

**Skinner-Larson Cartway Petition Meeting Minutes**  
**August 25, 2022**  
**Location Site 1: PID 27-128-4250**

**Present:** Chris Homyak, Sharon Hexum-Platzer, Carl Friesner, Lolli Cooper, Troy Gilchrist, Nicole Leland, Roy Scoles, Jeremy Hansen, Tyson Smith, Haden Meyers, Tom Ryder, Ann Ryder, Philip Larson, Molly Larson, Amanda Megan, Tyan Ketchmark, Tom Ketchmark, Karen Ketchmark, Robert Bilstrip, Todd Ford, Charlotte Skinner, Samantha Mcquatters-Spangle

**Call to Order:** Meeting called to order by Chairperson, C Friesner at 6pm. After Introduction of attending individuals C. Friesner introduced Lutsen Township attorney Troy Gilchrist to lead meeting.

**Cartway Inspection:** (Attorney introduction and cartway process)

- Mr. Gilchrist introduced himself as the Township attorney; working with MAT (Minnesota Association of Townships) previously for 15 years dealing with policies issues with cartways, talking to townships on how the cartway process works; drawing up documents to explain history and instructional advice. Last 15 years working with Kennedy and Graven attorneys at law representing towns across the state of Minnesota on a whole range of issues including cartways. Many towns utilizing Kennedy and Graven find themselves in a position of dealing with a cartway for the first time. This process is rather unique and has been around in Minnesota states for a very long time. It is a means of providing a way for land owners to get access to land locked property. This generally presumes they are not able to gain access through other means such as a private access though neighboring property. This is essentially a last-ditch effort to get access to property.

It is important to know the township is statutorily required to go through this process so they do not have a choice to say no. The course long ago made this clear this a mandatory process; there is a court order that can be issued to force them to go through this process. The town is in this position to work though it.

A unique note on cartways, they are a public road when established but they are maintained by those privately by those who use them for access to their properties. Having been through a lot of cartways Mr. Gilchrist's opinion is that it is better for both parties concerned to work out private easement arrangement even if the land owners pay a little bit more then what they think they should for the easement. Even though the land owner is giving an easement they don't want to give, the reality is this most of the time will end up with a cartway going through their property.

This cartway will end up going through someone's property and it is a public easement as well so technically anyone in the world can drive down it. They cannot trespass and go into the land but this cartway will be public. One of the best ways to avoid creating a public road across your land is to grant a private easement. That is a reality, but it that arrangement doesn't work and I understand it so far has not been the case; of course, that doesn't mean that still

**Inspection:**

- Mr. Gilchrist; We are on site today to conduct an inspection of the requested Skinner-Larson cartway and any other alternative routes that folks would like to offer. That is part of the statutory process that has to be done. The point of this process is for folks to point out anything they think is important for the town board to take into consideration when deciding to best

route for the requested cartway. Often things will be pointed out such as wetlands or boulders or terrain that may interfere with a particular route not being the best option. After this walkthrough we will continue this public hearing at the Lutsen townhall where we will discuss two primary questions of eligibility and route.

Eligibility is a straightforward determination; does the land contain at least five acres and is it truly landlocked only able to be access over other people's property. In other words, it has no established legal access to the property. The second discussion topic is route, not surprisingly the most controversial. No property owner wants a cartway to go across their property. The board will have to choose a cartway route

- Once the board has decided a route a resolution will be passed identifying and granting a cartway over that route this hearing will be continuing onto a second stage of selecting a surveyor to survey a route and come up with a legal description of the selected route. An appraiser that will be hired to come up a damage determination because the property or properties that are made subject to a cartway are entitled to damages for the cartway going across their property. The board will have to approve both the surveyor and appraisers' determinations; ultimately once the decisions are made a final cartway is order is issues establishing the cartway followed by a forty-day appeal period where someone can bring it to district court and can challenge what the town did through that establishment process.
- Walking through the proposed cartway site property owners Leland and Scoles pointed out large sections of the area to be wetland with multiple water flooded areas and ditches crossing the trail. The proposed cartway crosses through two properties on a previously established easement trail. Questions raised asking about the current flooding; Leland owners stating that every year flooding occurs. The inspection continued crossing through the flooded area following the trail.
- It was decided to physically inspect one of the two proposed alternate routes as the seconded proposed route; Tall Timber Trail is well known and not deemed necessary. Inspection tour to continue on Lutsen Mountain Corp property route proposed by Leland-Scoles land owners.

### **Skinner-Larson Cartway Petition Meeting Minutes**

**August 25, 2002**

#### **Location Site 2: LMC proposed route**

**Present:** Chris Homyak, Sharon Hexum-Platzer, Carl Friesner, Lolli Cooper, Troy Gilchrist, Nicole Leland, Roy Scoles, Jeremy Hansen, Tyson Smith, Haden Meyers, Tom Ryder, Ann Ryder, Philip Larson, Molly Larson, Amanda Megan, Tyan Ketchmark, Tom Ketchmark, Karen Ketchmark, Robert Bilstrip, Todd Ford, Charlotte Skinner, Jim Vick, Samantha Mcquatters-Spangle

#### **Meeting Continuation:**

- Arriving at 6:38pm to inspect the Lutsen Mountain Corporation proposed cartway access. The inspection group was advised by LMC general manager Mr. Vick on security issues raised using the LMC proposed cartway including heavy equipment stored along the proposed cartway path, utilizing the gated access and access for winter maintenance by snow groomers needing to maintain a snow depth of a couple feet on pathway. Discussion between parties on wetland

areas; characterization of wetland needing to be verified and continued and concern over “the slump” that borders the pathway. The slump being a large drop off sediment cliff overlooking the poplar river.

- The second proposed access runs alongside LMC maintenance garage and continues to three sewer ponds maintained by Caribou Highlands; the property access being just south of the sewer ponds. Concerns raised over safety risks of a public cartway running along sewer ponds as the bordering fence is in disrepair. NPCA (National Parks Conservation Agency) regulates and requires per the permit a fence to separate things such as sewer ponds from public access.
- Lutsen town board supervisors questioned the amount of use and storage for LMC property and maintenance. Response by multiple LMC representatives stated daily use of pathway for storage, maintenance access and during winter hours daily use for snow groomers
- Lutsen town board supervisors questioned the property lines between LMC, Caribou Highlands and proposed cartway. Response was varied as both companies use proposed access with no clear indication.
- Inspection group walked along the second proposed cartway path following a trail along side and leading just below the sewer ponds to the land locked property encountering a discharge pipe manhole access for sewer ponds maintained by Caribou Highlands and “the mega slump”.
- Discussion on wetlands and what foliage constitutes wetland markers on proposed cartway between parties ensued and the impact differences between proposed cartways. Both petitioners and petition parties discuss possible impact of road development and use of culvers impacting water flow and drainage and the impact to the Leland/Scoles property.

Meeting conclusion at 7:08pm; continuation to be held immediately at Lutsen Town Hall

### **Skinner-Larson Cartway Petition Meeting Minutes**

**August 25, 2002**

#### **Location Site 3: Lutsen Town Hall**

**Present:** Chris Homyak, Sharon Hexum-Platzer, Carl Friesner, Lolli Cooper, Troy Gilchrist, Nicole Leland, Roy Scoles, Jeremy Hansen, Tyson Smith, Haden Meyers, Tom Ryder, Ann Ryder, Philip Larson, Molly Larson, Amanda Megan, Tyan Ketchmark, Tom Ketchmark, Karen Ketchmark, Robert Bilstrip, Todd Ford, Charlotte Skinner, Jim Vick, Samantha Mcquatters-Spangle

#### **Meeting continuation:**

- At 7:22pm Cartway Public Hearing commenced. Mr. Gilchrist “Just to remind everyone the purpose of this stage of the hearing is to determine eligibility and route. Frankly there has been a lot of lawyers involved in this that have all written letters. I did not see in any of the letters anyone raise eligibility in any other those letters although the focus in all the letters were the route. If there are any concerns or questions over eligibility now is the time to raise it otherwise the focus is on route. Mister chairmen what I suggest you do first is let the petitioners speak and then open it up for others to speak. General rules of decorum and good manners of course; frankly I’m not concerned everyone accorded themselves very well out on the inspections but just a reminder lets give everyone a chance to talk so please no lengthy speeches.”

- Tyson Smith the representative for the petitioner “Thank you for your time and I know all of the lawyers have submitted quite a bit of paperwork for your review; frankly sorry but I appreciate your attention to that, it is very important. As Mr. Gilchrist told us at the beginning of this matter the petitioner’s route has the presumption and until you is decided that one of the other two routes that we talked about is less disruptive and in the publics best interest your stuck with what we’ve got. And what I saw when we were out there was an existing road that was about 60 feet wide with a 2-foot depth built by Hansen back in the 90’s. I saw a route that doesn’t impact any exiting residential structures, I didn’t see any houses on either side of it. There is no business going on in the middle of that route that would be impacted. Wetlands, we heard a lot about wetlands but besides a culvert I didn’t see much of a need to mitigate that. This land is zoned RCR, this is supposed to be developed, this is not 20 acres up at the end of caribou trail by the grade, this is 20 acres on ski hill road. Public has an interest in development of property in this district. This is economic revenue generation part of this community so those are all measurable metrics. From my perspective the only place that you can put that road is over that existing road. We didn’t ever go look at Tall Timber Trail and I think you can tell by the number of people who are here, concerned about that. That shouldn’t even be on the table, simeraly when we talk about the norther route, that’s about twice as long as the first one we walked. It doesn’t have a road bed built, it’s a trail that been cut there is no road constructed. You’re walking through one of the most ecologically challenged sets of river banks in this part of the world that a lot of time and effort spent maintaining; we don’t need to be building any roads on top of that.

We also heard from Mr. Vick, Lutsen Mountain about why that route would be very challenging for the ongoing operations for what is probably the most important economic driver or activity in this community. The ski hill needs to be able to operate, if it can’t Lutsen has a problem. That why the exciting route makes more sense. I also like to point out there seems to be quite a bit of confusion over what the right are on that; bluntly the road we want, the Hansen Road, Lutsen Mountains owns that road. I provided you all a copy of the easement (easement is on file at Lutsen Township) in my last submissions. It is a very confusing document and I will just summarize it this way. There are two easements overlayed into one, one is called an impertinent easement that means the right to cross lands for the benefit of a specific parcel. That one I’m not concerned about here; we are talking about the easement engross. Lutsen Mountains has the right to marrow, to widen that 66-foot-wide easement corridor out, pave it, put street lights up on both sides of it as long as its for the purposes of anything related to the ski hill for future commercial development; that what that document says. So when we are asking for a cartway over that route we thought that made the most sense because those exciting right are basically a whole road. The one thing is doesn’t have, which is why we are here is the right to use for residential access.

Molly and Phil want to build a house, if they could use that road for residential purposes we wouldn’t be here today. But to say that road is not a road it not legally correct, it doesn’t comport with what I saw. We were all there, it’s a road built, it’s a road bed. It needs culverts admittedly but that’s an existing road.

The monster in the room is what kind of use that could be put to this property. Now Molly and Charlotte both own this property and Molly and Phillip what to build a house right away, the rest of this property is kind of up for debate. Now in a perfect world we would have subdivided

this first and then come to you; this is the map; this is what it would look like but we can't do that because Cook County will not allow a subdivision until we have access. We don't have legal access, by the way 5 acres plus land locked entitles us to a cartway which is why we are here and the is ultimately our challenge." Speaking to Leland/Scoles property owners. "The thing that I would hope would give you some comfort to understand is their going to be your neighbors, the nightmare of development activity your concerned about will be there backyard too. Its not like there is a super power there." Speaking to the room "I hope that gives everyone comfort which is why I want Molly and Phil to tell everyone a little about what their plans are, I'd also like you to hear briefly from Charlotte what her plans are and lastly Tom (Ryder) has talked a little bit already but I am sure he could speak some more about the mega slump and that land slide effect. I'm not going to toot your horn too much here but I bet there is not one in the state that knows more about the mitigation efforts for the Poplar River and the water shed then you. So some explanation for why that northern route doesn't work. I'd be happy to answer questions in due time."

- Molly Larson "As many of you know I grew up in Lutsen and Phil moved here 11 years ago. Our land is really special to us given to connection to my grandfather who built trails on the property in the 80's. We just feel so lucky to live here and we want to continue to live here and call this community home. We first visited and dreamed of living on this parcel 5 years ago in 2017. Now a few years older and a few more dollars saved we are ready to leave our one bedroom 640 square foot house to build a home that we can raise a family in."

Phillip Larson "So getting into our plan is to build a home. To build a house small two bedroom as this point. It's going to be in the southwest corner of the parcel near the river. We started planning this in the beginning of 2021 and we developed house plans, lots of different versions. We kind of developed the cost of house and realized its hard to build a house up here. So we provided that and developed cost estimates that got contractors that give us specifics to our plans and we were ready to build and in the beginning of this year in the spring. That was at that point that we found out that the Hansen easement wasn't written very well that was perfect for the parcel that we want to build on and it didn't give us access to the parcel that Molly and Charlotte have is landlocked. So as Nicole (Leland) mentioned we were offered an easement from them and it didn't commercial use which was a nonstarter for us. Reserved for commercial residential zoning is very valuable on Ski Hill Road and even in Cook County there is not much of it. There is only 9% private land in Cook County so I think with planned in here which everybody knows is a special thing. Its north shore land, it's beautiful, it's magical, so we didn't want to restrict ourselves to that. And I think that's the reason we didn't except that easement offer. We choose our cartway route based on our understanding that state stature with least impact and least burdensome. We choose it because it's the shortest, but also because its sitting on an existing commercial easement and so we wouldn't be talking addition land for Leland or Wildhome that they couldn't already develop.

Though we fully support Lelands business and WildLands Business we feel that this is the best use of an easement and for our cartway. Thank you for listening tonight and everyone coming and for your time. "

- Charlotte Skinner "I am Charlotte Skinner; I am the other petitioner for the cartway. I can't say that I grew up here but I did spend a lot of my childhood coming here. When Molly and I grew up spending our weekends walking over to each other's houses we grew up on adjacent parcels

so this has always been a dream since we were this big (motions for child sized) to be able to have families that could one day have that same experience. While I can say that I am not quite ready to have plans develop my house next to hers, we are at different stages in our lives. I has been a dream, a childhood dream that we would be able to build houses on adjacent parcels and share things, share garages, share barns. And this a very meaningful dream to me that although a few years down the road that I will be able to save my dollars and pennies and get marries first. It is really something that is a big part of my future plans and dreams to become a bigger part of this community; that all that I really have to say.”

- Tom Ryder “I’m Tom Ryder, I am Molly’s dad and former co-owner of Lutsen Mountain Ski area, I sold my interest back in January and retired but I want to speak to you about the mega slump. There is this notion of this route proposed to go through the sewer ponds and there are many reasons why that a bad route that have been discussed, the snow cats, the operational needs of Lutsen Mountains, there just not compatible. But one thing that I can speak with quite a bit of experience is my concern about the mega slump and the impact that road would have on the mega slump. We walked down that path and could see the mega slump was right next it. Before I retired for 15 years, I was the president for the Poplar River management board which was formed in 2004 when the river declared impaired because there was too much sediment in the river in high flow conditions. As president of the PRMB I became pretty knowledgeable of the mega slump so its something I can speak to with authority. Building a road through that route would be a big mistake, I think it could potentially undo the work that’s been done to stabilize that slope which would add pollution and sediment to the Poplar River. To understand this we must very quickly do a quick PRMB history and the work that was done there so you can understand what would be undone. The PRMB was formed in 2004, it was a collective effort among Lutsen Mountains, Caribou Highlands, Lutsen Resort and the golf course, all the land owners adjacent to the river. The first thing we did when we formed the organization was commission a site assessment by some scientist to figure out where the pollution was coming from and what was the biggest source, we wanted to start with the biggest source we could find. The source assessment came up and determined that the mega slump was the largest contributor of sediment to the river at that time, it contributed 522 tons a year of sediment. That was 25% of the total sediment going into the river so we decided that was going to be our first project, our first priority. We hired some nationally proclaimed experts, came in a designed a system to address that. We spent hundreds of thousands of dollars both private and public money to build a structure to protect that and it was very successful. The result was a significant reduction in sediment and the slope became stabilized. Over the following years the PRMB continued to do a lot more projects throughout the water shed and the numbers were dropping consistently as we were completing projects and getting better and better. It 2018 the river finally meets state water quality standards and was delisted, that was a big deal and we worked really hard for a long time, we invested a lot of private and public money. We were the second river in Minnesota delisted for sediment pollution because we worked really diligently. I don’t want to see that undone, in my opinion construction of a road on top of the mega slum could destabilize it. Roads require culverts, concentrated flow on a steep slope like that could be very damaging and cause severe erosion. In addition, the removal of trees on the top of that mega slum to widen that road is destabilizing as well. The removal of roots destabilizes the soil, the roots help the soil stay together and not erode. The

removal of the tree canopy causes the increase in flow and quantity of water at the top of that slope, again adding to erosion of that slope. In conclusion a construction a road at that location is a very bad idea for the health of the river, it could undo all the work that was done by the management board, it could increase pollution to the river. In addition, if there were a major slope failure its entirely possible this road that we walked on would be in the river. Thank you."

**C. Homyak Supervisor** "Just out of curiosity RCR how small of a plot can you subdivide to, Standard residential is now 5 acres, correct?" **T. Smith** "I think its 5" **M. Larson** "We told them 5 acres" **C. Homyak** "I am just trying to figure out what the density of the subdivision of the plat is right now. What is could actually come out to, so 5 acres, 5 acres, what looks to be about 5 acres unusable because its at the top of the slump. Your talking 15 acres there out of how many acres?" **T. Smith** "22 acres" **C. Homyak** "4 buildable plots. The road, the easement that is currently there, the way its written Lutsen Mountains technically because they are a commercial entity could open it up to the public as it stands now." **T. Smith** "If it was for the purpose of getting access for the recreational installations owned or operated by Lutsen Corp. yes. I have spent an awful amount of time trying to figure out what this document means." **C. Homyak** "I have read it backward and forwards three or four times, that why I ask because in reality what that mean is they could build a base station over there and widen it to 66 feet and have it open to the public if they want." **T. Smith** "Correct" **C. Homyak** "Thank you that's all I have for questions"

- Amanda Megan Opposing petition party lawyer "My name is Amanda Megan I am an attorney for Leland and Wildhome Guiding. This is the first time on the record that I have heard to hear say that they were going to use it for residential use. I don't know if I have seen that mentioned any where else. I think I have made the rest of the concern along the trail. I think it needs to be address concern about commercial use, intended use short term is residential and if we address that might make Tall Timber Trail kind of be going in the right direction. I know we didn't drive down it but we all know it, it's an established road, not too far down is the parcel. It certainly would be a small cost to create a drive way from Tall Timber Trail onto Larson-Skinner parcel. I also took note that they stated the intended location for their home is going to be in the southwest corner. We all looked at the map (currently on file in the Lutsen Townhall) and saw where the proposed cartway came in the northeast far corner. I don't know how much it makes sense for them to have to cross their property to make use of it. I think there also quite a bit of development where we went along the northern route (LMC access route), it does require some construction but we don't have all the information in front of us to as to the permits needed as far as the NPCA, we need to fax them to have that brought up and put in front of you as to how far away the fencing needs to be. You guys can certainly ask for more information in the meantime about that route. We shouldn't foreclose that option right now considering the fact that we don't know where that fence should be. I think for folks at Tall Timber Trail were also concerned about the commercial use, I direct you guys to the Cook County zoning map. Every bit of that section is RCR meaning you can put resort, commercial or residential. There is no different zoning there along Tall Timber Trial, they also did not provide as sort of declaration saying that they can't have commercial use. I did look at a few property records along Tall Timber Trial, they are using it for short term rentals so commercial use isn't completely foreclosed along that route currently. I looked at quite a few sales along Tall Timber Trail that are currently listed. I just want you guys to know my clients proposed two alternative routes, you guys are certainly free to look at other ones, look at maps, look at other routes. I just ask

that you guys keep an open mind and ask my clients about any other specific comments about there property. I think we heard some passionate pleas earlier.”

- Nicole Leland “So I’m an integrated nurse practitioner and have a huge passion for cultivating and sharing the benefit of whole food. Kurk (Mr. Leland) and I have together have crafted a business model where we are aiming to capitalize on two of the biggest strengths of Cook County. One being the natural beauty that we are all here for and two being tourism. We are utilizing tourism to ultimately fund our farming practice that is aimed at providing a reliable source of high-quality food in an area where we are all in. The bottom line for us is that the undercut that tourism leaves; if you look at our reviews, we haven’t created a normal rental, its not a normal resort, it’s a retreat. They come in, they shut off, they are paying a lot of money right now in a way that is benefiting our community long term in a sense that it’s a tangible and transparent benefit when we can genuinely nourish the people that we live with, give back to our community in a way that most resorts can’t. We are incredibly passionate about the work that we are doing, not only do we want to create this experience for our guest and community but we also want to be able to teach people in our backyard. This road if it undercuts the tourism aspects then it limits our ability to provide that experience to people in a way that we are currently it completely degrades our ability to fund the farm. Farming up here in incredibly challenging, we have a really short growing season, we are living on a bunch of bedrock. It’s just not an ideal farming environment but if there is a food shortage and we have supplies; Cook County doesn’t have any food; and we want to genuinely want to feed the scores with reliable and amazing food for our community.

The other piece that I want to bring up; we already talked about the wetland thing; we already talked about our houses getting delivered next week, its going to go right on that road and we are really not keen on. We moved from the city to be up here in the serenity of this natural world and to have a potentially busy road. I understand that its their backyard too but the bottom line they can design to road be away from their house. We can’t, this is going to go right through ours; the only option to build our home is on the one dry spot, that’s the only option where this road will go right by. It really degrades the value of our property and frankly the value of our life experience with our house right there. It is just a major bummer for us in that aspect. The other piece I want to bring home, the fact that when we were proposing our farm and all the things we wanted to have. The initial though for us, the thing that made most sense was to put everything upfront where we already have all of our stuff. We already have electric, we already have septic, we already have a well we can use. We stand back and look at it we don’t want to impact our neighbors in a negative way what so ever. If there was any risk, if there was noise concern or smell concerns, we didn’t want that to be an issue what so ever so we moved everything that we had back on our parcel to provide this source of food for our community to the most northern part of our parcel which is on the other side of that little road. Completely away from any of our neighbors, particularly on Tall Timber Trail. We are genuinely interested in solid neighbors and we are genuinely interested in giving back to this incredible community. We feel its evil for this to happen, and we are asking that we are offered a similar consideration. We have never felt more at home then we do in Lutsen, we have felt more connected to our community and we have never been more passionate or excited about the work that we are doing and what we are going to be having on offer for our neighbors.

We really genuinely could not imagine this road going right through the center of our property; and how it's going to impact our livelihood and that our business that we have poured every last dime into. That's all I will say."

- Roy Scoles "Roy Scoles owner of Lutsen Recreation, 5 acres parcel and LLC Wildhome Guiding. I guess the only thing I really want to point out from our perspective to the petitioners request for a cartway across our little 5 acres parcel. I have to reiterate we have concerns about traffic, I actually in my shop we have 7 employees, I have a view of the ski hill road; every winter we always ask is this the winter someone will die? We have watched so much terrible traffic there. I think that is something to consider to as far as anymore traffic in and out right near there near boulder point road; actually, that was the first concern was more traffic right there. As far as the mega slump I wanted to say really quick too; I commend Tom at LMC for, he kind of anecdote into doing something about the Poplar River, I think that's great, I share concerns about the mega slump and impacts on it but there is going to be impacts where ever the road goes in and I think what we saw on site there was plenty of leeway. I think better then going back and forth possibly consider getting some expert opinions on what the actual impact might be for these different routes. We talked about the Tall Timber Trail route, honestly after hearing that they want to build on the south west corner, I hadn't known until just now that was there considered spot, I just know Tall Timber Trail is way better.

I can understand the associations concern that would impact the property values and what knot but I am sorry, all of our property values are interrelated. Something I would point out to is that, yeah there is only 9% private land in Cook County but that is precisely why we have housing shortages. And the housing shortage is directly related to development in second home pursuits, call it commercial development that has made these prices happen. I am sure you guys (addressing room) have had to deal with the housing crisis, affordable housing, no one can raise a family here unless they are in a fairly comfortable income bracket. So much of the employment that gets shipped in here which comes from Silver Bay or Finland, which is where I have to live because I couldn't afford to live here. I had to live in Lake County because there just wasn't anything affordable here. I have a third point too, if Lutsen Mountains just says we own the road, we can just build it if we want to. That's just the cock sure attitude that I have seen happen to long around here that they can just throw their weight around, I find that rude and kind of "stay in your place little people; we are going to push however we want. We are LMC and if we don't make it no one makes it around here" and after owning the ski shop for 11 years and being in the industry for 20 I don't think that makes for good neighbors, I don't think it makes for good politics to say thing like that. I don't appreciate hearing that, I guess you could, yeah ok go for it, great thanks, railroad us. That's just how it always seems to go. There is my little bit of passion.

I would just like the township to consider the fact that there are 3 options. Tall Timber Trail is right there, where they want to build. And to be honest I am sure that there are all sorts of concerns for all parties but I don't understand why they made this petition when the easiest simplest route first would be Tall Timber Trail, that was our first thought. The idea of going north, that was our idea so that we could have options on the table. I definitely acquiesce to the point that there are complications for the northern route but that isn't for me to figure out, that's not my property, that's not my project. Just keeping that in mind I want you to consider

all of those routes. Obviously its contentious just looking at this room, when is the last time this room and when has there ever been a site visit like that anyway thanks.”

- **C. Friesner** “You were aware of the easements before about the property? That’s not the argument that we are here for.” **N. Leland** “We were aware of the easement, we were under the assumption that, its still questionable what the actual document said. Our original lawyer had a different view point of that. Amanda is kindly stepping in for our lawyer that we had been working with since this started. We bought the property with the understanding that easement was to access two 40 acres parcels on the other side of mouse mountain and to access maintenance facilities. There was no though in our mind that there was ever going to be this massive potential for this huge commercial development. Had we been aware of that; we looked into this before we bought this parcel; had we been aware of that we would have never purchased it. It completely undermines everything that we are trying to do. That was never a though in our mind that it was a possibility. We are ok, again if there was only going to be a residential thing going on back there, we get it, we are open to it. It is the biggest risk to us is having a massive amount of traffic coming in and out and the development of that road becoming wider and impacting our land. We just don’t have that much land to deal with as it stands. For our property if you go under out pretense, we are looking at what is the least destructive, if you look at it from people live here, this is their residence. It is dramatically impacting our residence; it is dramatically impacting Tall Timber Trail residence. If there is any way to make that northern route work, where you can make it safe and functional. I understand their issues but if there is a way to make it functional and navigate that together, to me that is a clear answer to this problem is giving them access to the parcel that they want and it’s preserving our home, our business. And all of Tall Timber Trail home and all of their businesses.”

**L. Cooper** “They keep throwing around this massive commercial, I am hearing that you want to keep it commercial part but they are talking about building private housing.” **N. Leland** “We just don’t know because they also told us a whole lot of stuff that turned out to not happen. That’s what we are concerned about.” **C. Homyak** “If you’re talking about subdivision that.” **N. Leland** “No, not just subdivision, I mean development in general back there of any kind. They said they want to build a house and truthfully, I do believe they want to build a house. I just don’t know if that’s what’s going to happen. We just don’t know because we have been told one thing but so many things have happened that wasn’t with the original discussion that Tom and I have had since November. It has just left us in this place that we don’t know what to believe anymore. We are here because we are trying to protect our own interests and our own longevity.” **C. Friesner** “But you are a commercial business yourselves though?” **N. Leland** “100%, that is rooted in not messing with the land” **T. Ryder** “I wanted to clarify, Nicole (Leland) the reason why land was not subdivided was because as Tyson said there you can’t subdivide; I told you about maybe 3 parcels but we can’t do that, you can’t subdivide until you have access. There was no deceit or anything, we can’t do it until we figure this our first, that’s why that didn’t happen.” **C. Friesner** “We will get to Tall Timber in a second, I just want to bring up, was there ever a discussion on the very northern segment, section like or southern section line (property lines) and getting it (cartway) that way?” **N. Leland** “The southern line if right in front of all of our rentals, so that is not something that we are interested in at all.” **C. Friesner** “Tall Timber is right there as well?” **N. Leland** “Yeah, it’s right in the back yard of everyone there, it would end up being between Tall

Timber Trail and our rentals and its literally right there, we really don't want that as an option. The very most northern route, there is all of this insanely beautiful really old growth cedars that are all along that back route that we would prefer to preserve. A lot of them would need to be cut down if they were to widen the very end of the road. There were quite a few old growth cedars there that we are trying to preserve. None of it is ideal to us, the area back there we were really trying to farm but farm in a way that preserves the natural beauty and only enhances it." **T. Ryder** "What northern path was that?" **N. Leland** "Going along the very northern side of our parcel and it runs right into the ponds" **C. Friesner** "But then it can go south"

**C. Homyak** "one question I had, you did mention moving more of your operation to the north side of the existing road there, just looking at the map. Talking about wetlands, concerns about wetlands; not sure how accurate this map is but that's delineated about 70%, 80% wetlands on that side" **N. Leland** "It is, that what we have to work with. So again, its not ideal but we are trying to best that we can, the majority of our parcel is wetland. We are trying to do what we are doing in a way that applies with the legality of the wetland litigation and also get done what we want to get done and also give everyone an option. We just submitted a proposal so that we can have goat and chickens for that very northmost dry area up there. Where we can put a barn and a majority of all of our animals; there is also a concern with having a potentially busy road run right next to the animal operations that we've got going on. Let's say they get out of their pen back in there, now they are on a road and it's a problem. Just not ideal from our perspective; I mean they need to be contained obviously, its just another interruption for what we have going on. Again, if there is any other option; everyone would prefer to go where there are no people living. You don't want people driving right next to out house." **C. Friesner** "Any other questions (no questions asked), you guys (Lutsen supervisors) good? (Supervisors nod in response) We should hear from Tall Timber, can we hear from Tall Timber's attorney please, thank you sir"

- Tall Timbers Trail attorney David Meyers- "Thank you very much, I send you two letters (On file at Lutsen Townhall) that I am sure you all have been able to read so I won't be long. I did want to correct something Tall Timber Trail is a residential zoned area and the parcel in question is commercial RCR zoned. Tall Timber Trail is a very complex road, there is utilities and there is a safety concern because right now its like a drive way. There aren't that many homes in there and people walk along there; I was in there today I had to pass a car but you have move to do so and slow way down. Safety is a big issue with utilities in there and one thing I haven't heard tonight is if the town lays out a cartway and there is maintenance to be done and mechanically you know how to do it, you are the decided. Right now there is a home owners association that works pretty well. If a cartway comes in, that no longer works, now that's a public road. You will be hearing probably several times a year, who will maintain what and how are they going to maintain it. I don't think that will be good for you and I certainly don't think that will be good for the residents. My placement is that these are hard, they are hard decisions but Tall Timber Trail is not the solution. And Mrs. Leland is right, they want to build a house there, they also want to keep their commercial zone and that's great too but you just don't know. When you pass a cartway you have to anticipate that is can be used in that way. Tall Timber Trail is not built for that, not meant for that; its just not the solution or decision we can make. A lot of people here if you have questions otherwise thank you very much."

**C. Friesner** "So it's the commercial aspect to the parcel, if it was the residential access then that would be fine." **D. Meyers** "I wouldn't say residential access, if they put 50 more homes on it" **C. Friesner** "These two homes that we are talking about now" **D. Meyers** "They would have to join the home owner's association. The home owner's association is a private group that was set up for a purpose. Whenever you add to them it becomes complex, endless forms to fill, declarations, there is a lot. It sounds simple to add a home and yes it could be but often it is very complex. The price, rules and the ways to assess it just often doesn't work out" **L. Cooper** "So they wouldn't have to be a part of Tall Timber association to in order to use that road to add on to it? Is that what you're saying" **T. Smith** "If it's a cartway then no because a cartway all bets are off, no one knows what will happen. If they wanted to just build a home, they could ask the association join but I am telling you that complex too. Everybody here has rights; mortgage companies have rights. They would have to get permission from a whole bunch of people and to amend those documents, that's why they are complex." **C. Homyak** "So right now it's a private road owned by the home owner's association or individual easements across every property. How exactly is Tall Timber set up as a road?" **T. Smith** "It's a private road owned by the home owner's association and each property pays due to the home owners association to all the elected member, they have maintenance come up to assess themselves and that's how it is done." **C. Homyak** "So the home owners association built that road initially with the utilities underneath it." **D. Meyers** "Usually a developer builds it initially and sells it, then the home owners association maintains it. They have done some more work on it again this year; it's an annual thing." **C. Homyak** "Because there is a half dozen thing the associations do around here, there is road maintenance, maintenance groups, home owners' associations, there are county roads that are privately maintained so knowing what that is." **D. Meyers** "becoming a cartway it would become public."

**Leland** "Can I ask for one clarification, did the petitioners request from the home owner's associations to have access to their property?" **T. Smith** "yes, they did, they did ask" **Leland** "When they inquired by the way none of us were a part of that conversation. Was that a no based off of your bylaws or was that a no like you just don't want it? What kind of no was that?" **D. Meyers** "Well as you said it is complex, it was based off of our declarations. We limited to have 44 units in our association. All units are sold, all units are owned by individuals. This road was built and is still owned by the home owner's association. When a certain number of lots sold control of the association when form the builders to the purchasers of the property. It is not built to the standards to with stand commercial use. We own our own water system, we own our own septic system, the utilities are built right into the right of way. Any expansion of the road will put a substantial cost to redo the road."

**C. Friesner** "Backing up a bit, the issue with subdividing the parcel was no access, correct?" **T. Smith** "Yes" **C. Friesner** "So if there was an agreement to use Tall Timber temporarily, could we figure that out and just cross that bridge; just an idea or thought, any questions?" **T. Gilchrist** "Mr. Chairman you asked if there were any other questions from those who have not spoken yet?" **C. Friesner** "Yes, raise your hand if you have any questions."

**M. Pilon** "My name is Mark Pilon, I am here on behalf of Caribou highlands and Lutsen Mountains. I can't add to what Tom said about the mega slump challenge on the northern route but that is one of 3 really large challenges, I think board members like Mr. Vick speak to the logistics of snow bases needed to be in that maintenance area. If there are any more questions or any more information that would be helpful, I am sure we can provide that. The petition says to find a way but we all saw

how close the ponds are to the proposed route and how it would all be pushing up against each other. I think we can all say logistically that the northern route would be problematic.” **C. Friesner** “Anybody else have comments.”

- **Gilchrist** “Unless there are questions what we typically do Mr. Chair is then you cut off public comment at this point; you certainly can ask questions if the discussion warrants it. But now is an opportunity for the board to take what you saw on the inspections, heard from folk both out there and in the room here and have your discussion again selecting a route. Reminder that the law on this is a presumption you’re going to go with the route that is requested unless you find that there is a different route. I will just read from case; we read this language as required from the cartway statute, that the township establish the route requested from the petitioner unless the township determines both that an alternative route would be less disruptive to neighbors and that the alternative route is in the public’s best interest. That is what you should be looking for a selecting on.” **C. Homyak** “Then the public’s best interest in this case is both petitioners and land owners that would be impacted currently, so it’s not just the land that they are asking to cross; it is also the petitioner’s side, correct?” **T. Gilchrist** “It is also frankly takes into account that aren’t personal to the owners like impact to the river which is a public issue not just a neighbor issue. Those sorts of things, impact to wetlands, impact to water, anything that would have a public impact.” **L. Cooper** “The only thing that I’m thinking is I am not an expert on wetlands, I am not an expert on the mega slump and I it would be nice if I had someone who was an expert that could tell me the impact on the environment on the north end or south end. I feel I don’t have enough information to make the best decision. I am hearing passionate pleas; I am hearing commercial and not commercial but I don’t hear or see anything that says any expert came in a how will this for sure impact.” **T. Gilchrist** “Impact comes up is this route feasible because it is going to impact square number of feet of wetland, prohibitable expensive to work with; those are the sorts of things you hear about but frankly it comes down to impacts to neighbors. I don’t know if you will really get an expert opinion on impacts that generally comes out in the damage. Any damage that is recognizable by law has been penciled for the taking, those sorts of impacts are dealt with from a damage stand point.” **L. Cooper** “That would be the next phase, basically we are working with our decision.” **T. Gilchrist** “I would have the board focus on the requested route and do you think based on everything you have heard about this route and the easement that already exist there. Is that going to be more disruptive and damaging and not in the public interest versus the alternative routes that are requested. Start there then work your way out”
- **C. Friesner** “Being as there is an easement existing on that land it becomes a cartway either way? If the cartway is moved to the northern part it would be removing some trees unfortunately that easement is still there. There is still a chance that at some point down the road it could be built.” **T. Gilchrist** “The parties of the easement can still use it, that is not established in your authority. You would put a cartway over it potentially but it doesn’t cause the underlying use of it to go away. Or if you select a different route, it would not cause the easement to go away.” **L. Cooper** “So regardless that easement could be used in the future even if we said no to this cartway.” **C. Homyak** “Unless the owner of the easement gave up the easement at any point down the line, realistically even 200 years down the line it will be there, personally your idea of going along the property line running into the ponds it avoids certain thing but it would damage their property in a way that they now have two easements. The

easement is already there and then adding another. Tall Timber in a letter talked about damages that could be extremely high; seven figures in damages and then on the other side of the far north route there is the environmental damages on the slump, the ponds, the environmental disaster and other issues; there are so many things on that side that does work." **L Cooper** "I guess I look at the norther route as not good, the slump bothers me." **C. Friesner** "Any activity that could jeopardize a lot of things. And that's not to say your operation is any less of things (speaking to Leland business). Somebody who worked for the ski hill in the past and I own 3 cottages down the road, if the hill is not there, I am out of business in the winter time. In my opinion I don't think that is the right way" **L Cooper** "I think I am leaning that way as well."

- **C Homyak** "The petition is written on an existing easement on the same road. Built up 2 feet, around 16 feet wide, it is already ditched. There are a couple spots that require a culvert; that is wide enough you could get a dump truck down there, wide enough you could fit most flatbed trucks to deliver lumber without having to widen it right now." **L Cooper** "I believe a cartway has specific dimensions."

**C Homyak** "Is there a maximum width on a cartway, how is that decided?" **T. Gilchrist** "As I understand it the petitioners are asking for a 30-foot cartway, that is the minimum width of the cartway. Keep in mind that is the width of the easement. Anything that they built would have to be constrained bonded to that width." **C Homyak** "And what is the existing width right now" Leland "16 feet" **C. Homyak** "But the existing easement that is there is 66 feet wide. If I read that right on the sheet; 66-foot easement on the center line assuming you built it right from the center of the easement you are going 33 feet off of each side anyway."

**L Cooper** "this is not an easy situation, I guess I have to go with the easement requested route."

**C Homyak** "Aside from the cartway the existing easement could create a route." **L Cooper** "Even if we did not go with this route the easement could be used later on down the line." **C Homyak** "It doesn't matter the owner, if I were to go in and purchase this land for a business with and existing easement, with the road base; this would be the route that makes the most sense versus the other which is a private road with home owners we would have to compensate; LMC and CHL that I would have to compensate heavily. From things on that end, looking at land values alone is another factor."

**R. Scoles** "Let's say there is flooding later on down the line, who is on the hook for maintaining the road. You talk a lot about damage but I don't hear a lot about why Tall Timber Road and when they have to improve the road. This cartway road was built in the 80's before logging. We didn't understand as much back then. How does that work in terms of all the damage?" **T.**

**Gilchrist** "We come across this from time to time about if a cartway is established do I have to build a road to county road standards, the answer is no. The town doesn't speak to what is actually there already or how it is used. You could say I am going to 4-wheel down there or walk down there; the point is you don't get into that but to the extent that something is built there or improved then that has to be built in accordance with applicable regulations. If it impacts wetlands then they have to get the correct permits that are required. The point is we don't get involved with that, really the only time you get involved in wetland impact is if it creates and unreasonable barrier in establishing the route. You can't create a cartway to a river with the land on the other side or something not reasonably expected or put them on one side of a wetland that cannot be reasonably crossed. We don't get into those sorts of details."

**L Cooper** "They maintain the road is that correct; as a township we don't maintain that." **T. Gilchrist** "The only way the township maintains the cartway is if you find it to be in the public interest and I can think of one or two times in all my years where that has been the case." **C Homyak** "What I meant by damages was compensation to land owners, I am using damages as compensation to land owners. The cartway goes through, they would have to pay x amount; damages would increase exponentially across LMC or CHL because they would have to compensate over time for damages and everything it goes across. Same thing on Tall Timber Trail, you're looking at 44 land owners to compensate." **Leland** "Isn't there a piece with the cartway that you're not suppose to consider costs in your decision?"

- **T Gilchrist** "no, because when we are looking at impact as a whole. Mr. Chair just so you understand the next step of the process; once you reach a consensus then I take all the information you hear tonight and write up a resolution that I would present to you for adoption at an upcoming meeting. That sets the route and you will move forward with hiring an appraiser and surveyor. We are not adopting anything tonight, just giving direction. Resolution can be adopted at a normal meeting. This hearing is the first stage, this hearing will be continued at a date picked in the future giving enough time to adopt the resolution. Hire the surveyor, hire the appraiser; they do their work, sometimes it takes a long for them to complete their work and then we come back and then you assess the damages. It then gets presented to the effected owners and a 40-day appeals timeframe. There is a process if everyone agrees can ask to designate a private drive and they themselves will post as private so long as it doesn't negatively impact the existing easement."

**T. Smith** "What is the consensus?" **L Cooper** "I will make a motion to accept the requested road" **C Homyak** "I will second that." **C Friesner** "All in favor (all 3 supervisors yay) all opposed (none opposed)." **T Gilchrist** "Just to be clear when the resolution comes back to adopt that is not a reopening of the hearing; simply to take the step of finalizing and setting a reconvening meeting sometime in the future. Typically, this goes out a few months." **C Friesner** "The 20<sup>th</sup> of September is the next meeting to accept the resolution." **T Smith** "the survey of the cartway area has already been done by North Shore Land Survey and can be contacted" **T Gilchrist** "Typically when a survey has already been to the site before you have a tendency to look there first." **T Smith** "A lot of section break down work that has to be done" **T Gilchrist** "Typically if its busy and the work has not been done yet, I will call a two-minute meeting to make a motion to continue to a future date to place a new notice." **C Friesner** "Township meeting will be September 20<sup>th</sup> at 7pm and the resolution will be signed and then December 12<sup>th</sup> Monday at 6pm will be the continuation of the hearing at the townhall."

L. Cooper made a motion to accept the continuation of the cartway hearing on December 12<sup>th</sup> at 6pm at the townhall, C Homyak seconded. Motion passed.

Respectfully Submitted,

Samantha Mcquatters-Spangle; Clerk

Carl Friesner; Chairperson