles Bille and Carol Danielson-Bille.*

The Treasurer reported a beginning balance of \$613,366.52, deposits of \$5,243.05 and expenses of \$70,182.57 for an ending balance of \$548,427.00. anySite Hosting check (15379) is to be held pending Barbs approval and AmeriPride has added their annual cost increase, Dave will inventory our hall mats and look into the cost of purchasing them outright. All bills with the exception of anySite Hosting were approved for payment, the payroll net pay account distribution was signed.

Public Comments

- Jim Snell would like to request his comments regarding the Hagglund variance be added to tonight’s record.

Department Reports

Police: nothing to report at this meeting.

Fire: nothing to report at this meeting.

Planning and Zoning

- Stormwater – no report this meeting
- Directors report
 - o Hagglund variance was approved
 - o The short term rental process will be reviewed
 - o There are two meetings (November 16 and December 28) coming up and one variance.
- Tax forfeit property: a letter was received from St. Louis County there are three parcels coming up for sale.

Legal: nothing to report at this meeting.

Roads

- Mace Road: a letter from St. Louis County was received saying they will plow the Mace Road for the 2017/2018 season. For the 2018/2019 the county will require a turn around to accommodate a larger truck.
- North Ryan: a 70’ x 30’ turn-around for plowing is being built at the Winters property on the North Ryan.
- Beck Road: We have a turn-around agreement with the residents at the end of the Beck Road.

Community Center Projects: nothing to report at this meeting.

Town Hall

- Parking lot cracks have been filled, next spring the parking lot can be sealed and lines can be added.
- Emergency Operations: nothing to report at this meeting.

Materials Management

- Waste Management has not been completely emptying their canisters, when the canisters were dumped the drivers weren't checking to see if the canisters relocked. WLSSD is managing the situation and has asked that the drivers get out of their trucks to check.
- The parking lot needs to be plowed before recycling.

Cemetery: nothing to report at this meeting.

Communications: nothing to report at this meeting.

Personnel: nothing to report at this meeting

Old Business:

New Business

Correspondence

- North Shore Management Board
- SLCAT newsletter
- Airbag recall notification

Calendar Events and Meeting Schedule

- Town Board Meeting **6:00 p.m.** December 14, 2017. Holiday gathering to follow the meeting (around 7:00) with snacks/desserts, bring a dish to share or just drop by and enjoy what's here.

At 7:53 pm Dave Mount read the closed session paragraph, at 8:03 the meeting closed. Present were Sue Lawson, Rolf Carlson, Travis Stolp, Corlis West, Dave Mount and Ann Cox. The meeting re-opened at 9:05 pm.

Adjournment: Travis made a motion to adjourn, Rolf seconded. Motion passed. 9:07 p.m.

Township Board

My name is Jim Snell. My wife Erika and I live at 6409 Homestead Rd, just east of the Hagglund property.

As you are probably aware, the Township Planning and Zoning commission voted on October 26th 2017 to approve the variance for the Hagglands to access the Road of Use to the Beck Rd. Although we do not agree with this, we are not going to challenge this since it will be costly and the end result will be the same.

In the October 25th 2016 meeting this board voted to deem the last 179 feet of our property as a Road of Use. We did not find out until this summer what state statute was used to do so, but it was Minnesota state Statutes 160.05 which states: that if it is maintained for at least six years continuously as a public highway by a road authority, it shall be dedicated to the public to the width of actual use and be and remain, until lawfully vacated, a public highway whether it has ever been established as a public highway or not. I have made several inquires on what this means. I spoke with Scott Witty after the October 26th meeting, he also came to the same conclusion as all the other inquires, that the maintained used driving surface is the Road of Use. At the property line pin in the center of the properties, the maintained driving surface is 20 feet, 10 feet on either side of the pin. This only gives the Hagglands a 10 foot wide access to the Road of Use.

The ditch (which is our property 6.5 feet) can not be filled in to complete the Hagglund driveway, as they did when hauling all the material to construct the driveway. After the MPCA shut down the project due to violations in their permits the MPCA made the contractor install silt fencing and place straw over the entire driveway to prevent erosion, the contractor also reestablished the ditch on our property that had been filled in.

The Road of Use is what the Hagglands where granted by the Town Board as an easement across our property to their property, as stated by Wendy Gustofson in the November 2016 meeting. The ditch is not part of the Road of Use..

Andrew Hagglund was aware of an issue with the width of his driveway. On Friday September 30th 2016 at approximately 1pm Andrew called our home to see what it would take to grant a 40 foot easement from us. He attempted several time to demand what it would take. I finally had to tell him I had to go and I would have to call him back since my wife Erika was having some medical issues. I did never call him back.

In December of 2016 we hired Tony Lueck of North Country Land Surveying, Inc to survey our western property line between the Hagglands and our property. We found that John Hagglund had constructed a fence on approximately 180 feet of our property as well as a turn around driveway on the NW corner of our property Tony also verified the pin in the center corner of all of our properties on the Road of Use of the Beck Rd

We also had to hire an attorney to serve John Hagglund to remove said fence from our property and to stop using the turn around driveway on the NW corner of our property The attorney also advised us to

place gates to prevent future trespassing onto our property This is the reason the gate is in place in the ditch on the SW corner of our property next to the Road of Use

In the Township ordinance it states that a parcel served by a public road, there will be only one (1) twenty (20) to thirty-two (32) foot wide driveway entrance unless permission is given by appropriate authority The Hagglands only have the 10 foot access to the Road of Use

In our current November Duluth Township Newsletter, there is an article on page 2 from our Fire Department This article states: Driveways were visually checked from the main road to see if there was enough space for a large fire truck (12' wide by 12' high, free from overhanging branches, is preferred). Again the Hagglands only have the 10 foot access to the Road of Use.

With these facts, we are not willing to give an inch to the Hagglands for their driveway and they can drive the extra mile to their property We also would like the township to not grant the driveway permit due to the fact that the Hagglands do not have a legal driveway in accordance with ordinance and required width for our emergency responders to access their property The Hagglands do have another option to access their property from the Clover Valley Drive

Thank you for your time and consideration.

Jim and Erika Snell