

TOWN OF SILVER CREEK
REGULAR MEETING
APRIL 19, 2011

The regular meeting of the Town Board of the Town of Silver Creek was held on Tuesday April 19, 2011 at the Town Hall. Present were Supervisors – Mike Hoops, Greg Hull, Judy Fleischer; Treasurer – Bobbi Gilbert; Deputy Clerk – Laura Kleive; Step-up Road Foreman – Butch Henjum; Deputy County Assessor - Matt Miller; Jamie MacFarlane; Gene Shank.

Hoops called the meeting to order at 6:00 p.m.

Motion by Hull ,second Fleischer to adopt the 03/15 Regular Meeting minutes with corrections. Carried unanimously.

Motion by Hull, second Fleischer to accept the 03/24 Special Meeting minutes as written. Carried unanimously.

Motion by Fleischer, second Hoops to accept the 3/24 Conditional Use Meeting minutes with corrections. Carried unanimously.

Motion by Hull, second Fleischer to accept the 4/12 Rate Hearing minutes as written. Carried unanimously.

TREASURER'S REPORT:

TOSC checking: \$362,887.06 and TOSC savings: \$124,660.66; for a total of \$487,487.72.

Motion by Hull, second Hoops to accept the 03/2011 Treasurer Report as presented. Carried unanimously.

ROAD & SAFETY:

Henjum stated that in general the Town roads are good condition overall. Many culverts have been dropping and they have been fixing them as it happens, discussed preferences for which pit the gravel will come from that we are having crushed in conjunction with Lake County, discussion regarding Press Camp paving costs and materials.

CONSTITUENTS CONCERNS:

Gene Shank – said that his claim for reimbursement for loss incurred due to sewer backing up into his place of business in October of 2010 had been denied in December. He spoke with the adjuster to gather more information and was refused. Motion by Hull that the Town pays the claim and pursue reimbursement from MATIT ourselves. Motion withdrawn. Motion by Fleischer, second Hull for the Clerk to speak with Gerald Morris, the Town's attorney, to bring him up to speed on the situation and to call Kristin at MATIT to move Gene Shanks claim along. Carried unanimously.

CASTLE DANGER BREWERY – off-sale liquor license application presented by Jamie MacFarlane

RESOLUTION 2011-5

APPROVING OFF-SALE LIQUOR LICENSE FOR CASTLE DANGER BREWERY

NOW THEREFORE BE IT RESOLVED, that the Town of Silver Creek approves the Off-Sale Liquor License application for Castle Danger Brewery.

Supervisor Mike Hoops moved the adoption of the foregoing resolution, seconded by Supervisor Judy Fleischer, and upon vote being taken, the same was declared adopted upon ye a vote of Supervisors Mike Hoops and Judy Fleischer, Greg Hull abstained.

Adopted: April 19, 2011

ATTEST:

Clerk

Chair

Deputy County Assessor - Matt Miller spoke with the Board about assessment values, partial interest sales, veteran's exclusion and TIF's. Motion by Hull, second Hoops that Hull as a representative of the Town of Silver Creek contact Lake County Auditor's office to find out the historical and pertinent information relative to the TIF relating to Superior Shores. Carried unanimously.

READING OF THE BILLS:

Current month's bills were read. Motion by Hull, second Fleischer authorizing payment of disbursements #11641 – 11680, and the following electronic fund transfers (Federal, Minnesota, PERA); feft0311, mneft0311, peft031511, peft032111, and peft041511 for a total of \$20,441.55 . Disbursement #11673 to Visa in the amount of \$472.59 for the following: Ammex Gloves - \$113.00 for gloves, MPCA - \$300.00 for workshop, AMOCO - \$59.59 for gas. Claim #2523 to Avenet, LLC for domain name setup is not to be paid until it is clarified. Carried unanimously. Motion by Hoops, second Hull to move \$30,000 from Lake Bank savings to Lake Bank checking as per Treasurer's request. Carried unanimously.

CORRESPONDENCE:

LAKE COUNTY LAND USE APPLICATION
LAKE COUNTY REC BOARD AGENDA & MINUTES
HALL RENTALS
LAKE COUNTY SOIL AND WATER – observation report
RURAL WATER ASSOCIATION – Training session
US CENSUS 2010
HUDSON AGGREGATES – 2011 price list
CROW CREEK – 2011 mowing costs
COURI, MACARTHUR & RUPPE – legal seminar for Town officers
GOVERNMENT TRAINING SERVICES – 2011 Land use planning workshops
REGIONAL TRANSPORTATION ADVISORY COMMITTEE – grant in kind program

OLD BUSINESS:

RLK – Call to check on payments

LAKE BANK SIGNATURE CARDS - There has still been no new information from the State Auditors office. The Lake Bank has again asked that the signature cards be signed. The banks internal rules go against Minnesota statutes. Motion by Fleischer to sign the signature cards if no new news has been heard by next month. Motion withdrawn. Hull will make contact with Lake Bank to discuss the issue.

USDA LEGAL SERVICES AGREEMENT -

Supervisor Mike Hoops moved the adoption of the following resolution, seconded by Supervisor Greg Hull, and upon vote being taken, the same was declared adopted upon ye a vote of Supervisors Mike Hoops, Greg Hull and Judy Fleischer.

2011-6

UNITED STATES DEPARTMENT OF AGRICULTURE

Rural Utilities Service

LEGAL SERVICES AGREEMENT

This agreement made this 8th day of April,
2011 between the Town of Silver Creek,
Lake County, Minnesota
(sponsors) (organizing committee) (Name of organization)

hereinafter referred to as "Owners," and Gerald J. Morris,
attorney at law, of Silver Bay, MN, hereinafter referred
to as "Attorney":

WHEREAS, Owners are intending to form a
("are intending to", "have formed")
subordinate service district for the collection of wastewater
("public water supply district", "public service district," "not for profit corporation," or

other official designation), a
("body politic", "municipal corporation",

"nonprofit corporation," or other organization)

in Lake County County, Minnesota

under the provisions of Chapter 365A, Minnesota
(Cite statute(s) under which applicant will be/has been

Statutes, Subordinate Service Districts; and
organized)

WHEREAS, the Attorney agrees to perform all legal services necessary to organize and
incorporate said subordinate service district

under the provisions of

said statutes and to perform all other customary legal services necessary to the organization, financing, construction, and initial operation of

a wastewater collection system system;

WITNESSETH:

That for and in consideration of the mutual covenants and promises between the parties hereto, it is hereby agreed:

SECTION A - LEGAL SERVICES

That the Attorney will perform such services as are necessary to accomplish the above recited objectives including, but not limited to, the following:

1. Preparation and filing of petition for ^{creation} ~~incorporation~~ and supervision and assistance in the taking of such other actions as may be necessary or incidental to cause the Owners ~~to become~~ ^{to become} ~~duly organized and incorporated and~~ to be authorized to undertake the proposed system. DM

2. Furnish advice and assistance to the governing body of the ^{Town} ~~duly incorporated association~~ in connection with (a) the notice for and conduct of meetings; (b) the preparation of minutes of meetings; (c) the preparation and enactment of such resolutions as may be necessary in connection with the authorization, financing, construction, and initial operation of the system; (d) the preparation of such affidavits, publication notices, ballots, reports, certifications, and other instruments and advice as may be needed in the conduct of such bond elections as may be necessary; (e) the preparation and completion of such bonds or other obligations as may be necessary to finance the system; (f) the completion and execution of documents for obtaining a loan made or insured or a grant made by the United States of America, acting through the Rural Utilities Service, U. S. Department of Agriculture; (g) entering into construction contracts; (h) preparation and adoption of By-Laws, Rules and Regulations, and rate schedules; (i) such other corporate action as may be necessary in connection with the financing, construction, and initial operation of the system. DM

3. Review of construction contracts, bid-letting procedure, and surety and contractual bonds in connection therewith.

4. Preparation, negotiation, or review of contract with a city or other source of water supply when necessary.

5. Preparation, where necessary, and review of deeds, easements and other rights-of-way documents, and other instruments for sites for source of water supply, pumping stations, treatment plants, and other facilities necessary to the system and to provide continuous rights-of-way therefor; rendering title opinions with reference thereto; and providing for the recordation thereof.

6. Obtain necessary permits and certificates from county and municipal bodies, from State regulatory agencies, and from other public or private sources with respect to the approval of the system, the construction and operation thereof, pipeline crossings, and the like.

7. Cooperate with the engineer employed by Owners in connection with preparation of tract sheets, easements, and other necessary title documents, construction contracts, water supply contracts, health permits, crossing permits, and other instruments.

8. When applicable, secure assistance of and cooperate with recognized bond counsel in the preparation of the documents necessary for the financing aspects of the system. ~~The attorney shall pay all bond counsel in perfecting the financing aspects, e.g., assessment procedures and completion of documents.~~ Where bond counsel is retained, the Attorney will not be responsible for the preparation and approval of those documents pertaining to the issuance of the Owner's obligations. *g/m*

SECTION B - COMPENSATION

1. Owners will pay to the Attorney for professional services rendered in accordance herewith, fees as follows:

\$125.00 per hour for time devoted to this matter
and reimbursement of usual and customary expenses.

Said fees to be payable in the following manner and at the following times:

A statement of itemized time and expenses
will be submitted to the Town periodically.

SECTION C - OTHER PROVISIONS

1. That ~~upon organization and incorporation the association shall by appropriate resolution adopt and ratify this Agreement, that the association shall be substituted for the individual Owners as a party to this Agreement, and that the Owners as individuals shall thereupon be relieved of all personal liability existing or arising from this Agreement.~~ *Owners/Town g/m*

2. That ~~upon organization and incorporation should the association fail or refuse to adopt and ratify this Agreement by appropriate resolution within _____ days from the date of the commencement of its legal existence, this Agreement shall terminate and Owners shall be liable to the Attorney for payment of \$ _____ which sum represents payment in full for the organization and incorporation of the association and for all other legal services rendered to Owners under the terms of this Agreement to the date of said termination.~~ *g/m*

Attorney:

Gerald J. Morris
Gerald J. Morris

Owners:

Michael T. Boyer, Chair
Anura Klewe, Clerk

STEWART RIVER SEWER PROJECT– discussed signatures, Homeowners meeting on Sat May 21 which Hull and Fleischer will attend and meeting with Colleen Landkamer of USDA.

FINANCIAL ASSISTANCE AGREEMENT – Claim has been submitted to Lake County for assistance with paying for the Facilities Plan and PER. County has asked that the Town draft a financial assistance agreement to accompany the claim.

NEW BUSINESS:

LAKE BANK AUTO PAYMENTS – Deputy Clerk presented information on auto payment options for Castle Danger Sewer District. Motion by Hull, second Hoops for Kleive to draft a letter to be included with next sewer billing strongly encouraging people to sign up. When 12 have expressed interest Clerk has permission to move forward with setting up auto payments through the Lake Bank.

DELINQUENT SEWER ACCOUNTS –

Motion by Hull, second Hoops that if no payments of communication are received by the end of business on 4/29 on 5/2 a certified letter be sent to Rustic Inn/Jim Sullivan indicating that we intend to terminate his sewer service because of failure to abide by January 23, 2011 agreement to keeping current. We will move forward as per the Land Use Ordinance. Carried unanimously.

CLP – Deputy clerk presented draft letter to CLP for removal of lights at Bunker Hill Rd #2 and W Castle Danger Rd #1. Correction will be mad and letter will be mailed.

ELECTRONIC FUND TRANSFERS -

2011-7

RESOLUTION AUTHORIZING ELECTRONIC FUND TRANSFER TRANSACTIONS

BE IT RESOLVED, that the Town of Silver Creek Board of Supervisors authorize the following claims to be paid by electronic fund transfer:

- MN DEPT REVENUE
- MN PERA
- IRS USATAXPYMT

Supervisor Greg Hull moved the adoption of the foregoing resolution, seconded by Supervisor Judy Fleischer, and upon vote being taken, the same was declared adopted upon yea vote of Supervisors Mike Hoops, Greg Hull and Judy Fleischer.

BOARD REORGANIZATION:

- Motion by Hull, second Fleischer nominating Mike Hoops to be Chairman. Hoops abstained. Motion carried.
- Motion by Fleischer, second Hoops nominating Greg Hull to be Vice-Chairman. Carried unanimously.
- Conflict of Interest-

**RESOLUTION 2011-8
RESOLUTION AUTHORIZING CONTRACT
WITH INTERESTED OFFICER UNDER**

M.S. § 471.88, Subd. 5

WHEREAS, Town of Silver Creek, Lake County, Minnesota is seeking the performance of the following service:

Wastewater Treatment Facility Operator – ‘C’ License

WHEREAS, Michael Hoops was hired as an employee in the position of Wastewater Treatment Facility Operator prior to being elected to the position of supervisor;

WHEREAS, Michael Hoops is a supervisor of said Township and will be financially interested in the contract for the following described reason:

He is directly providing the service as an employee of the Township.

WHEREAS, the Town Board advertised in the Lake County Chronicle to fill the position of Wastewater Treatment Facility Operator, and Michael Hoops was the only applicant qualified for the position;

NOW, THEREFORE, BE IT RESOLVED that the Town Board, upon a unanimous vote of the supervisors with the interested officer abstaining, finds that the contract price of \$21.50 per hour is as low as or lower than the price at which the services could be obtained elsewhere at this time;

BE IT FURTHER RESOLVED, that the Town Board, pursuant to M.S. §§ 365.37; 471.88, Subd. 5; and 471.89, does hereby authorize a contract with Michael Hoops for a price of \$21.50 per hour. Payment to occur on the contract as agreed and upon the filing of a proper affidavit by the interested officer.

Adopted the 19st day of April 2011.

Supervisor Greg Hull moved adoption of the foregoing Resolution, seconded by Supervisor Judy Fleischer, and upon vote being taken, the same was declared duly adopted upon unanimous yea vote of Supervisors Greg Hull and Judy Fleischer. Mike Hoops abstained due to conflict of interest of being an employee and determining the wage for his position.

Greg Hull

Judy Fleischer

ATTEST:

Laura Kleive

ABSTAINED

Michael Hoops

- Motion by Hull, second Hoops to let the Election Judge wage remain at \$9.50 per hour. Carried unanimously.
- Motion Hoops, second Fleischer to keep The Lake Bank as Depository for all Town funds. Carried unanimously.
- Motion by Hoops, second Fleischer to accept the AWAIR, Policy manual, Resolution Book, and Ordinance Book as presented. Carried unanimously.
- Motion Hoops, second Fleischer that posting sites to be Silver Creek Town Hall, and the Silver Creek Web site.
- Motion by Hoops, second Hull to have The Northshore Journal remain the Township's legal newspaper publication. Carried unanimously.
- Motion by Hoops, second Hull for the Treasures' monthly wage to be \$200.00 with a \$35.00 per month allowance for mileage. Carried unanimously.
- Motion by Hoops, second Fleischer to accept, with regrets the letter of resignation from Wendy Langanki, Clerk. Carried unanimously.
- Motion by Hoops, second Hull to appoint Laura Kleive as Clerk. Carried unanimously.

RESOLUTION 2011-9

APPOINTING CLERK

THEREFORE, BE IT RESOLVED, that Laura Kleive be appointed to fill the vacant Clerk position and serve the remainder of the term.

Supervisor Mike Hoops moved the adoption of the foregoing resolution, seconded by Supervisor Greg Hull, and upon vote being taken, the same was declared adopted upon unanimous yeas and nays of Supervisors Mike Hoops, Judy Fleischer, and Greg Hull.

Adopted: April 19, 2011

- Motions by Hull, second Hoops to pay retroactive pay to Laura Kleive as agreed upon in Clerk Compensation Proposal. Carried unanimously.
- Motion by Hull, second Hoops to adopt the Clerk Compensation Proposal terms as written. Carried unanimously.
- Motion by Hoops, second Hull to adopt contract with Gerald Morris to continue for the next year as adopted in 2010. Carried unanimously.
- Motion by Hull, second Fleischer to increase the Chairman's wage to \$275 to reflect added meetings and work. Hoops abstained. Motion carried.
- Motion by Hoops to increase the supervisor's monthly wage by \$25.00. Motion failed.
- Motion by Hull, second Hoops to increase the supervisor's monthly wage to \$235 to reflect extra duties performed. Carried unanimously.

There being no further business, meeting adjourned at 10:50 p.m. upon motion by Hull, second Fleischer. Carried unanimously. The next meeting of the Town Board will be held on Tuesday May 17, 2011 at 6:00 p.m. at the Town Hall.

Respectfully submitted,
Laura Kleive, Clerk