

TOWN OF SILVER CREEK  
REGULAR MEETING  
May 21, 2013

The regular meeting of the Town Board of the Town of Silver Creek was held on Tuesday May 21, 2013 at the Town Hall. Present were Supervisors – Mike Hoops, Greg Hull, Larry Lampart; Treasurer – Bobbi Gilbert; Clerk – Frederick R. Whitney; Road Foreman – Rick Grupe.

Hoops called the meeting to order at 6:05 p.m.

**CONSTITUENTS CONCERNS:**

None

**REVIEW MINUTES:**

Motion by Hull, second Hoops to accept the 4/10/2013 Cross cartway reconvened hearing minutes as presented. Carried unanimously.

Motion by Hull, second Hoops to accept the 4/16/2013 Regular minutes as corrected. Carried unanimously.

Motion by Hoops, second Hull to accept the 05/08/2013 Cross cartway reconvened hearing minutes as corrected. Carried unanimously.

Motion by Lampart, second Hoops to accept the 05/09/2013 Board of Equalization minutes as presented. Carried unanimously.

Motion by Hull, second Lampart to accept the 05/14/2013 Castle Danger Subordinate Sewer District annual rate hearing minutes as corrected. Carried unanimously.

**TREASURER'S REPORT:**

TOSC Lake Bank checking: \$83,286.90 and TOSC savings: \$474,571.08 for a total of \$557,857.98 – Less the outstanding item of \$.05 – L.B. Batch Service Fee Charge carryover for a CTAS total of \$557,857.93. Carried unanimously. Motion by Hoops, second Lampart to transfer \$150,000 from savings to checking as per the Treasurer's request. Carried unanimously.

Per the Board's request from the last regular meeting, the Clerk presented his review of claims #3244 & 3245. These are indebtedness payments. Both payments were entered correctly, per previous year's entries. **Claim #3244** – Sterling truck payments run through 225-43100-500 (Road & Bridge Highway Capital Outlay). **Claim #3245** – The sewer construction PFA loan payments for principal and interest are correctly run through 300-47000-602 (Debt Service Principal) and 300-47000-612 (Debt Service Interest). The Clerk annually presents to the County Treasurer a listing of Indebtedness where both debts are listed separately. In addition to the copy of this listing that the Board receives annually, the Board may request this listing at any time throughout the year.

Motion by Hull, second Hoops to accept the April 2013 Treasurer Report as presented.

**READING OF THE BILLS:**

Current month's bills were read. Motion by Hull, second Lampart authorizing payment of the bills and electronic funds.

**CORRESPONDENCE:**

MAT Summer short course announcement and registration form.

LAKE COUNTY Land Use applications: Thompson, Gentes, Brenaman – Approved by Lake County.

LAKE COUNTY Planning: Schweitz, Anshus, North Shore Beach – Approved by Lake County

MAT Officer membership cards for Board members.

MN DOT District One utility coordination meeting notice/email

Northeast Minnesota – HOME – Joint powers agreement automatic renewal.

Minnesota State Pay equity compliance notification – We are in compliance.

## **ROAD & SAFETY:**

Rick was directed to pick out the color of the sealcoat to be applied to the new Clark Road Bridge. A request was made to purchase additional culverts for emergency purposes. The foreman was directed to purchase culverts as needed and as previously budgeted.

The Clerk updated the Board regarding the outstanding June 2012 disaster reimbursement payments from FEMA and Homeland Security and Emergency Management (HSEM). Final payments, roughly \$20,000, have been held up by the Clark Road Bridge project submitted by our FEMA representative. FEMA was waiting for that project to be completed. After discussing the overall project with FEMA and how the County was reimbursed by the Minnesota Township Bridge Replacement Program, FEMA directed the Clerk to submit our final requests. The Clerk submitted final payment requests on May 8, 2013. Additionally, the Clerk is negotiating with FEMA for Silver Creek to be reimbursed for our Clark Road bridge related costs that weren't reimbursed by the Minnesota Township Bridge Replacement Program; \$24,257. The Clerk will make a complete disaster related cost analysis to the Board at a later meeting.

The new excavator will be delivered tomorrow, Wednesday, May 22, 2013. Additional buckets – a 24" trenching bucket, \$2,650 and a 48" ditching bucket, \$3,100 were discussed. A frost-tooth was also requested by the foreman. Hoops made a motion, second by Lampart to purchase both the ditching and trenching buckets. Carried unanimously.

It was decided that the selling of our existing excavator will be dealt with at a later meeting.

A wireless connection from the board room to the garage is now up and running allowing us access to the internet for future meetings and perhaps presentations. A camera will also be installed at the Town Hall for security purposes. Road bands are coming off on Friday, May 24, 2013.

## **OLD BUSINESS:**

- Resolution No. 2013-5 – Excavator purchase

Pursuant to due call and notice thereof, a meeting of the Board of Supervisors of the Town of Silver Creek, Lake County, Minnesota, was duly held at Town Hall on May 21, 2013, at 6:00 P.M.

The following members were present: Michael Hoops, Greg Hull, and Larry Lampart

and the following were absent: None

Member Michael Hoops introduced the following resolution and moved its adoption:

**RESOLUTION AUTHORIZING THE ISSUANCE OF A  
GENERAL OBLIGATION CERTIFICATE OF INDEBTEDNESS, SERIES 2013A  
IN CONNECTION WITH THE PURCHASE OF  
CAPITAL EQUIPMENT**

The motion for the adoption of the foregoing resolution was duly seconded by member Greg Hull and upon a vote being taken thereon, the following voted in favor thereof:

Greg Hull, Larry Lampart, and Michael Hoops

and the following voted against the same: None

Whereupon the resolution was declared duly passed and adopted.

**RESOLUTION AUTHORIZING THE ISSUANCE OF A  
GENERAL OBLIGATION CERTIFICATE OF INDEBTEDNESS, SERIES 2013A  
IN CONNECTION WITH THE PURCHASE OF  
CAPITAL EQUIPMENT**

WHEREAS, the Town of Silver Creek, Minnesota (the "Town") desires to issue its General Obligation Certificate of Indebtedness, Series 2013A in the amount of \$145,868.00 (the "Certificate") for the purpose of providing funds to purchase items of capital equipment having an expected useful life at least as long as the term of the Certificate herein authorized consisting of an excavator (the "Project"), pursuant to the authority granted it by Minnesota Statutes, Section 366.095 (the "Act"); and

WHEREAS, the market value of property in the Town for the most recent year is \$311,065,200.00; and

WHEREAS, the amount of the Certificate does not exceed 0.25 percent of the market value of taxable property in the Town (\$777,663.00); and

WHEREAS, the issuance of such Certificate will not cause the Town to exceed its debt limit; and

WHEREAS, The Lake Bank, Two Harbors, Minnesota (the "Bank") has indicated it will purchase such Certificate under terms providing for interest at the rate of 3.95 percent per annum, payable in semiannual installments of principal and interest in the approximate amount of \$16,243.20; and

WHEREAS, it is in the best interest of the Town to issue the Certificate under the foregoing terms to finance the purchase of equipment described above.

NOW THEREFORE, BE IT RESOLVED by the Board of Supervisors (the "Town Board") of the Town, as follows:

1. Acceptance of Offer. The offer of the Bank to purchase the Certificate at par and bear interest at the rate set forth above is hereby accepted, and the issuance of such Certificate is hereby authorized. Such Certificate shall be payable as to principal and interest at the office of the Clerk of the Town.

2. Terms of Certificate. The Certificate shall be dated the date of delivery thereof. The Certificate shall be in the aggregate principal amount of \$145,868.00, shall bear interest on the unpaid principal amount at the rate of 3.95 percent per annum, shall be prepayable at any time without notice or penalty and shall be payable in approximately equal semiannual installments, which include both principal and interest. An initial interest-only payment shall be made on July 18, 2013. The Certificate matures on July 18, 2018. The final amounts of each payment of principal and interest shall be set forth in the form of Certificate described below.

3. Form of Certificate; Registration. The Certificate to be issued hereunder shall be a form approved by bond counsel and the Bank and appear in a form substantially similar to the attached Exhibit A. The Certificate shall be fully registered in the name of the Bank. The Clerk is hereby designated as the registrar, paying agent, transfer agent and authenticating agent for the Certificate.

4. Execution of Certificate. The Certificate shall be executed on behalf of the Town by the signature of its Chair and Clerk. The seal of the Town may be omitted as provided by law.

5. Funds and Accounts; Tax Levy; Covenant.

A. Acquisition Fund. On receipt of the purchase price of the Certificate, the Town shall credit the proceeds from the sale of the Certificate to a separate fund, which is hereby created and designated as the "2013 Equipment Acquisition Fund" (the "Acquisition Fund"). Proceeds from the Certificate on deposit in the Acquisition Fund shall be used from time to time to pay the capital costs of the Project, including but not limited to, costs of acquiring the Project, professional services, printing and publication costs, and costs of issuance of the Certificate, as such become due.

B. A separate debt service fund is hereby created and is designated as the "2013 Certificate Debt Service Fund" (the "Debt Service Fund"). There is hereby irrevocably appropriated to the Debt Service Fund funds of the Town in an amount sufficient to pay the payments coming due on the Certificate in calendar year 2013.

C. To provide monies for the payment of the installments of principal and interest to become due on the Certificate there is hereby levied upon all of the taxable property in the Town a direct annual ad valorem tax which shall be spread upon the tax rolls and collected with and as part of other general property taxes and in the amount of at least \$34,111.00 (or such larger amount as may be approved by the electors of the Town at an annual Town meeting) for taxes payable in the years 2014 through 2018.

Said tax levies are such that if collected in full they, along with funds appropriated in paragraph C above, will produce at least five percent in excess of the amount needed to meet when due the installments of principal and interest due on such Certificate. Such tax levies shall be irreparable so long as any of the installments of principal and interest of said Certificate are outstanding and unpaid, provided that the

Town reserves the right and power to reduce the levies in such manner and to the extent permitted by Minnesota Statutes. The taxes so levied are irrevocably appropriated to the Debt Service Fund for the payment of the Certificate.

D. General Obligation. The Town Board covenants and agrees that it will levy upon all taxable property within the Issuer and cause to be extended, assessed, and collected, any additional taxes found necessary for full payment of the principal of and interest on the Certificate, without limitation as to rate or amount.

6. Tax Matters.

A. Bank Qualification. The Certificate is hereby described as a "qualified tax-exempt obligation" pursuant to the provisions of Section 265 (b) (3) of the Internal Revenue Code of 1986. The reasonably anticipated amount of tax-exempt obligations (other than private activity bonds, treating qualified 501(c)(3) bonds as not being private activity bonds) which will be issued by the Town (and all entities whose obligations will be aggregated with those of the Town) during calendar year 2011 will not exceed \$10,000,000. Not more than \$10,000,000 of obligations issued by the Town during calendar year 2013 have been designated for purposes of Section 265(b)(3) of the Code.

B. Six-Month Spending Exemption to Rebate. The Town expects all proceeds of the Certificate will be spent within six months of the date of closing and delivery of the Certificate and no rebate of arbitrage profits will be required. In the event proceeds of the Certificate are not so spent, the Town will compute and cause the payment to the United States of all amounts required under the rebate requirement of Section 148(f) of the Code and the Regulations issued thereunder.

7. Filing with County Auditor. The Clerk shall file, or cause to be filed, a certified copy of this resolution with the County Auditor/Treasurer of Lake County and shall obtain, or cause to be obtained, a Certificate from the County Auditor/Treasurer with respect to this resolution and Certificate.

8. Severability. If any section, paragraph or provision of this resolution shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this resolution.

9. Authorization of Further Action. The Chair and Clerk are authorized and directed to perform such acts as are necessary to effectuate the terms of this resolution.

10. Post-Issuance Compliance Policy and Procedures. The Town Board has been provided with a Pre- and Post-Issuance Compliance Policy and Procedures which shall apply to qualifying obligations to provide for compliance with all applicable federal regulations for tax-exempt obligations or tax-advantaged obligations (collectively, the "Policy and Procedures"). The Town Board hereby approves the Policy and Procedures which have been presented to the Town Board. The Treasurer is designated to be responsible for post-issuance compliance in accordance with the Policy and Procedures.

Adopted: May 21, 2013

Attest:

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Clerk

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Chair

- Lake County CSAH 3 Road realignment and memorandum of understanding.

Motion by Hoops, second by Hull, directing the Clerk to complete a new memorandum on Silver Creek letterhead as drafted by the County except for references to borrowing of material. The Clerk is to insert at 3. b), "providing material from slopes, ditch bottoms and back slopes as necessary for road construction. No additional material outside of construction limits is allowed". The Chairman to sign when complete. Carried unanimously.

- Modifications to the Cemetery Rules, Regulations and Charges.

Motion by Hull, second Lampart to add "Chairman" to Section 1, "at the discretion of the Chairman and Town Foreman". Carried unanimously.

Motion by Hoops, second Lampart to add "or landowner within.....or landowner" to Section 4. Carried unanimously.

**RESOLUTION 2013-6  
ESTABLISHING RULES, REGULATIONS, AND CHARGES FOR  
SILVER CREEK TOWN CEMETERY**

**AS AMENDED AND ADOPTED ON May 21, 2013**

**BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE TOWN OF SILVER CREEK**, that the following rules, regulations, and charges are established for the Silver Creek Cemetery:

**SECTION 1: INTERMENTS.** All interments in lots shall be restricted to the person in whose name the lot was issued or to the person in whose name it is held. All excavations shall be made under the direction of the cemetery caretaker. All interments shall be done by the Town of Silver Creek. At least twenty-four hour notice shall be given and the outside dimensions of the case to be used and the location shall be specified. No interment shall be made in the cemetery unless all laws, ordinance, rules and regulations regarding interments have been complied with and until the purchase price of the lot to be used has been paid. Interments may be postponed due to weather and soil conditions at the discretion of the Town Chairman and Town Foreman. Winter burials are discouraged. The cemetery allows one standard burial, one standard burial and one cremated remains, or two cremated remains to be placed on one gravesite. Due to vault requirements, stacking of standard interments is not allowed. Standard burial practice: the deceased's head lies at the west end and the feet at the east end of the grave.

**SECTION 2: DISINTERMENT.** Written permission of the lot owner and the next of kin shall be filed with the Town Clerk, and the required fees paid before any grave may be opened for any purpose. This provision does not apply when disinterment is ordered by duly authorized public authority.

**SECTION 3: CONDITIONS OF LOT PURCHASE.** All lots shall be sold subject to these rules and regulations or those hereafter adopted. The purchaser shall expressly agree that his rights are subject to such reasonable rules and regulations as the Board may adopt. No lot shall be used for any purpose other than the burial of human remains and the placing of appropriate memorials. MN Statute 365.27 Subd. 3 states: "if a lot is sold but not used, ownership reverts to the town 40 years after the sale or 40 years after the most recent recording with the county recorder of a notice of the kind described in section 541.023 or another document that relates to the ownership, whichever is latest. The town may take legal action in the same way as any other person to clarify the ownership or assure the marketability of the lot."

**SECTION 4: PURCHASE OF LOTS.** Pursuant to Minnesota Statutes, Section 365.27, lots in the cemetery of the Town of Silver Creek shall be sold only to a person who is a resident of, or landowner within, the Town of Silver Creek at the time of purchase. A resident or landowner may also purchase either four or eight lots as a family plot for his immediate family including minors or non-residents. Each lot shall be assigned to a specific person or held for a specific person. Should the person named or in whose name the lot is held not be buried in the lot, then on the date of the person's burial elsewhere, ownership of the lot reverts to the Town of Silver Creek. The original purchase price of that lot will be refunded to the named person's estate. It shall be the duty of the lot owner or purchaser to notify the Town Clerk of any change in post office address. Notice sent to the person's last address on file with the Town Clerk shall be considered sufficient and proper legal notice. Upon payment of the purchase price of a lot, the Clerk will issue a Right of Interment, executed by the Chairman and Clerk, conveying the lot, which shall be recorded in the records. Before a burial is permitted, full payment of the purchase price must be paid.

**SECTION 5: TRANSFER OF LOTS.** No cemetery lot or fractional lot may be resold or otherwise disposed of without the approval of the Board of Supervisors. The Town of Silver Creek retains the first option to repurchase the cemetery lot or fractional lot at the original sale price. No lot will be permitted to be resold, disposed of, or otherwise used until the purchase price and all unpaid charges including charges for permanent or special care have been paid in full. Lot owners may not allow interments to be made on their lots for remuneration. Lots, or fractional lots, may not be subdivided without consent of the Board of Supervisors.

**SECTION 6: MARKERS AND MONUMENTS.** The term marker refers to stones located at the foot of a lot. The term monument refers to family stones located at the head of a family plot of four or eight lots. Only one marker shall be installed on any one lot. Only one monument shall be installed on any four or eight lot family plot. Every marker and monument shall be placed in the location shown on the cemetery plat or as directed by the caretaker. The Board of Supervisors reserves the right to charge a fee for the marking and supervision of the installation of any marker or monument. No marker or monument shall be placed unless the caretaker has approved the location and the full purchase price of the lot has been paid. No marker or monument shall be placed until the price of the space used for burial and all burial fees have been paid. No marker or monument shall be constructed of limestone, sandstone, wood or other material, which will not assure relative permanency. All markers are limited to a height restriction of 16 inches. Single markers shall be not less than eight inches wide nor more than twenty-four inches in length. Double markers shall not be less than eight inches wide nor more than forty-four inches in length and shall not exceed the size of the lot or lots including concrete apron. These dimensional restrictions shall not apply to markers provided by the federal government. Monuments shall be no wider than 16 inches, no longer than 48 inches, and shall not exceed 30 inches in height. All monuments and above ground markers shall be pinned, grouted, or cast into the base and concrete apron. All measurements do not include the 6-inch concrete apron or border that shall be placed around a monument. All foundations for monuments must be of sufficient depth and stability to support the proposed structure.

**SECTION 7: INSTALLATION OF MARKERS AND MONUMENTS.** Persons engaged in placing markers and monuments shall provide adequate planking to protect turf and shall remove materials, equipment, and refuse immediately upon completion of the work. Ropes and cables may be attached to trees or other objects only on approval of the Town Foreman. The lot owner or his estate is responsible for any failure to abide by this regulation and shall pay for any resulting charges or damages. An above ground marker or monument perpetual maintenance fee in the amount of \$500 shall be paid prior to placement of an above ground marker or monument on a lot. There shall be established a Perpetual Maintenance Fund, and all monies collected for above ground marker and monument perpetual maintenance shall be deposited in said fund, and shall be kept separate from all other funds of the township.

**SECTION 8: VAULTS.** A concrete grave liner or a cemetery vault shall be required for all interments except those of cremated remains.

**SECTION 9: PERMANENT CARE.** All cemetery repairs, mowing, and maintenance will be under the direction of the Board of Supervisors.

*SECTION 10: IMPROVEMENTS. Plants, shrubs, and flowers may be placed on cemetery lots in removable containers only, and shall be removed by September fifteenth of each year. No trees or vines may be planted, plastic flowers used, nor may fences be erected. The Board of Supervisors reserves the right to authorize removal of any tree, shrub, vine, plant, or flower which may become unsightly, dangerous, or not in keeping with the landscape design or the rules and regulations of the cemetery.*

*SECTION 11: DUTIES OF ACTUARY. The Town Clerk shall be the actuary of the cemetery and shall in addition to other records and duties imposed upon the Clerk in relation to the cemetery, keep a register of all interment and disinterment.*

*SECTION 12: LOT PRICES AND INTERMENT RATES. The purchase price shall be one hundred dollars (\$100.00) per lot. Rates for standard interments shall be five hundred dollars (\$500.00) for weekdays and six hundred dollars (\$600.00) for weekends and holidays. Rates for interment of cremated remains shall be two hundred dollars (\$200.00) for weekdays and three hundred dollars (\$300.00) for weekends and holidays.*

*SECTION 13: GENERAL. The Board of Supervisors reserves the right to amend these rules, regulations, and charges in order to promote the general objectives and best interests of the cemetery and is not required to give notice of such intended action. The Board of Supervisors also reserves the right to remove all monuments, markers, flowers, plants, trees, decorations, or other similar things without liability to the Township whenever any of these objects become unsafe or unsightly.*

*Supervisor Hoops moved the adoption of the foregoing resolution and the same was declared adopted upon unanimous yeas vote of Supervisors Michael Hoops, Greg Hull and Larry Lampart on May 21, 2013.*

ATTEST:

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Clerk

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Chair

- IRRRB – (Iron Range Resources and Rehabilitation Board) – “Old building teardown” funding information – process. The Clerk presented the forms that the Township will need to prepare as projects have been identified. IRRRB requests that several projects be presented at one time. The Board directed the Clerk to contact the Lakeshore Chronicle, the North Shore Journal, as well as place a piece onto the township website in order to inform our constituency of this program’s availability.
- Road Foreman Replacement Transition discussion. Motion by Hull, second Lampart for the Chairman, with the assistance of the Clerk, to write a position description for an Assistant Foreman that we will hire with the intention of replacing our current road foreman upon his retirement. Carried unanimously.

Motion by Hull, second Lampart to set a closed meeting for personnel discussions on June 11, 2013, at 7:00 pm. Carried unanimously.

- Lake County financial support of Stewart River, with a possible increase, as well as the Tidball property discussions continue as presented by the Chairman.

**NEW BUSINESS:**

- Culvert design proposals – for East Castle Danger Road, East Alger Grade Road and Town Road – received from LHB and Wenck were discussed. Motion by Hoops, second by Lampart to accept the \$8,700 proposal from LHB. Carried unanimously. It is understood that Silver Creek will be required to obtain a road survey for each culvert location. Motion by Hoops, second by Hull to obtain a survey of the East Castle Danger road from Highway 61 to terminus. Carried unanimously.
- Hoops discussed the Aspen road as it relates to the legal description versus how we have been maintaining it for many, many years. The Clerk was directed to contact the Town attorney regarding a possible road alteration, or road easements, how the road has been maintained and the actual road turnaround. The Board prefers to have the turnaround created entirely on the Ricard property. Additionally, the Clerk needs to discuss with our attorney as to how we are to proceed with regard to the above and the proposed cartway.

- The Stewart River Subordinate Sewer District (SRSSD) proposal from Wenck Engineering to prepare a revised Facility Plan for SRSSD was discussed. Motion by Hull, second by Lampart to accept the proposal and to authorize the Chairman to sign the contract. Carried unanimously.
- The Township property insurance coverage, which is due to renew July 1, 2013, was discussed. The Clerk was directed to coordinate a review of assets that are currently covered, current deductibles that could be increased to lower premiums, as well as to review replacement values on assets covered.

There being no further business, meeting adjourned at 9:45 p.m. upon motion by Hull, second Hoops. Carried unanimously. The next regular meeting of the Town Board will be held on Tuesday June 18, 2013 at 6:00 p.m. at the Town Hall.

Respectfully submitted,  
Frederick R. Whitney, Clerk