

Regular Town Meeting  
Monday, April 15, 2019  
12165 Hancock Street

# MEETING MINUTES

## Attending

- Township Chair Brian Kolbinger
- Township Vice Chair Brad Wilkening
- Township Supervisor Gary Gilbert
- Township Supervisor Joe Danielson
- Township Supervisor Luke Babler
- Township Clerk Lucinda Messman
- Township Deputy Clerk Fran Seeley

**Absent Board Members:**  Township Treasurer Tanya Danielson

**Santiago Town Supervisor Jeff Pappenfus, Santiago Town Supervisor David Jehoich, Santiago Township Contractors: Jake Herbst & John Herbst**

**Attending Staff:** Kelli Bourgeois – Township Attorney, Wes Davis – Township Engineer

**Others Attendees:** Tony Wruck – Wruck Excavating, Dan Frank – Sherburne County Sheriff, Craig Wensmann – Bogart Pederson, Cory Vogel, Jennifer Vogel, Gloria Donner, Tim Johanix, Michael Hollis, Ted Myers, Joanna Myers, Mary Lou & Gary Holt, Kevin Taajtes, Jill Lyon, Randy Lyon, Kirsten Davidson, Mackenzie Butler, Daniel Butler, Darrell Dunn, John Vekund, Kari Bjerga, Spencer Bjerga, Keith Stuy, Nicolle & Brandon Hines, Jake Robertson.

Meeting called to order and quorum verified by Chair Kolbinger.

Pledge of Allegiance

Oath of Office given to Brad Wilkening. Brad's new term as Supervisor, 3 years begins this evening.

## CONSENT AGENDA – MOTION TO APPROVE BY WILKENING, SECOND BY DANIELSON – MOTION CARRIED

1. Minutes Approved
  - a. Regular Town Board Meeting March 2019
  - b. Local Board of Appeal and Equalization Minutes April 2019
  - c. Board of Canvass Minutes March 2019
2. Upcoming electronic fund transfers/automatic payments approved
  - a. City of Becker – water/sewer
  - b. Xcel Energy – gas/electric
  - c. Ace Disposal – twp maintenance
  - d. Advanced Disposal – container at Town Hall
  - e. Midco Business – phone and internet
  - f. Upcoming EFTS related to payroll: Federal taxes, State taxes and PERA – mandated rates.
  - g. State of MN for building permit surcharge fees
3. Correspondence received and reviewed
  - a. Executed Clean Up Days Contract
  - b. Executed Construction Contract – 185<sup>th</sup> Ave North Portion
  - c. Gopher Bounty Resolution/Reimbursement by Sherburne County
  - d. MNLTAP Training information
  - e. MN Asphalt information

- f. Windstream Bankruptcy Notice
  - g. Bogart, Pederson and Associates Bid Award letter and Abstract for 185<sup>th</sup> Ave SE North Portion
  - h. Notifications of Road Side Public Hearing for 117<sup>th</sup> Street SE and Bus Garage Road mailed
4. Approval of official designations/signatures
- a. Annual Meeting Items: Sherburne State Bank as official Depository, Citizen Tribune as official Newspaper, Posting locations to be Town Hall, City Hall and Township Website
  - b. Town Audit and Final Audit Representation letters signed
  - c. Midco Phonebook listing draft approval
  - d. Sherburne County Sale of Tax Forfeited Land approved

#### **REGULAR AGENDA APPROVAL**

**Motion to approve agenda after addition of item 7d Accurate Automotive Open House and item 13d Revised Resolution for 117<sup>th</sup> Street by Danielson. Second by Babler. Motion carried, all voting in favor.**

#### **SHERBURNE COUNTY SHERIFF'S REPORT – Sgt. Dan Frank**

- 167 Calls for Service
- 64 Traffic Stops
- 2 Fraud Complaints. This year the call is that there is a relative is in jail, please send money. Talk to family members. Come up with a code word to know if it is real or not.
- Minnesota Hands Free law goes into effect 8/1/2019. Flier distributed and will be placed on Township website.

#### **RESIDENTIAL OPEN FORUM**

##### **96<sup>th</sup> Street Parking Issues**

- Mr. Cory Vogel, 16995 96<sup>th</sup> Street SE, distributed a letter to all Township Supervisors. [full text in property files] regarding a recent incident
  - Board read through and asked Mr. Vogel to summarize for those present
  - Mr. Vogel lives on 96<sup>th</sup> Street. Many people in the area park on the street in front of their homes. He is never able to park on the street in front of his house
  - Vandalism has occurred
  - Today profanities were made towards him
  - His yard has been driven through
  - He wishes to know if he can park on the road in front of his house. Is this ok?
  - Is his house being targeted by the Township's parking ordinance?
  - Why can he not park his car on the road in front of his house? Others do this.
  - The Sheriff was called on this and he wants to know why he gets challenged when he does something he feels others do without issue.
- To speak to issue of just picking on a particular location, several Town Board Supervisors stated that there are other locations in the township, not just Enchanted Thicket, that experience a similar type of situation. It is not just Mr. Vogel that is being targeted with a proposed parking ordinance. Unfortunately, parking in a manner to obstruct others is a problem occurring in multiple locations throughout the township and our current right of way ordinance does not thoroughly address this issue. Township Supervisors asked if Mr. Vogel would be willing to park to the other side of his driveway

- **Attorney Bourgeois**
  - The Town Right of Way ordinance doesn't restrict parking on town streets. State Statutes come into play when parking in front of someone's driveway. While it is legal to park on township streets, it is not legal to park in a manner that prohibits others from entering/exiting their driveway.
  - State Statute 169 is for traffic regulations
  - MN§ 169.32A – states must leave 20' of clear space in front of driveways
  - MN§169.34, Subd. 1A provides that no one shall park in front of a public or private driveway
- **Mr. Ted Myers, 16988 96<sup>th</sup> Street SE**
  - Drives a semi, parks at home at night. Sometimes with a trailer, sometimes without.
  - In the last 4 years have had issues getting in and out of driveway. If not a car on the road, there are trash cans there.
  - Stated he has not spoken foul language to the Vogel's.
  - Feels the trail camera's that Mr. Vogel has put up in response to vandalism are a violation of his privacy as they take photos of his yard every time a car goes by.
- **Mrs. Joanna Myers stated prior to May of 2014 they got along with the Vogels and were friends.**
  - There are 5 homes in the subdivision with driveways right across from each other.
  - Mr. Vogel told her he doesn't like semis and the noise and will make it as difficult as possible for them.
- **Town Board**
  - If there is vandalism occurring – contact the Sherburne County Sheriff
- **Sgt. Frank**
  - Aware that at least 4/5 other locations in the Township also had mailbox damage in the past week.
  - Parking, when it is blocking a public driveway is not allowed. If Mr. Vogel will pull forward or move his car back to the other side of his drive, it wouldn't block Mr. Myers from pulling out with his semi.
  - Vehicles are not allowed to be parked in a manner that blocks someone's access to their driveway.
- **Mrs. Jennifer Vogel stated that Mr. Myers can pull his truck and trailer in and out of drive when he has on the 20' trailer.**
- **Mr. Myer stated when he has the 40' trailer on his truck, he cannot get in and out of the drive.**
- **Mr. Kevin Taatjes, 9563 172<sup>nd</sup> Ave SE stated that he has seen trash cans in front of Mr. Vogel's 3-4 days past trash day.**
- **Town Board – we have had issues with trash cans in other locations. Usually people do not realize it is a violation of the right of way ordinance to leave cans out past trash day pickups. Once a letter is sent and people realize what the ordinance says, this problem is normally alleviated.**
  - **At this time**
    - The Town Supervisors have requested that Sgt. Frank watch the right of way and parking issues.
    - Town Supervisors will review our parking ordinance.
    - Stated to Mr. Vogel that he can park in front of his home as long as the location he selects does not block anyone from pulling in or leaving from their drives.

## WOODBERRY FARMS CUL-DE-SAC'S (CDS) WITH TREES AND BOULDERS IN THE RIGHT OF WAY/CENTER AREA OF THE TWO CDS.

- Daniel Butler, 9574 183<sup>rd</sup> Ave SE.
  - Disappointed in hearing the Township was going to remove all trees and boulders from the cds. Distributed a proposal and photos to the town Board. [full text and all photos in Woodberry Farms file]
  - Said neighborhood would like to maintain themselves rather than the town board clearing the area.
  - Has never seen a plow go around more than twice.
  - Have never seen an issue with these cul de sacs
  - Could push snow into the open area between Lot 1 Block 7 and Lot 1 Block 8
- Spencer Bjerga, 9589 183<sup>rd</sup> Ave SE
  - No issues with the cul-de-sacs the past 18 years
  - Most of the neighborhood is in attendance this evening
  - These cul-de-sacs views are valuable to those who live here
  - We want to keep the cul de sacs as they are since there have been no past issues
- Jill Lyon, 18156 96<sup>th</sup> Street SE
  - Lived here 16 years.
  - In the beginning – 2 cul-de-sacs with small trees, bushes and boulders within the 5' setback area
  - Has noticed that the public areas need maintenance
  - Proposing that the 23 homes meet twice per year to handle these public spaces
  - Those who signed proposal do not have an association, but they do maintain a facebook group
  - They want to take care of the public area and will keep bushes/trees/rocks out of the setback area
- Photos displayed on screen of winter in the east cul-de-sacs
- Gloria Donner, 9570 184<sup>th</sup> Ave SE
  - Lived there 17 years
  - Wants to understand why this area came up now after all these years
  - Large semis and garbage trucks do come in the area without issue.
- Randy Lion, 18156 96<sup>th</sup> Street SE
  - Why are you looking at this now
  - Understands liability and maintenance
  - Can board work with residents to figure out how to get this so we can keep art and maintain it for the future
  - It is an island with curb/trees/rocks – look at roundabouts, they have slopes to keep people from centers.
- Darrell Dunn, 18329 96<sup>th</sup> Street SE
  - There are boulders, for retention – 33' from center
- Mike Hollis, 18322 96<sup>th</sup> Street SE
  - The school bus doesn't even go into the cds
  - What about the liability from changing the speed limit to 35 rather than the 25 mph that was posted?
- (Missed name) Woodberry Farms resident read an email from another Woodberry Farms resident who had a father who does snowplowing. No copy of this email was provided to the board.
- Board members explained that liability issues are why the clearing needs to take place.
  - It hadn't been noted that this had become so overgrown until recently.
  - Inventory of all township roads has been taking place and liability issues noted.

- These two cul-de-sacs are the only ones like this (material in center) in the township
- Sherburne County approved of the material in the center of the cds, not this Town Board. No plans for funds for maintenance were made
- While the Town Board is allowed to just go in and remove everything, it is township property, they wanted to talk with homeowners first rather than just as a surprise.
- With all the snow it gets dangerous and removal difficult
- The board cannot pretend this issue doesn't exist
- The current Town Board is a different makeup than it was even 6 years ago. One of our initiatives is to get our right of ways in order and decrease liability due to right of way violations. Different boards mean different items reviewed yearly.
- If there is an accident, it is a liability on the township – thereby a liability on all taxpayers in the township
- Town Board is willing to work with residents – example: in Bridgeview area the Board worked with residents who had to remove their headwalls.
- This does create a liability for the township and its contractor – example: in another development with large rocks, the homeowner didn't remove the rock as the township had asked and the contractors blade hit one in the right of way and a 3' section of his blade came off. It is a real risk. Contractor said yes, the branches have been in the way during plowing.
- Right of way is 33' from centerline.
- Firetrucks may have an issue getting through/maneuverability may be an issue
- Board cannot continue to put off handling this – we cannot bend on liability and are willing to look an options next month.
- Speed limits
  - 25 mph was not enforceable. Ex: someone drives through at 45, nothing can be done
  - 35 mph is enforceable. Ex: someone drives through at 45 mph, a ticket can be issued
- **Attorney Bourgeois:**
  - Right of way ordinance subdivision 2 prohibits boulders greater than 6" in diameter and defines items that are prohibited.
  - Roundabouts are different structures – if the structure is inside, then it is normally dedicated to homeowners. Similar instance may be an option, but without a Homeowners association, it is not possible.
  - The plat for this area never separated the landscaped area as an outlot so it remains a part of the right of way.
  - Some type of association would be required in this type of setting – a HOA or something to take ownership/liability piece.
- Group members indicated they would be interested in forming some type of HOA or organization to take on the liability piece.
  - Randy Lyon – would it be feasible to see if we can do an association and remove the liability from the township? Neighborhood is finally full and it would allow us to work with you. We can take down the large items now
- **Motion to table a decision on this until next month by Wilkening. Second by Gilbert. Motion carried, all voting in favor.** The board will look at this area on the Spring Road Tour, but must keep in mind all liability issues. A decision will be made in May.

#### **ACCURATE AUTOMOTIVE OPEN HOUSE**

- Brandon and Nicolle Hines (owners, Accurate Automotive) – wants to verify if any permits are required for a June 1 open house.

- Depends on what will occur – Biggest issue – keep parking off roads. Email Clerk for CUP/IUP form

### **TOWN PLANNING COMMISSION/JOINT PLANNING BOARD UPDATES – Supervisor Wilkening**

- Planning Commission recommended several ordinance changes recommended to the Joint Planning Board
  - Architectural Standard updates for Commercial, Neighborhood Commercial, and Industrial 1 and Industrial 2 districts
    - Decreased façade treatment requirements from 100% to side facing road
    - Removed restrictions on post frame building requirements
  - Adding definitions to ordinance regarding composting
- Heard and recommended a boundary line change for Heritage Trails.

### **ENGINEER'S REPORT – Wes Davis**

- Final payment for south portion of 185<sup>th</sup> Avenue to Knife River – Retainage of 12,569. **Motion by Wilkening to pay Knife River the retainage in the amount of \$12,569. Second by Danielson. Motion carried, all voting in favor.**
- Final payment of retainage for 112<sup>th</sup> Street box culvert to M.L. Schendzielos. **Motion to pay M.L. Schendzielos \$2,783.33 retainage for the 112<sup>th</sup> Street Box Culvert work by Wilkening. Second by Babler. Motion carried, all voting in favor.**
- After final review of quantities for the 185<sup>th</sup> North portion bids, Knife River bid was accurate and awarded as indicated by the Board last month.
  - Precon is scheduled for May 8, 2019 at Becker Town Hall at 9:00 am.
  - Hoping to start in May and finish within 40 days.
  - M.L. Schendzielos will be handling the grading
  - Clearing is occurring now.
  - Talking to homeowners now regarding getting signatures for the temporary easements.
  - Skynet asked if we would consider putting in conduit when rebuilding this section of road at cost to township of approximately \$30,000. **Board consensus: No.**
- Sherburne County will be doing striping again this fall for approximately 4¢ per linear foot
  - Last year we did 185<sup>th</sup> and two cut across roads. Want permission to discuss possible other locations and decide with road supervisor. **Board consensus: Yes**
- Boulder Crossing
  - Knife River gave a price of reclaiming 6" and replacing at approximately \$6 per square foot. Cost would be approximately \$540,000 to replace that road
  - Board to look closer at the road tour and review other possible options
- Cul-de-sacs and speed limits – request came if the road is less than ½ mile and designated as residential roadway would the township sign those independent of the rest of the subdivisions? **Board: no, at this time, only the shared septic subdivisions qualify for the lower speed limits.**

### **SUPERVISOR REPORTS**

#### **Fire Board – Supervisor Babler**

- Regular meeting
- Starting process for new handheld radios

#### **Sherburne County Parks/Rec/Active Living – Supervisor Danielson**

- No meeting
- Clerk still trying to find out who is the new person to contact with questions. No response from county.

#### Highway 25 Coalition – Supervisor Kolbinger

- Meeting postponed
- Board consensus – nothing should be paid to this group until full review/approval is completed.

#### Roads Report – Supervisor Gilbert

- 107<sup>th</sup> Addresses with Trash Cans have complied with notice
- Large rocks – still two more residents need to move them – all others have done so.
- 190<sup>th</sup> North tree work is complete
- Aspen Ridge tree trimming is complete
- 112<sup>th</sup> Street SE tree removal is complete.
- Jim Free is working on 185<sup>th</sup> Street SE
- The ‘turtle couch’ was removed from pond/swamp with assistance of property owners
- 82<sup>nd</sup> street damage viewed, will look closer on Road Tour
- Signs damaged by County – they don’t believe they damaged the approximate dozen. The cost is around \$250 per sign to replace. Working with Marlin Marquette at Sherburne County Public Works Maintenance Superintendent on this.
- Fire numbers – issue with fire numbers being put up prior to homes and vandalism occurring. Board consensus – until there is a house in place no fire signs will be placed.
- 67<sup>th</sup> Street SE – Santiago Town Board is present so we can discuss
  - Contract is May to May
  - Shared road mowing
    - Each township to maintain their ½ as far as mowing/tree trimming
  - Contract from 2005 is to stay as written
  - The west ½ of the road to CR11 needs material
  - Subgrade will be done then class 5 added
  - Quotes reviewed [full text on file]
  - Cost to be divided – quote for approx. 92,000 for entire stretch, only doing ½ the distance so cost should be about \$25,000 for each township
  - Project management – who handles/how
    - Berm on North ditch needs repair
    - Set up a date and we will look at the north ditch
    - Gary Gilbert (Becker Township) and John Herbst (for Santiago Township) will work out timing/handle the project
  - **Board Consensus (both Becker and Santiago Town Boards) to reaffirm 2005 contract with Santiago Township agreed to by both Town Boards. No changes are to be made to the contract.**
- Salida Pumping – did in one day
  - A different drainage plan is needed for a long term fix
- The Hideout signs removed due to ROW violation:
  - Recommend keep until after the Assessment hearing is completed next month.
- 17065 Kenny Court
  - ROW requires survey
  - We ran out of room for snow.
  - Some trees are already gone, notice was sent to homeowner.
  - Viewed – appears part of house may be in ROW or the GIS is off

- Need to determine fix by winter if needed
- Speed limit documentation online
  - **Motion by Wilkening, to place the speed limit document received from the Minnesota Association of Townships on the Becker Township Website. Second by Danielson. Motion carried, all voting in favor.**
- Parking
  - The parking issue brought up is not the first one that has come to our attention. The board will need to do some work on this.
  - Supervisor Gilbert took all neighboring township parking ordinances, pulled the parts that seemed most appropriate and put into this document.
  - Asking for review by all – penalties section has been reviewed and it provides an option to give the Sheriff the choice of ticketing/towing or just warning.
  - Before we could only site people for parking on the road during specific dates, now this refers to state statutes.
  - Review by board members requested and call for public hearing next month. This proposed ordinance would be a general parking ordinance.
  - Attorney Bourgeois: Draft distributed does a good job on larger items
    - State Statutes are still in place
    - It is a good start
- Road Tour – Clerk to request transit van for May 4<sup>th</sup>, 2019. Road tour to be at noon after the roadside public hearings for bus garage road and 117<sup>th</sup>.
- Snow Contract –
  - Supervisor Danielson and Supervisor Gilbert to prep/revise draft for May meeting
  - Plan to advertise after may meeting and open/receive quotes so award can be made in June
- Right of Way Ordinance revisions/combination – not ready tonight. Clerk will get revisions ready for May
- Developers Agreement – not ready tonight. Attorney Bourgeois preparing
- City of Becker is conducting Water Study in case calls come in
- Wood chips from various tree removal/right of way clearing in the township are being used to improve the horse trails at the City of Becker Park.

**TREASURER'S REPORT – CLERK ASKED IF QUESTIONS AS TANYA DANIELSON COULDN'T BE HERE TONIGHT**

- Earlier in the day Supervisor Gilbert asked if something was coded properly. Charges valid, just put into wrong section. Clerk to let Treasurer know.
- **Motion to approve Treasurer's report as distributed by Babler. Second by Gilbert. Motion carried, all voting in favor.**
- **Motion to pay warrants 14209-14235 and PO 1116-1131, voiding PO 1122 in the amount of \$88,214.44 by Wilkening. Second by Babler. Motion carried 4-0-1. Supervisor Danielson abstained as his company presented a claim for payment.**

**TOWN HALL**

- **LIGHTS**
  - 2 options discussed – keep hanging lights (they are not same period as building) or go with just the LED Cans
  - Board Consensus: pull out the old lights and put in can ones uniform throughout the building

- Motion to approve estimate from Hubbard's Electric as submitted by Babler, Second by Danielson. Motion carried, all voting in Favor.
- Wood Shakes – Roof of building and verify on Gazebo
  - Supervisor Babler and Supervisor Danielson will take care of these
- Woodpecker Hole in wooden Flagpole on Building
  - Supervisor Babler and Supervisor Danielson will take care of getting repair

#### **CLERK'S ITEMS – LUCINDA MESSMAN**

- Motion to call for public hearing for assessment charges as related to 16496 149<sup>th</sup> Street, Becker, MN to be held Monday, May 20<sup>th</sup>, 2019 at approximately 7:02 p.m. immediately following the Sheriff's Report by Wilkening. Second by Babler. Motion carried, all voting in favor.
- Easements have gone to homeowners for 77<sup>th</sup> and 112<sup>th</sup> street – Supervisor Gilbert and Clerk to work on getting documents signed as necessary
- Thank you note from Marilyn Olson read to board – thank you for the recognition of 40 years of service.
- Estimate presented for new computer for Deputy Clerk. Motion approving purchase of new computer for Deputy Clerk by Kolbinger. Second by Wilkening. Motion carried, all voting in favor.
- Date Reminders:
  - 3/17/2019 Sherburne County Association of Townships Meeting – who will attend? Supervisor Babler and Supervisor Kolbinger
  - 4/18/2019 Town Law Review in Otsego – clerk to attend

Mr. Myer asked if the trash cans in the road by his home can be addressed. Board responded that the standard letter will be sent notifying the homeowner that trash cans should be removed. Trash cans belong to the provider, it is legal to move to the end of someone's driveway.

#### **REORGANIZATIONAL – YEARLY ACTIVITY**

##### **SUPERVISOR APPOINTMENTS/NOMINATIONS**

- Board Chair: Brian Kolbinger
- Board Vice—Chair: Brad Wilkening
- Weed Inspector: Gary Gilbert
- Parks: Joe Danielson
- Fire Board: Luke Babler and Brian Kolbinger
- Alternate Town Planning Commission Member: Luke Babler
- Alternate Joint Planning Board Member: Joe Danielson
- Highway 25 Coalition & Alternate: Brian Kolbinger and Brad Wilkening
- Motion to approve the above slate to serve in positions as mentioned until after the next Township Election in March 2020 by Danielson. Second by Gilbert. Motion carried, all voting in favor.
- Road Supervisor: Gary Gilbert
- Alternate Road Supervisor: Joe Danielson
- Motion to approve Resolution 2019-06: A Resolution Designating a Road Supervisor and Alternate Road Supervisor in Conjunction with any Road Services Agreements that the Township Holds by Danielson, second by Gilbert. Motion carried, all voting in favor.

##### **Other Items**

- Board members have a goal of being careful to name which board members will handle tasks.

- Policies are in good order at this time. The CIP policies and Capital asset policies need to be in place as soon as possible. They are currently still being devised.
- Clerk verified that the resolution book and Town Ordinance book are in proper order.
- Clerk verified compliance with 60 day rule for planning and zoning activities
- Compensation for 2019 will remain the same as last year for all officers and deputies.
- Mileage reimbursement will continue to follow IRS Standards
- Levy Adoption Required. Levy approved for 2020 by voters at the Annual Town meeting:
  - General Fund\* \$165,000
  - Road & Bridge Fund \$950,000
  - Town Hall Fund \$15,000
  - Fire Fund \$80,000
  - 
  - Total Levy for 2020 \$1,210,000
  - \*General Fund includes a 15,000 line item for donations. Voters recommended a maximum donation level of 15,000 for 2020. This amount includes a recommended 10,000 donation for City of Becker Parks and Rec department that serves all City and Township residents.
  - **Motion to approve final levy as indicated and approved by the voters at the annual meeting and clerk to certify to the county auditor by Wilkening. Second by Danielson. Motion carried, all voting in favor.**
- Donation Requests reviewed and approved as follows:
  - Becker All Night Grad Party\* \$1,000
  - Snake River Cemetery 750
  - Becker Cemetery 800
  - Danish Cemetery 750
  - Safety Camp 800
  - Becker Parks & Rec 

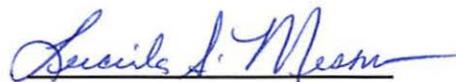
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10,000
  - Total of donations approved \$14,200
  - **Motion to approve donations as listed, totaling \$14,200, to be written and mailed in May by Danielson. Second by Babler. Motion Carried, all voting in favor.**
  - \*Donation to All Night Grad Party requires a contract for services. As long as organization will sign, donation can be made.

No other business

Meeting Adjourned 9:14 p.m.

  
 Brian Kolbinger, Chair

  
 Lucinda Messman, Clerk