

## Lutsen Township Cartway Meeting Minutes

July 31, 2023

Lutsen Townhall

**In attendance:** Samantha Mcquatters-Spangle, Chris Homyak, Tyson Smith, Ashley VanDoren, Carl Friesner, Molly Larson, Tom Rider, John Vigen, Rob, Kirk Leland, Nicole Leland, Phil Larson

1. Meeting was called to order at 6pm by chairperson C. Friesner
2. Pledge of Allegiance
3. Cartway updates;

Lutsen Township cartway attorney Troy Gilchrist reinforced those in attendance the procedure and purpose of this cartway meeting. The stages of the hearing start with determining eligibility and route, looking at the requested cartway route and any other viable options for a route to the landlocked parcel and determining that the petitioner is eligible for a cartway. Town board selected the requested route and passed a resolution conditionally granting a cartway along the requested route; those matters are resolved. There is no more debate over route and where to go.

We are now at the second stage; this stage is to determine damages. Part of this process the Town Board is obligated to determine the amount of damage to be paid to the affected land owners for having a cartway established over their property and I always recommend as is the case in this cartway to hire an appraiser to assist in making that decision. The appraiser John Vigen was hired and a very thorough report was generated with respect to the two effected owners. At this stage since the appraiser was invited to the meeting those in attendance will hear a short presentation from the appraiser on how the final report was put together and the conclusions followed by any questions the Town Bored may have; later opening to floor to any other questions or comments by either the petitioner or opposing parties to speak to the damage amounts listed in the reports. After all parties had a change to input their comments to board will discuss and determine the finalized amounts and action for the town board attorney in filing a resolution of cartway and awarding effected land owners damages. After filing the cartway there is a 40-day appeal that is opened. If an appeal is made it goes to district court; if no appeal is made the cartway will be finalized.

Appraiser John Vigen based out of Duluth and 48 years of experience of regional appraisal including in Cook County. Starting with an over of the procedure and damage amounts.

Starting with protocol Mr. Vigen sent out letters of notifications that he had been retained by the Lutsen Town board for appraisal of the proposed cartway. The Lelands for parcel #1 responded immediately and scheduled an appointment. The Lelands showed Mr. Vigen around the effected land, the daily uses of the land, their plans and improvements made to the land. A second trip was made for the purpose of drone and arial review; pictures were taken of the effected land, road and nearby areas that would be impacted all included in the appraisal reports (all reports are on file in the town clerk's office.) This is an A-typical cartway, you don't generally see a cartway laid over an existing easement. The existing Hansen cartway is the current road/trail (Copy on file) was filed in 1990 and is perpetual meaning it will be there for the duration. The effected land owners were aware of the easement when the property was bought. If is very specific easement; the second paragraph on the second page states that the easement is for construction and maintenance access for resort facilities provided Lutsen Mountains does not use the road for other endeavors. The petitioners are seeking to establish a cartway two roads wide and for access to a land locked property and make use of the land locked property. No description of the type of make use is determined; for appraising "make use" is determined by the zoning. The zoning in talking to the planning commissioner is RCR, a long list of items or uses can be done under RCR but the uses also have to be determined by the access. A 33-foot wide cartway will allow only some uses. These issues will come up when a building or application permit is submitted that has to go through county planning.

Leland property is consistent with land use and development of their agritourism business and they are currently making improvements consistent with the neighborhood and community and their consumers. They have the RCR zoning and conditional use permit for expansion and different use on their property. The survey on the northwest corner of the Hansen easement details a small upper island defined within the plan as accommodation employee and owner housing becoming an integral part of the appraisal.

When looking at the cartway and land Mr. Vigen pointed out a hypothetical condition he did not take into account improvements viewing this parcel as pure raw land in the appraisal. The ski hill road is a unique subset location in Cook County there is a micro market where land does not change often. Mr. Vigen used comparable with the limited resources and market sales. Those are well defined within the filed appraisal report; they are broken down by a rate paid per acres. The survey done on the property showed 25.22 acres bisected by the Hansen easement leaving a net of 23.70 included designated wetlands that can be defined in the survey report. The land is valued before value on property is 300,00\$; although the subject land value is stated on the surveys what is not defied is the subject value in sales. In this particular circumstance as there is an existing easement with a road/trail and any damage

that to the land that would have occurred with payment to the damage would have been paid in 1990 when the road/trail was constructed meaning there will be no compensation for the land. However, when look at the survey and condition use permit and talking with the land owners and use of the effected area the land owners are allowed to use to northern section that is bisected by the current easement how they please. Currently the effected land is not impacted by traffic, noise or visual disturbance but the cartway will introduce those factors and the effected land owners are due consequential damages; meaning they are suffering because something is happening next to you. This cartway would introduce traffic that would not be there because of the Hansen easement permit; 10% of the 6 acres that would be affected by the cartway is the \$7,200 the appraiser deemed appropriate to award in damages in the context of consequential damages.

Using the same tactic in finding the damages to be awarded to parcel #2 Wildhome Guiding. The appraiser found that 895 feet directly located next to Highway 371 (Ski Hill Rd) and preexisting exposure to traffic and noise with the Hansen easement bisecting the northern part. Evaluation sales estimated at \$95,000, purposed cartway would go over the existing easement therefore no compensation in the acquisition of the cartway nor any consequential damages.

Petitioner comments made by Mr. Smith on behalf of the Skinner-Larson party; consensus in the agreement of the final figures for damages and the thoroughness of appraisal was very well done. The thought of what the right of the land owner was giving up essentially boiled down to exclusion and once that is given up it cannot be given up again. This in their opinion was a good explanation as to the low value of damages awarded; The petitioner party has no reason to object to the final amount.

Affected land owners' comments made by Mrs. Leland let it be known that one of the disappointing factors in the appraiser's history in previously having had worked for Lutsen Ski Corp for the possibility of bias as the petitioner party has associations with Lutsen Ski Corp but understands the few options available in finding a qualified appraiser. However, Mrs. Leland made note that they appreciated the acknowledgment that they would be losing the privacy and having to reorganize and change their business plans entirely to adhere to this new cartway moving forward. The biggest concern in the impact that this cartway will have been on their business model which is solitude. It does feel for them that it's a big risk depending what the petitioners decide to do in the parcel once access is granted. They feel as though no concessions were made on their behalf or concerns recognized.

Lutsen Township attorney advised the supervisors to discuss and decide if the damage amounts seem appropriate or not. Reiterating to the supervisors that legally they do have to decide one way or another. Advised if they do deviate from the appraisal report to give good reason as they asked professional report and received it in a very thorough report. Creating a cartway statue will finalize by starting a roadway procedure; ascertaining the damages with which will be sustained by any owner the town board shall determine the money value of the benefits with the establishment will confer and deduct the benefits if any from the damages if any and award the difference to the affected land owner.

Supervisor Homyak questioned what happens when the cartway is established does this become a public road, listed on maps and GPS?

Mr. Gilchrist let it be known that once a cartway is established the township will maintain interest in it but it is to be maintained by the petitioner. When established it is open to public use. The cost falling fully on the petitioner.

**Consensus between all supervisors in support of the appraisal damage amounts; Mr. Gilchrist will prepare a final cartway order to be ready to review and sign on August 15, 2023 meeting.**

4. Citizen Comments; no further comments made
5. The meeting was adjourned at 6:50pm Motioned by C. Friesner and seconded by L. Cooper.  
Motion passed

Respectfully submitted by S. Mcquatters-Spangle; Clerk

Chairperson; C. Friesner