

TOWN OF SILVER CREEK
SPECIAL MEETING – CROSS CARTWAY
August 13, 2013

A special meeting of the Town Board of the Town of Silver Creek was held on Tuesday August 13, 2013 at 7:00 p.m. at the Town Hall for the purposes of receiving information from all respective parties, hold discussions and to establish damages in the matter of the Cross cartway petition. Present were Supervisors – Mike Hoops, Greg Hull, Larry Lampart; Clerk – Frederick R. Whitney. Timothy Costley, Cathryn Grace Sunde, Mary Lou Anderson, Lyle Saur, Patricia Saur, Kaye Saur, Donald Saur, Colleen Saur, Larry Saur, Albertine Ricard, Duane Ricard.

Hoops called the meeting to order at 7:00 p.m.

Hoops made some clarifying remarks – Damages will be for the declared cartway which begins 90 feet beyond the Aspen Road. Historically there has been a portion of land at the end of the Aspen Road, which has been maintained by the Township for many years, more than 6 years. This portion of land is not within the cartway and is being dealt with under separate discussions. Further, we won't be able to apply the cartway road order or damages until after the road alteration of the Aspen Road and the maintenance turn-around area has been filed at the County. We will begin that road alteration process at the next Town Board meeting on September 17, 2013, at 7:00 p.m. The 90 foot maintenance portion of the Aspen Road was discussed further and identified to all parties using the site survey prepared by Mr. Samuel Parker dated March 13, 2103, revised May 21, 2013.

Information and data has been received since the last special meeting. Hoops entered all into the record as follows:

Exhibit 21 – Mike Hoops' Lake County Assessor's Small Land Sales spreadsheet with Mike Hoops' explanatory cover letter dated 07-30-2013.

Exhibit 22 – Jon Fogelberg's Timber Valuation received by the Clerk July 31, 2013, 3 pages – Combined Damages, Saur Damages and Ricard Damages.

(The Clerk was instructed to have Mr. Fogelberg further split the Saur portion of damages per Larry and Lyle Saur's identified land acreage.)

Exhibit 23 – eMail with attachment dated July 31, 2103 from Larry and Colleen Saur. A three page attachment indicating their list of variables and estimated values for cartway.

(Mr. Saur was in agreement in withdrawing a road construction estimate he had received from Lind Excavating in that Mr. Dwight Lind of Lind Excavating had contacted the Clerk where Mr. Lind said he had made an error and was withdrawing his estimate – no further word.)

Exhibit 24 – eMail with attachment dated July 31, 2013 from Lyle and Patricia Saur. A two page attachment indicating their list of damage values.

Exhibit 25 – eMail from Duane Ricard dated August 1, 2013 where he had indicated that he would be satisfied with Mr. Fogelberg's timber value and the land estimate from the county assessor.

Mr. Hoops and Mr. Morris asked all parties – Larry Saur, Lyle Saur, Duane Ricard and Tim Costley as to whether they had anything further to submit in writing to the Board. All parties indicated they were done. The audience was asked as to whether or not they had anything further to submit. No submissions were made.

As Mr. Hull suggested, it was agreed that the damages discussion would proceed following the identified valuation areas/issues – Timber, Land, Value of the existing road, Utility issues, Privacy and Safety. Discussions for and against could be conducted as they went through each item.

Discussions took place regarding each area/issue. Affected land owners were asked to comment on the information presented. They were also asked for their comments as each motion was made.

The following damages were voted upon and declared:

Timber Value –

Hull made a motion, second by Lampart, to accept the Fogelberg Timber valuation for the Ricard portion of land as presented; \$56.08. Motion carried unanimously.

Hull made a motion, second by Lampart, to accept the Fogelberg Timber “combined valuation” for both the Larry and Lyle Saur portion of land as presented; \$210.61. As the separated values for Larry and Lyle Saur are made known by Mr. Fogelberg, the \$210.61 will be split accordingly. Motion carried unanimously.

After the meeting, the Clerk obtained the following split from Mr. Fogelberg’s: Larry Saur – \$170.18 and Lyle Saur - \$40.46

Land Value –

Hull made a motion, second by Hoops, to assign a land value for the Ricard portion of the cartway, 0.25 acre, of \$1,250. After discussion, both withdrew their motions.

Using a \$5,147 per acre value, Hull made a motion, second by Hoops, to assign a land value for the Ricard portion of the cartway, 0.25 acre, of \$1,286.75. Motion carried unanimously.

Using a \$5,147 per acre value, Hull made a motion, second by Hoops, to assign a total combined land value for the Saur portion of the cartway, 0.70 acre, of \$3,602.90. As the acreage split between Larry Saur’s portion and Lyle Saur’s portion is identified, this combined amount will be calculated and split accordingly. Motion carried unanimously.

Hoops indicated that his cover letter and the land sales spreadsheet were of bare land sales. Hoops wanted the record to reflect that fact.

Value of Existing Driveway – (Damages finalized later in minutes) –

Costley indicated that per case law the Board does not get to consider the cost of making a road when evaluating damages. Morris added that the Saur’s will continue to have unimpeded access to the driveway and that nothing is taken away.

Hoops made a motion for zero damage award for the driveway. Motion failed for lack of a second.

Utilities Issue –

Hoops indicated that utilities and any future move is the cost of the utility company. Costley agreed. Morris indicated that nothing can be written or escrowed relative to the utilities discussion.

Hull made a motion, second by Hoops, for zero damage Utility award for all properties. Motion carried unanimously.

Privacy Issue –

Hoops made a motion, second by Lampart, to award \$2,000 to Larry Saur and \$2,000 to Lyle Saur for tree plantings and screening. Motion failed, with Lampart voting Yes, Hoops and Hull voting No.

Hull made a motion, second by Hoops, for zero damage Privacy award for all properties. Motion carried with Hoops and Hull voting Yes, Lampart voting No.

Safety Issue –

Hoops made a motion, second by Hull, for zero damage Safety award for all properties. Motion carried unanimously.

Natural Screening Issue –

Hoops made a motion, second by Lampart, for zero damage Natural Screening award for all properties. Motion carried unanimously.

Driveway –

Morris reminded the Board that there is a benefit of road access and shared maintenance when the cartway is constructed.

In that the benefits to the affected parties along the driveway outweigh the damages, and that damages have already been awarded for land that includes the driveway, Hoops made a motion, second by Hull, for zero damage Driveway award for all properties. Motion carried unanimously.

Discussion continued as to the Saur's having another chance to dispute the damages and/or to provide more information and data to the Board.

Hull indicated a summary of the pending damages, (the final resolution to follow at a later date), are as follows:

Duane Ricard - \$1,342.83; Larry and Lyle Saur - \$3,813.51 (This amount to be split amongst Larry and Lyle Saur as mentioned above); for a total assessed damages of \$5,156.34

Morris indicated that it is up to the Board to allow any further discussion and/or information to be presented after this meeting. Further, he understands that the Board will not take up the final passage of the resolution for the cartway until after the maintenance turn-around at Aspen Road has been finalized. Morris indicated that if the Board wanted to give all parties some time to provide additional information that would be appropriate.

Hull made a motion, second by Hoops, to set the end of the day August 27, 2013 as the date for any parties wishing to provide additional damages information to the Board; this information to be provided to the Clerk. The Clerk is to forward any information along to all parties. Motion carried unanimously.

Hull made a motion to recess the meeting at 9:15 p.m., second by Hoops, pending updated submittals of further information regarding damages by all parties by August 27, 2013 and the setting of a reconvened meeting to finalize damage decisions. Motion carried unanimously.

Respectfully submitted,
Frederick R. Whitney, Clerk