

BALDWIN TOWNSHIP REGULAR MEETING

September 15, 2009

Present – Supervisors Larry Handshoe, Jeff Holm, Bryan Lawrence, Jim Oliver and Jay Swanson.

Call to Order – The September 15, 2009 regular meeting of Baldwin Township was called to order at 7:03 p.m. by Chairman Jeff Holm.

Pledge of Allegiance – All present recited the Pledge of Allegiance.

Additions/Corrections to Agenda – Jeff Holm added, under “Any Other Business”, “Approve Checks”.

Approval of Regular Meeting Agenda With/Without Additions/Corrections - Lawrence/Swanson unanimous to approve regular meeting agenda with the addition.

Open Forum for Citizens – Brian Bumgarner, Vice-President of Little Elk Lake Improvement Association, of 28560 – 142nd Street, Baldwin, MN public comment was to “Inform the board that the Little Elk Lake Improvement Association supports Ridgewood Bay as a valuable and responsible business in our community and clarify that any complaints that may have been received about Ridgewood Bay were NOT made on behalf of the Association”.

CONDITIONAL USE PERMITS:

Annual Review for a Home Automotive Repair Business – The annual review of Keith and Donna Holland’s conditional use permit for a home business in an accessory building namely an automotive repair shop was reviewed. The Holland’s have requested leeway for an increased limit for the amount of cars. There have been no complaints received. Lawrence/Handshoe unanimous to approve.

Retail Nursery & Office Space for Corporate Headquarters – Ron Bowen was present and gave an overview of the plans for expansion of Prairie Restorations. Lawrence/Swanson unanimous to approve Prairie Restorations, Inc. request to add a retail nursery and office space for a corporation headquarters with the following comment: annual review.

PLATS: None.

OLD BUSINESS:

Township Attorney Issues: None.

Status of Cool Spring Acres Road Vacation – A response from Kathleen Heaney dated July 31, 2009 regarding the Cool Spring Acres Road reads:



Sherburne County Attorney's Office
and
Victim Witness Services

Kathleen A. Heaney, Sherburne County Attorney

July 31, 2009



Cathy Stevens
Clerk/Treasurer Baldwin Township
30239 - 128th Street
P.O. Box 25
Princeton, MN 55371

Re: Cool Springs Acres/Leuthard Property
Our File No. 129796

Dear Ms Stevens:

This letter is in response to Baldwin Town Board's question in your July 9, 2009, letter. I have enclosed a copy of your letter.

The County is not currently involved in the easement dispute regarding the placement of septic systems on lands located on the vacated Cool Springs Road. The County had previously sent letters (November 30, 2004 and December 15, 2004) to the affected persons, copies of which are enclosed.

Initially, the County believed that the septic systems were located on the Leuthard's land and letters were sent to the affected persons. However, after further investigation, the County could not say for certain who actually owned the land and letters were sent out to the affected persons. The County still cannot say who has the legal ownership of the land and is not involved in the dispute.

Please let me know if you have any questions.

Cordially,

Kathleen A. Heaney
Sherburne County Attorney

KAH:lmb
Enclosures

cc: Bob Makowski
Ronald Black, Attorney for Carl and Joleen Leuthards

13880 Business Center Drive, Elk River, MN 55330-4601
(763) 241-2565 • Fax (763) 241-2575 • 1-800-433-5244
attorney@co.sherburne.mn.us
www.co.sherburne.mn.us

According to Holm, the township attorney has not been contacted. The board stated previously that it appears to be civil issue. The courts may have to be involved to settle

this matter, and that may be the point where the township gets involved. There is not much more to do with this matter, and it'll be removed from the agenda for now.

Road Report –

- 104th Street is all paved, but needs some cleanup.
- 136th Street – 600 feet was done, culvert installed and two tandem loads of shouldering. Think about striping a new spot.
- Baldwin Meadows Cul-de-sac – Fixed as far as drain tiles are concerned. Request for quotes will be going out on September 21, 2009. Carlile and Swanson will check out striping roads.
- Boyer truck #4 – Transmission overheated. A fan clutch is on order.
- Developers Agreement issue – Stormwater basins in Nordwall Estates, and one in Hawk Ridge have collapsed. The contractors are using plastic culverts and cementing brick around the ends. Changes need to be made to the agreements.
- Mowing – The east side is done, with work beginning on the west side. A issue with the road right of way has arisen. A resident stated the right of way was federally protected. The DNR said the township has the authority to clear roads. It's requested a board member talk to the resident.
- Belmont Ridge – No decision has been made on this issue. Water runs into ditch on 120th Street eroding the soil and breaking off the road surface. The developer should be responsible for the fix.
- Railside – Discussion at workshop.
- There is patching left to do.
- Striping was not figured in for 283rd Street.
- Carlile asked the board to consider contracting with Carr's Tree Service.
- There is a new product called Thawrox Treated Salt offered by North American Salt Company.

County Planning & Zoning Report – Holm reported a two-year extension was granted for the plat of Rum River Bluffs.

Status of Capital Improvement Plan – Bogart said the report is almost done. Resolutions need to be held to become a valid document, and Bogart will work with the clerk on the resolutions to have ready for the board. Swanson will meet with Bogart prior to the October meeting.

Status of 2009 Road Projects Per Capital Improvement Plan – Swanson already highlighted what was going on in the road report. Keep in mind cracksealing for next spring.

Joint Committee with City of Princeton Status – Add to November agenda.

Update on Headwall Concerns Throughout Township – Swanson and Carlile will review headwalls on September 21.

Approve/Disapprove Board Action on Sandy Lake Survey (Per 8/4/09 Mtg) –

Jay Swanson stated that the board authorized the township engineer to survey the landing owned by the township. The lake association has asked for a gate. Aerial photos showed encroachment on the property so a survey was completed to make sure that this was the case. Swanson feels that the encroachments need to be moved. Letters regarding the encroachment were sent to both neighboring property owners, John Schletty and John Cullinan. The following email was received by the township attorney regarding the issue:



Read Mail Compose Search Email Calendar Addresses Folders Settings Help Logout

From: 'Gilchrist, Troy J.' <TGilchrist@Kennedy-Graven.com>

Sent: Tue Sep 8 11:54

To: <baldwintwp2@qwestoffice.net>

Priority: Normal

Subject: RE: Baldwin Township (BA440-1)

Type: Embedded
HTML/Text

Cathy,

I assume the easement for the lake access was dedicated to the public by plat, correct? If not, then we will need to track down exactly how the town ended up with the lake access.

The question about what the town does about the encroachments really comes down to whether the board determines any of them are a potential interference with the use or maintenance of the easement. For example, it appears the intrusion on the west side of the access (if up is north) is minimal. If the board determines that minimal intrusion does not interfere with use or maintenance, then it is not somehow compelled to require the fence to be moved. However, the east side involves a much more substantial intrusion with the deck and fence both extending into the easement area. The board will need to decide whether it wishes to require the owner to move those back. Again, that decision would be based on a determination that intrusions interfere with the use and/or maintenance of the easement.

The fact the fence has been there 20 years does not allow the owner to refuse to move it. The law is clear. In Minn. Stat. § 541.01 (pasted below), that occupation of public land does not cause an owner to acquire title to the land so occupied. This is a precursor to the statute that provides for adverse possession which does allow for an owner to acquire a right in another's land after a period of occupation and satisfaction of certain other conditions. However, with the tons of thousands of acres of public land in this state the legislature has indicated that law does not apply to such lands.

However, the fact the fence has been there for a long period of time may argue against the town requiring it be moved at this point unless circumstances change. For example, the board may determine the fence and deck do not presently interfere, but if the town ever decides to improve the access such that the fence and deck would interfere with that improvement, then the board could require they be moved at that time. In other words, if there is some valid reason to require the owner to move the fence and deck, then you can require him to do so. However, you typically would not require someone to move an intrusion just for the sake of moving it if it does not otherwise cause any problems.

The owner needs to know that the fact his deck and fence are outside of his property could cause a title problem for him if he ever intends to sell his property. That is obviously not the town's concern, but it does help support the need to move the intrusions.

Please feel free to contact me if there are any further questions.

Troy Gilchrist
Kennedy & Graven, Chartered

Toll Free 800-708-8201
Fax 612-337-9310
Minneapolis 612-337-8214
St. Cloud 320-240-8200

- Reply
- Reply All
- Forward
- Delete
- Address Book
- Print
- Black Sender
- View Headers
- Next
- Previous

Lawrence moved that, based on the comments from our attorney, based on the intent of being used as a beach and having a gate just for access, pedestrian access in the summertime and based on the fact that, after reviewing it, looking at it, having a survey done, it doesn't appear to have any interference with the present, current and intended future use of the access, he would move that the owners are aware that it is on township property and research has been done but, at this point in time, not to be required to be removed. Oliver seconded the motion.

Swanson stated that there are other issues such as parking. The encroachment of the fence is 8-1/2 feet. Lawrence stated that previous discussions did not include parking and that the whole intent of the gate is to not use the property as a boat launch. John Schletty made a point of order stating that 30 feet to the road behind the fence would be dedicated to parking and the gate will allow that, north or south of it towards the public road 30 feet on each side for parking, which was previously approved in meeting minutes. Speaking on behalf of the lake association, the township could put reflective tape on the gate to alert that there is an obstruction. Holm stated that he understands that the township would regulate the gate.

Schletty made a point of order stating that he has been on the property 46 years and the county has never maintained. He cuts the grass, fills the ruts and him and his neighbors and lake association have paid money to maintain the access. He asks that the board takes that into consideration. He had taken down the fence as it was dilapidated and it was an assumption on his part that it was where it was to be. A survey completed by the same firm show the opposite. Pederson surveyed his property and told him that it was very difficult in that area to pull in all benchmarks. Mr. Schletty's daughter questioned where the survey that was done several years ago was. Her concern is which survey is accurate. Township engineer, Jon Bogart, stated that he did not find any previous surveys, but will go back to his office and research. Mr. Schletty asked the board to approve as is and, if he sells the property, he realizes that he would have a problem with the property lines.

John Cullinan stated that the lake started with 3 accesses on a 63 acre lake. It has been like this for 30 years. The neighbors have been taking care of that area and, yes, it is public property but what is it gong to accomplish? He questioned why the landing is over 50 feet when every property is 45 feet.

Ken Meade, 98-1/2 Street, asked if putting up the gate would take away from the public. Holm replied that the gate was motivated by the safety of swimmers. John Schletty stated that it has already been approved, an access on the north side for boats and on the opposite side a swimming beach between Memorial Day and Labor Day. Holm stated that he had asked for a public hearing regarding the gate and it was never held as it was voted down by the previous board. John Schletty made a point of order stating the Gilchrist (township attorney) gave the board the option to turn it into a park and the board denied that. The adjoining property owners have maintained it so the board rejected turning it into a park where then the township would have to maintain.

Lawrence stated that the park committee worked with the lake association and approved the north access, which the township assisted with, and now slowly working with getting the south access. He feels that that is not an encroachment that will hinder the use of the beach. Holm stated that maybe the township could improve the third access. Lawrence/Oliver unanimous to call the question. Upon voice vote, the motion failed with Oliver and Lawrence in favor and Swanson, Handshoe and Holm opposed.

Swanson/Handshoe motion that the infringements on public property are moved so we can move on with the gate issue if that is what we are going to do and it should take as long as we give them, 90 days or spring of next year. Swanson stated that he was the one, shortly after he was elected, that if the lake association wants a gate, and it is legal to do so and it is done correctly, then give them a gate. When he sees infringements on property, it is not legal. We need to clear up issues when brought to us. Swanson amended his motion to give them until June 1, 2010 to have it all removed. Handshoe accepts the amendment.

John Schletty made a point of order citing two Minnesota State Statutes and how they refer to easements and variances. He had two questions: 1) if the board is going to give him a deadline, will the board turn it into a park and maintain; and 2) he would ask time to apply for a variance on the property line. He believes that the board members timeframe is unreasonable at this time as he does not know how long a variance would take. Lawrence stated that he wants the record to show that the township has not given a valid reason to require these people to move the fence and deck. Lawrence asked for the question to be called. Unanimous to call the question. Upon voice vote, the motion carried with Handshoe, Holm, Oliver and Swanson in favor and Lawrence and Oliver opposed.

127th Street Issues – Added to the October agenda.

142nd Street Road Issues – Brian Bumgarner was present to try to have the board resolve issues with the lack of maintenance on 142nd Street which is “resulting in damage to my property”. According to Holm a temporary fix for 142nd Street would be correcting the swale that was done previously. Swanson/Oliver unanimous to motion asking West Branch Construction, the company who did the original work, if they would want to go back and reshape 142nd Street.

Approve/Disapprove Ordinance No. 100; An Ordinance Regulating Town Road Rights-of-Way – Lawrence/Swanson unanimous to approve striking section 1.05, unauthorized maintenance, from the ordinance. Holm/Swanson unanimous to reconsider the removal of section 1.05 because of the ‘traveled portion’ section. Swanson/Handshoe motion to approve as is. Upon voice vote, the motion carried with Handshoe, Holm, Oliver and Swanson in favor and Lawrence opposed.

Approve/Disapprove Resolution No. 09-05; Resolution Approving Summary Publication of Ordinance No. 100; An Ordinance Regulating Town Road Rights-of-

Ways – Swanson/Handshoe motion to approve. Upon voice vote, the motion carried with Handshoe, Holm, Oliver and Swanson in favor and Lawrence abstaining.

Review Engineering Standards & Developers Agreements – Oliver/Handshoe unanimous to approve requiring a seal around the border, and joints at the top for storm water basins; eliminating plastic culverts for storm sewer; and the requirement of striping of the roads.

Schedule Closed Employee Meeting - A closed employee meeting is scheduled for September 30, 2009 at 7:00 p.m.

TABLED ITEMS:

Approve/Disapprove Purchase of Plow for Truck #3 – Swanson/Handshoe motioned to approve the purchase of a plow for truck #3. After discussion, Lawrence called the question. Vote taken with Swanson, Handshoe, Oliver and Holm in favor of purchase. Lawrence opposed. Motion carried.

NEW BUSINESS:

Approve/Disapprove Speed Study for 301st Avenue – Lawrence/Oliver unanimous to approve a speed study for 301st Avenue.

Discuss Gopher Bounty – There was discussion regarding upping the gopher bounty to \$2.00 a pair. This issue will be added to the agenda of the second meeting in December.

Mailbox Issue – Jay Swanson discussed a mailbox issue. He suggested that Baldwin adopts the Livonia Township plan. Along with the mailbox issue, the property has a second driveway with no record of township approval or permit issued.

Approve/Disapprove Obtaining Quotes for Park Survey & Border Signs – Lawrence felt it best for the county to finish the County Road 19 road project first before a survey is done. Swanson/Handshoe unanimous to move to see if the county would put in 2 to 4 stakes, if not then obtain quotes for a survey. Swanson/Oliver to authorize obtaining quotes to mark out the border signs along the south line of the park. Vote taken with Swanson, Handshoe, Oliver and Holm in favor of purchase. Lawrence opposed. Motion carried.

Approve/Disapprove Park Property Cutting & Tilling – Oliver/Handshoe unanimous to approve cutting and tilling on the park property.

Approve/Disapprove Park Driveway Parking Lot – There is plenty of fill on the site. West Branch Construction will donate the labor. Carlile and Good will seed the ditches. Oliver/Swanson unanimous to approve the work being completed.

Approve/Disapprove Joint Meeting with Strategic Planning Committee on Tuesday, October 27, 2009 – Swanson/Handshoe unanimous to approve a joint meeting with the Strategic Planning Committee on Tuesday, October 27, 2009 at 6:00 p.m.

ANNOUNCEMENTS:

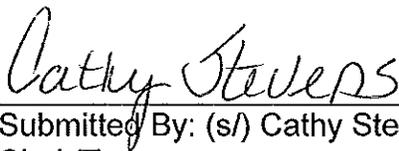
Joint Meeting with Park Committee, Tuesday, September 22, 6:00 p.m.

MAT District 7 Meeting, Thursday, September 24th, 7:00 p.m., Anoka Ramsey Community College, Cambridge

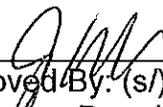
ANY OTHER BUSINESS:

Approve Checks – Swanson/Handshoe unanimous to approve for payment check numbers 14103 through 14107 and 1 EFT payment totaling \$969.31.

Adjourn – Handshoe/Swanson unanimous to adjourn at 11:05 p.m.



Submitted By: (s/) Cathy Stevens
Clerk/Treasurer
Baldwin Township



Approved By: (s/) Jeffrey Holm
Chairman, Board of Supervisors
Baldwin Township

Attendees: Dennis Lindberg, Lester Kriesel, Carl Leuthard, Jo Leuthard, Keith Holland, Tye Graham, Ken Meade, Dawn Othoudt, Darla Cruz, Vince Cruz, John Schletty, Terry Carlile, Elaine Philippi

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PRELIMINARY

SEPTEMBER 2009

CLAIMS										
CHECK	TO WHOM	FOR WHAT	AMOUNT	GEN	R & B	ENG.	PARKS	CAPITAL	CEM	FIRE
14048	Terry Carille	wages	\$763.21		\$763.21					
14049	Cheryl Goetz	wages	\$77.92	\$77.92						
14050	Zachary Good	wages	\$871.18		\$871.18					
14051	Cathy Stevens	wages	\$1,064.90	\$1,064.90						
Auto	PERA	employee contribution	\$513.25	\$196.22	\$317.03					
14052	Office Depot	office supplies	\$80.02	\$80.02						
14053	AT&T Mobility	r&b cell phone	\$46.48		\$46.48					
14054	AT&T Mobility	fire cell phones	\$120.84							\$120.84
14055	IKON Office	copy machine maintenance	\$1,211.68	\$1,211.68						
14056	Great Glacier	water cooler rent & water	\$49.29	\$49.29						
14057	CenterPoint Energy	gas utilities	\$19.12	\$19.12						
14058	CenterPoint Energy	gas utilities	\$16.58							\$16.58
14059	Connexus Energy	electric utilities	\$141.38							\$141.38
14060	Connexus Energy	electric utilities	\$163.86	\$163.86						
14061	Qwest	phone & internet	\$210.86							\$210.86
14062	Qwest	phone & internet	\$176.19	\$176.19						
14063	East Central Sanitation	refuse disposal	\$91.96	\$45.98						\$45.98
14064	Kennedy & Graven	legal fees	\$1,317.50	\$1,317.50						
14065	Eggen's Bulk Service	fuel	\$987.46		\$987.46					
14066	AVENET, LLC	website hosting (1 year)	\$396.00	\$396.00						
14067	Princeton Township	road blading	\$500.00		\$500.00					
14068	Central Hydraulics	repair hydraulic cylinders	\$3,122.00		\$3,122.00					
14069	Neft Auto Supply	supplies	\$132.16		\$132.16					
14070	Circle 9 Conoco	fuel	\$180.11		\$82.16		\$62.10			\$35.85
14071	Marys True Value	supplies	\$628.63	\$174.13	\$136.95		\$255.99			\$61.56
14072	Quality Tire & Rim	lawnmower tube	\$10.00		\$10.00					
14073	M-R Sign Co.	road signs	\$65.45		\$65.45					
14074	Kris Engineering	belly blade nuts & bolts	\$37.76		\$37.76					
14075	Rum River Contract	136th street road repair	\$21,200.00		\$21,200.00					
14076	Bogart Pederson	engineering	\$4,582.50			\$4,582.50				
14077	ECM Publishers	legal notice	\$82.80	\$82.80						
14078	Commercial Asphalt	hot mix	\$1,203.86		\$1,203.86					
14079	Pro Hydro-Testing	scba cylinder testing	\$40.00							\$40.00
14080	EmergAppMaintenance	truck repair	\$2,290.43							\$2,290.43
14081	U.S. Bank	credit card charges	\$21.32							\$21.32
14082	BlueCrossBlueShield	health insurance-october	\$791.00		\$791.00					

SEPTEMBER 2009

PRELIMINARY

CHECK	TO WHOM	FOR WHAT	AMOUNT	GEN	R & B	ENG.	PARKS	CAPITAL	CEM	FIRE
14083	Banyon Data System	financial software	\$6,507.91	\$6,507.91						
14084	Election Syst&Software	hardware support	\$346.50	\$346.50						
14085	Lawson Products	shop supplies	\$391.93		\$391.93					
14086	Lester W. Kriesel	caretaker&reimbursement	\$113.09					\$113.09		
14087	Donald Larsen	janitorial (2 months)	\$240.00							\$240.00
14088	Jeremy Evans	reimbursement	\$492.06							\$492.06
14089	Kelvin Bittner	gopher (156 pair)	\$234.00	\$234.00						
14090	Robert Kruse	gopher (54 pair)	\$81.00	\$81.00						
14091	Paul McClure	gopher (51 pair)	\$76.50	\$76.50						
14092	Joel Stottrup	gopher (4 pair)	\$6.00	\$6.00						
14093	Roland Thompson	animal control (2 months)	\$650.00	\$650.00						
14094	St.CloudFireEquip	fire extinguisher annual serv	\$360.70	\$86.50						\$274.20
14095	PrincetonAnimalClinic	animal impounding	\$358.46	\$358.46						
14096	Petty Cash	postage	\$45.05	\$45.05						
14097	Larry Handshoe	wages	\$230.27	\$230.27						
Auto	MN Dept of Revenue	august withholding tax	\$427.86	\$141.86	\$188.23					\$97.77
Auto	MN Dept of Revenue	august fuel tax	\$12.74		\$12.74					
Auto	MN Dept of Revenue	sales & use tax	\$30.00	\$30.00						
Auto	EFTPS	august 941 tax withholding	\$3,887.31	\$881.58	\$1,055.69					\$1,950.04
14098	Lawson Products	r&b supplies	\$39.49		\$39.49					
14099	Essig Construction	road blading	\$2,312.50		\$2,312.50					
14100	Ray's Auto Body	repair a/c	\$169.25		\$169.25					
14101	Jay Swanson	wages	\$184.70	\$184.70						
14102	Jim Oliver	wages	\$280.65	\$280.65						
Auto	PERA	town board contribution	\$55.00	\$55.00						
14103	Tavis Metal	chute extension	\$80.00							\$80.00
14104	Bryan Lawrence	wages	\$280.65	\$280.65						
14105	Bryan Lawrence	mileage	\$13.20	\$13.20						
14106	Jeffrey Holm	wages	\$489.86	\$489.86						
14107	Jeffrey Holm	mileage	\$23.10	\$23.10						
Auto	PERA	town board contribution	\$82.50	\$82.50						
		totals	\$61,709.98	\$16,140.90	\$34,436.53	\$4,582.50	\$318.09	\$0.00	\$113.09	\$6,118.87