

**DUNN TOWNSHIP
OTTER TAIL COUNTY, MINNESOTA
Resolution No. 2017- 05**

**RESOLUTION REQUIRING CARTWAY
PETITIONER TO FILE SECURITY**

WHEREAS, the Dunn Township ("Town") board of supervisors ("Town Board") received a petition from Rodney J. Spidahl ("Petitioner") requesting the establishment of a cartway pursuant to Minnesota Statutes, section 164.08, subdivision 2 to provide access to property owned by the Petitioner, located in Section 10, Township 137, Range 42, Otter Tail County, Minnesota, which contains approximately 15 acres ("Property");

WHEREAS, the Petitioner is required by Minnesota Statutes, section 164.08 to pay all costs associated with the establishment of a cartway including, but not limited to, compensation paid to the owners of the properties made subject to the cartway, the Town's attorney fees, appraiser fees, administrative costs, surveying costs, and such other costs the Town Board incurs as it deems necessary to process, consider, and act on the cartway petition;

WHEREAS, pursuant to Minnesota Statutes, section 164.08, subdivision 2, the Town Board is authorized to pass a resolution requiring the Petitioner to post a bond or other security acceptable to the Town Board for the total estimated damages before the Town Board takes action on the petition including, but not limited to, adopting an order to set a hearing on the petition; and

WHEREAS, the Town Board determines it is in the best interests of the Town and its taxpayers to require the Petitioner to post security with the Town in an amount sufficient to ensure the Town is fully reimbursed for all of its costs and expenses related to processing and considering the Petitioner's cartway petition.

NOW, THEREFORE, BE IT RESOLVED, the Town Board hereby requires the Petitioner to provide the Town security in the amount, and subject to the provisions, set out below:

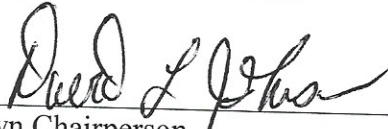
1. The Petitioner must provide the Town cash security in the amount of \$15,000 in the form of a cashier's check or certified check ("Security") before the Town Board will take any further action to process or consider the Petitioner's cartway request. The purpose of the Security is to give the Town a source of funds from which it will reimburse itself for the professional, administrative, and other costs it incurs to process, consider, and act on the petition. It is impossible for the Town Board to determine in advance the exact amount of the costs it will incur related to this matter. The Security established herein is neither a minimum nor maximum on the amount of costs the Petitioner will actually be required to reimburse or pay related to the cartway proceeding. The Town Board will take no further action to process the petition until the full amount of Security is provided the Town as required herein.

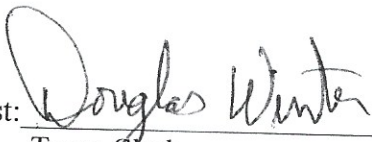
2. The Town will deposit the Security in its account and will withdraw funds as needed to reimburse itself for all costs it incurs. If the Town determines the amount of the Security, after deducting all costs it has incurred, will be reduced to less than \$1,500, the Town may provide the Petitioner notice of the need to provide additional Security in the amount indicated in the notice. The cartway process will be suspended until the required additional Security is provided. Failure by the Town to provide the notice will not relieve the Petitioner from its obligation to fully reimburse the Town for its costs.
3. The Petitioner is required to pay all actual costs incurred by the Town related to processing the cartway petition regardless of whether the cartway is actually established. If the Security is not adequate to fully reimburse the Town, the Petitioner shall remain responsible for reimbursing the Town for all of its costs. If the Security is depleted before all of the costs are reimbursed, the Town will provide the Petitioner an invoice for the remaining amount to be reimbursed, which shall be due and payable within 30 days for the date of the invoice. If the invoice is not paid, or if the Town is not otherwise fully reimbursed, it may certify the unpaid amounts to the County Auditor pursuant to Minnesota Statutes, section 366.012 for collection as an unpaid service charge on the taxes of the Property or on any other property the Petitioner owns in the state. The Town's collection costs shall be added to the amount certified to the county auditor for collection. By providing the Security as required herein, the Petitioner is expressly agreeing that the costs the Town incurs related to this process constitute a service charge collectable by the Town pursuant to Minnesota Statutes, section 366.012.
4. The Town Board may, after 10 days' written notice to the Petitioner, terminate the cartway process if the Petitioner fails to promptly and fully reimburse the Town. If the Town Board terminates the process, it will take no further action on the petition. The Petitioner would be required to file a new petition and new security before the Town Board would take any further action on the matter of establishing a cartway to the Property.
5. Upon the conclusion or termination of the cartway process, the Town shall release or return any unused portion of the Security, without interest, to the Petitioner within 60 days with an accounting of any amounts withdrawn by the Town.
6. By adopting this Resolution, the Town Board is not commenting on the eligibility of the Petitioner to actually receive the requested cartway. The Town Board will not act to consider whether the Petitioner is eligible for a cartway until the required Security is provided, and then only as part of the hearing held regarding the petition.

BE IT FINALLY RESOLVED, the Town Clerk is hereby authorized and directed to provide the Petitioner a copy of this Resolution.

Adopted this 28th day of AUGUST, 2017.

BY THE TOWN BOARD


Town Chairperson

Attest: 
Town Clerk