

**Clearwater Township
Regular Board Meeting (Approved)
July 13, 2015**

The regular meeting & Public hearing for the Town of Clearwater was called to order by Chairman Dan Mol at 7:30 p.m. on Monday July 13, 2015 at the Clearwater Town Hall.

Board Members present: Chairman Dan Mol, Vice Chair David Nelson, Supervisor Scott Miller Treasurer Kristin Helwig, and Clerk Jean Just.

Visitors as signed in: Jim & Sharon Lee, Ron Schabel, John Notsch, Oralyn & Pat Fisher, Lee Fick, Dean Spike, Galen Hempel

After reciting the Pledge of Allegiance, Miller made a motion to approve the agenda and the reg. meeting minutes of June 8, 2015 as presented. Nelson seconded the motion. Motion carried by a unanimous vote.

Treasurer Kristin Helwig read the Treasurer's report. Nelson moved to accept the report as presented. Miller seconded the motion. Motion carried by a unanimous vote.

Guest/Public Comment: Galen Hempel: Mr. Hempel approached the board regarding 159th street. He indicated that the road is pitched so that the water is coming down 160th and running down 159th street and washing the road out. Mol indicated that 159th is a privately maintained road and that has not been taken over by the township. The board asked Ludenia if there was a way to change the pitch so that water would not run that way. Ludenia indicated that he would have to add gravel along there and that it could cause more of a problem since the intersection is already higher than 159th. Ludenia and one of the board members will go out and take a look to see what if anything could be done.

Dean Spike – Rezoning/trees

Dean Spike approached the board regarding his property located at 14933 Huber Ave, which is at the intersection of 148th & Huber. Mr. Spike indicated that he is aware of the visibility issue on that corner and he is not opposed to trimming up the trees on the corner of his property, however, he would like to see them not cut all the way down. Ludenia will talk to him before cutting. With the additional gravel that was put on Huber his driveway is very low and hitting bumper coming out wondering if maybe a culvert needs to be put in. Ludenia will go take a look and see if we can fit a low profile culvert in and add some gravel.

Mr. Spike indicated that he had come before the board in 2003 about rezoning his property; he currently has 11+ acres and would like to split the property. On the other side of Huber they are smaller lots and property that is zoned AG/RES. Mr. Spike pointed out that the property is mostly woods and is not used as farm land. The board discussed on whether or not it would set precedence and felt that as long as there is a reason why it would not. The board noted that it would be a good use for the land since it is not farm land and could not be used as farm land since it is heavily wooded. The consensus of the board was that they would be ok with rezoning of the property.

Quarterly Meeting Update

There was discussion on wild parsnip and if there are private properties' that have it they should contact the county to work on getting rid of it. The county is working on a severe weather incident action plan working with the cities and the townships when emergency vehicles need to get through during heavy snow or storms. Also talked about the crime lab in Wright County and the cost and speed of the lab.

Resolution 2015-001 (Authorizing Approval of Mutual Release)

Chariman Dan Mol introduced Resolution #2015-001 Authorizing approval of mutual release with David & Lisa Phaneuf. Resolution was seconded by David Nelson and upon vote being taken, the following voted in favor: Dan Mol, David Nelson and Scott Miller. Motion passed unanimously. (See Attached Resolution).

Oralyn & Pat Fisher - Cartway

Mr. & Mrs. Fisher approached the board to proposing a possible cartway back to property that is currently land locked. Currently Mr. Fisher's sister-in-law owns a piece that is landlocked and they would like to split the land that they currently own. They were told by the County that they would need to have access to the property in order to split it. The road would have to be built to township specifications in order to have building entitlements on the properties. Just indicated that someone cannot petition for a cartway on their own property. Mr. Fisher indicated that his sister-in-law would petition since she is landlocked at this time. The board did not see any issues with cartway if she chooses to petition for it.

Correspondence if Any:

- Tax Forfeiture Properties: Nelson made a motion to approve Resolution #2015-002 to approve parcel #204100034400m #204100101100, #204119003060 for Public Auction or Auction to Adjacent Owners. Miller Seconded the motion. Motion carried unanimously.
- Public Hearing on Dahlberg CUP is set for July 30th, 2015 7:30 pm @ Wright County Government Center.
- Proposed Amendment to County Ordinances regarding regulating the use of motorized watercraft on Lake Ann & Lake Charlotte: No Discussion

ROAD MAINTENANCE REPORT- MIKE LUDENIA

*Road Count updates: board reviewed

*Update on Illsley Ave Construction project: Shane is working on getting the delineation completed

* Huber & 150th Corner – Ludenia is working on getting paperwork done for delineation at a 3-1 pitch.

* Ludenia is working on getting prices to replace the culvert on Huber that is rusting out

* Sander on truck is leaking – should we replace or see about getting fixed – board asked Ludenia to get a price on replacing.

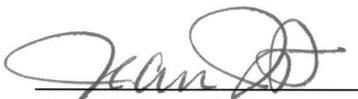
*Chloride; will start doing in the next few weeks.

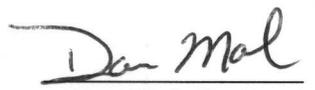
*Still have about 1500 yds of gravel left.

*Will start brush cutting in August.

Review of Bills: A motion was made by Nelson and seconded by Mol to pay claims covered by checks #9406-9431 and eft 7115, eft 71315, eft 71315f, eft 71315p, eft 71315s, eft 7615
Motion carried by a unanimous vote.

With no further business to come before the board, Miller moved to adjourn Nelson seconded the motion. Motion carried by a unanimous vote, the meeting was adjourned at 9:20 pm.


Jean M Just, Clerk


Dan Mol, Chairman

Date 8/10/15

Supervisor Dan Mol introduced the following resolution and moved its adoption:

RESOLUTION NO. 2015-001

**CLEARWATER TOWNSHIP
WRIGHT COUNTY, MINNESOTA**

**RESOLUTION AUTHORIZING APPROVAL OF MUTUAL RELEASE
WITH DAVID AND LISA PHANEUF**

WHEREAS, David and Lisa Phaneuf (collectively “Phaneufs”) commenced a civil action in Wright County District Court, Court File No. 86-CV-12-5224 (“the Action”), asserting numerous claims against Bruce Sobotta, individually and as Clearwater Township Supervisor, Clearwater Township, Stephen Broughton and Cristin Broughton; and

WHEREAS, the Action seeks declaratory judgment and damages related to the Phaneufs’ claimed ownership in a portion of a town road right-of-way that was established by Town Road Order No. 44 in 1895 and dedicated in the Fish Lake Shores plat in 1956; and

WHEREAS, Sobotta and Clearwater Township deny the Phaneufs’ claimed ownership in the town road right-of-way as well as any alleged damages resulting from any adverse actions allegedly taken by either Sobotta or Clearwater Township against said ownership interest; and

WHEREAS, the Action was scheduled to be tried before a jury in Wright County District Court before the Honorable Kathleen Mottl between June 29, 2015 and July 1, 2015; and

WHEREAS, Bruce Sobotta, the Phaneufs and representatives of Clearwater Township negotiated a Mutual Release (attached hereto as Exhibit A) settling all claims between the parties related to the Action and the town road right-of-way; and

WHEREAS, the Action will be dismissed with prejudice by the parties upon approval and execution of the Mutual Release by Clearwater Township; and

WHEREAS, Chairman Daniel Mol participated in the negotiation of the Mutual Release and recommends approval of the Mutual Release by the Town Board;

WHEREAS, the Town Board wishes to resolve all pending disputes with the Phaneufs related to the town road right-of-way in order to avoid the costs, delays and risks associated with the ongoing litigation of the Action;

NOW, THEREFORE, BE IT RESOLVED THAT the above-referenced recitals are incorporated herein to this Resolution.

NOW, THEREFORE, IT IS HEREBY RESOLVED that the Board of Supervisors for Clearwater Township hereby approves the Mutual Release attached hereto as Exhibit A.

NOW, THEREFORE, BE IT FURTHER RESOLVED THAT the Town Board also directs legal counsel and staff to draft and cause to be executed and filed with the District Court the appropriate documents to implement the terms of the Mutual Release, including but not limited to a stipulation and order for dismissal of the Action with prejudice.

Adopted this 13 day of July, 2015.

CLEARWATER TOWNSHIP

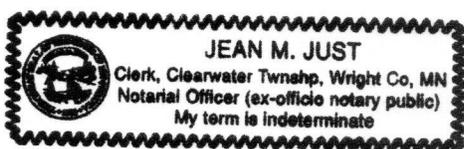


Daniel Mol, Chair

ATTEST:



Jean Just, Town Clerk



The motion for the adoption of the foregoing resolution was duly seconded by member David Nelson and upon vote being taken thereon, the following voted in favor thereof: Dan Mol, David Nelson and Scott Miller; and the following voted against same: None.

Whereupon said resolution was declared duly passed and adopted.

MUTUAL RELEASE

In consideration of the Mutual Release contained herein and other good and valuable consideration David Phaneuf and Lisa Phaneuf, husband and wife (collectively, "Plaintiffs"), on the one hand, and Clearwater Township and Bruce Sobotta (collectively, "Defendants"), on the other hand, hereby release and discharge the other of all actions, claims, demands, damages (whether compensatory, punitive or statutory), losses, injuries, suits, proceedings, accounts, or sums of money, whether arising in contract, tort, by deed or by statute, that now exists against the other and their respective agents, attorneys, insurers, indemnitors, representatives, heirs, successors and assigns (collectively, "Claims") arising out of, relating to, or resulting from (i) all matters in Wright County District Court File No. 86-CV-12-5224 ("the Action"), including all matters referred in Plaintiff's Complaint and (ii) Clearwater Township Road Order No 44, filed on April 20, 1895, and Fish Lake Shores plat, established on November 8, 1956 (collectively, the "Order and Plat"), both of which are attached to this Mutual Release. This Mutual Release includes all claims to date, known and unknown, or which are alleged or which could have been alleged in the Action, and any other potential legal action, including claims for costs, disbursements or attorneys' fees.

It is the specific intent of the parties to release and discharge the other from any and all Claims of any kind or nature whatsoever, whether known or unknown, asserted or unasserted, and whether specifically mentioned herein or not, which may exist or might be claimed to exist, at or prior to the date hereof by reason of any matter or thing arising out of or in connection with the Action, the Order and Plat, and any matter relating thereto. The parties specifically waive any right to assert that any Claim has been, through oversight or error, or intentionally or unintentionally omitted from this Mutual Release.

Except as specifically provided herein, the execution of this Mutual Release is not to be construed as an admission on the part of any of the parties hereto, and Defendants expressly deny liability therefor, and intend merely to avoid further litigation with respect to the Claims.

This Mutual Release shall inure to and bind the parties hereto and their respective heirs, legal representatives, successors and assigns. This Mutual Release shall be governed in all respects by the laws of the State of Minnesota.

Except as specifically provided herein, this Mutual General Release shall be effective on the date that it is fully signed by all parties.

Defendants hereby specifically acknowledge and agree that Plaintiffs, and their respective heirs, legal representatives, successors, and assigns, have access to Grunwald Avenue NW from Outlot A, FISH LAKE SHORES, Wright County, Minnesota via the North one hundred feet of the westerly line of Outlot A, FISH LAKE SHORES, Wright County, Minnesota. Plaintiffs hereby specifically acknowledge the validity of the public road right of way dedicated in the plat of Fish Lake Shores and Clearwater Township Road Order No. 44.

Notwithstanding the foregoing, the parties hereto acknowledge that this Mutual Release shall not be binding on any of the parties hereto until a resolution approving this Mutual Release has been duly adopted by the Town Board of Clearwater Township. To that end, Daniel Mol, Chairman of the Town Board of Clearwater Township shall recommend to the Town Board of Clearwater Township adoption of a resolution approving this Mutual Release and directing the Chairman and the Town Clerk to execute this Mutual Release as provided below.

Plaintiffs and Defendants, through their respective counsel, shall promptly dismiss the Action with prejudice and without assessments or costs to any party, upon approval of this mutual release by the Town Board of Clearwater Township.

Dated: June 30, 2015

David Phaneuf
David Phaneuf

Dated: June 30, 2015

Lisa Phaneuf
Lisa Phaneuf

Dated: June 30, 2015

Bruce Sobotta
Bruce Sobotta

Dated: June 30, 2015

Daniel Mol
Daniel Mol, Chairman of Town Board
Clearwater Township

As adopted by the Town Board of Clearwater Township this 13 day of July, 2015.

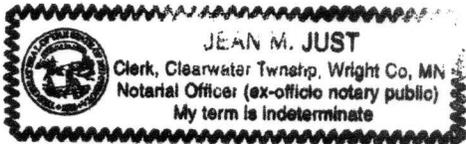
CLEARWATER TOWNSHIP

Attested by Town Clerk

Jean M. Just

By: Daniel Mol

Its: Chairman



Road Order No. 44

Supervisors Road Order

Filed this 20th day of April A.D. 1895

S.A. Howard
Town clerk

The within Road Order together with the Award of Damages was recorded by me the 23rd day of May 1895 in the Road Record Book of the Town, and then sent by me to the County Auditor to be preserved and filed by him.

S.A. Howard
Town Clerk

State of Minnesota, County of Wright, Town of Clearwater ss:

Whereas, upon the petition of sixteen legal voters who own real estate or who occupy real estate under the homestead or pre-emption laws of the United States, or under contract from the State of Minnesota, within two miles of the road proposed in said petition to be changed (a portion of road no. 12) copies of said petition having been first duly posted up in three of the most public places of said town, at least twenty days before any action was had in relation thereto, proof of which posting was duly shown to us by affidavit; which said proposed change of road is set forth and described in said petition as follows, viz: beginning at the quarter (1/4) post between Sec. 12 & 13 T 122 R 27 W; thence south on said quarter line 160 rods to center of said Sec. 13; Thence East on quarter line 80 rods on the quarter line running East & West across said Sec. 13 T. 122 R. 27 W.

And whereas, upon receiving said petition, we did within thirty days thereafter, make out a notice and fix therein a time and place at which we would meet and decide upon such application, to wit; on the 20th day of April A.D. 1895 at FJ Trafton's, causing copies of such notice to be posted in three public places in said Town, at least ten days previous to such meeting; and having met at such time and place as above named in said notice, and being satisfied that the applicant had, at least ten days previous to said time, caused said notice of time and place of hearing to be given to all the occupants, proof of which was shown of which was shown by affidavit, we proceeded to examine personally, such highway, and heard any and all reasons for or against the changing the same, and being of the opinion that such change was necessary and proper, and that the public interest would be promoted thereby, we granted the prayer of said petitioners and determined to change said road, the description of which as so changed and laid out is as follows, to wit; Beginning at the quarter (1/4) post between Sec 12 & 13 T. 122 R 27 W, Thence south on quarter line 160 rods to center of said Sec. 13, Thence East 80 rods on the East & West quarter line of said Sec. 13; and the old line of that past part of road No. 12 as hereby changed, to be discontinued.

It is therefore Ordered and Determined, that a road be, and the same is hereby Changed and laid out and established according to the description last aforesaid, and the report and plat herewith accompanying, which is hereby made a part of this Order, and it is hereby declared to be a public highway four rods wide, the said description above given being the center of said road.

Given under our hands, this 20th day of April A.D. 1895

W J Farley
B Pansfind Supervisors
A Markham

Award of damages

State of Minnesota, County of Wright, town of Clearwater ss:

Whereas, a road out or changed (a portion of road No. 12) on the 20th day of April A.D. 1895 by us, the Supervisors of the said town of Clearwater on the petitions of sixteen legal voters who own real estate or who occupy real estate under the homestead or pre-emption laws of the United States or under contract from the State of Minnesota within two miles of said road, which said road as changed or altered is set forth and described in the foregoing Supervisors Order, made by us, and whereas a part of the damages sustained by reason of the laying out or altering said road has been ascertained by agreement of the owners of the land through which said road passes, with us we have assessed and awarded damages as follows:

F.J. Trafton N ½ NW ¼ 13 122 27 \$10.00

And in case of the following lands, we estimate that the advantages and benefits said road, as changed, will confer on them are equal to all damages sustained by laying out or altering said road to wit:

R.R. Lands
R.W. Mitchell
E.S. Sheldon
C.M. Shattuck

Given under our hands, this 20th day of April A.D. 1895:

W.J. Farley
B. Pansfind
A. Markham

Note – agreement to damages signed by:

F.J. Trafton
C.M. Shattuck
R.W. Mitchell
E.D. Sheldon

DEDICATION
 I, GEORGE W. BROWN, of the County of Wright, State of Minnesota, do hereby dedicate to the public use of the people of the State of Minnesota, the following described land, to-wit:

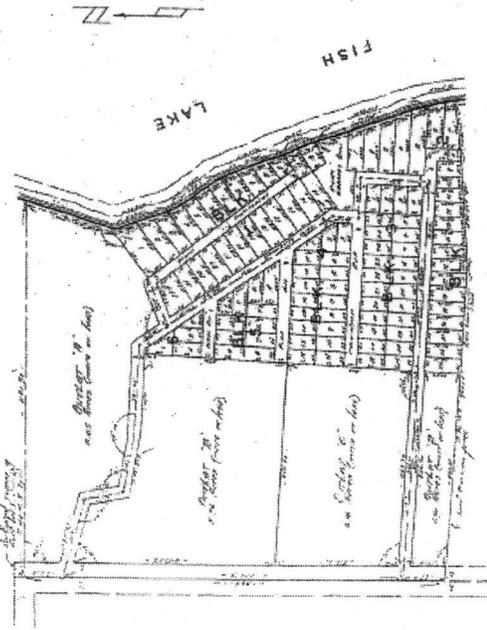
FISH LAKE SHORES
 GOVT. LOT 1, SEC. 13, TWP. 122 N. R. 27 W.
 WRIGHT COUNTY, MINN.

Witness my hand and seal of office this 1st day of August, 1901.

George W. Brown, County Commissioner

County of Wright, Minn.
 I, the undersigned, County Commissioner of the County of Wright, State of Minnesota, do hereby certify that the foregoing is a true and correct copy of the original as the same appears on file in my office.

George W. Brown, County Commissioner



WRIGHT COUNTY, MINN.
 I, the undersigned, County Commissioner of the County of Wright, State of Minnesota, do hereby certify that the foregoing is a true and correct copy of the original as the same appears on file in my office.

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