

Dunn Township
Meeting Minutes
Monday, August 28, 2017
Dunn Town Hall 7:00 pm

Call to Order: The meeting was called to order by Chairman David Johnson, all supervisors were present, no citizens present.

The Pledge of Allegiance: The Pledge of Allegiance was recited by all present.

Agenda – Approval: A motion was made by C. Kvare and seconded by D. Seifert to approve the Agenda as presented. Motion carried.

Minutes Approval of August 14, 2017 Meeting: A motion to approve the minutes of the August 14, 2017 meeting was made by C. Kvare and seconded by R. Herseth. Motion carried.

Claims List Approval: A motion to approve the claims list was made by R. Herseth and seconded by D. Seifert. Motion carried.

Citizen Comments/Questions/Agenda Request: None

New Business:

1. None

Old Business:

1. Township Website update: Joshua Banks has been working on our website. No update received at this time.
2. Resolution for security on Landlocked Property – Rod Spidahl: A motion to adopt resolution number 2017-05 by C. Kvare and seconded by R. Herseth. Motion carried.

Resolution 2017-05 follows:

**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.

3. Birch Grove Drive: Encroachment Permit and Agreement: Reviewed, no action needed.

4. Weed Spraying: Weed spraying is about 1/3 complete. The township has a lot of thistles to be sprayed.
5. Fadness agreement and letter. C. Kvale stated that the township and board of supervisors are being persecuted for doing our job. A motion was made by C. Kvale to review the Fadness letter and send a bill for all of the legal fees incurred in regard to the stairway built with a permit acquired by misrepresented statements to the county of Otter Tail and built in the road right of way of Dunn Township. The contractor signed the permit application on behalf of Mr. Fadness for the building permit stating that there was no encroachment of row. The motion was seconded by D. Seifert. Motion carried.

Town Board Matters to be addressed:

1. Gravel for Dalman Cart way – John Schmidt: No action will be taken. It is not a township road but is a perpetual easement according to B. Dalman.
2. Maintenance on General Store service road: The road is a private road and cannot be maintained by the township.
3. Road Issues: C. Kvale mentioned that 490th is washing out frequently. He would like to see a couple loads of clay be brought in to firm up the shoulder and may prevent the frequent wash outs.
4. Steel posts behind the townhall: B. Dalman has removed all of the posts and restacked the usable posts in the area that is not mowed behind the townhall. He will get some wood material (4x4) to keep them off the ground. They are sorted by size.

Meetings: Next Regular Monthly Meeting Date:

1. September 11, 2017 at 7:00pm

Adjourn: A motion to adjourn was made by D. Seifert and seconded by B. Dalman.
Motion carried.

Respectfully Submitted,

Douglas Winter, Clerk of Dunn Township

David Johnson, Chairman of Dunn Township