

VIENNA TOWNSHIP BOARD SPECIAL MEETING

MONDAY, APRIL 27, 2015

CYNTHIA J. BRYAN, CLERK

Roll Call: Present: Bryan, Cain, Lemieux, Belill, Thomas
Absent: Fuller

Moved by Cain, seconded by Belill to appoint Clerk Cynthia J. Bryan to chair any meeting of the Vienna Township Board until a Supervisor is appointed.

All in favor

Public Comment: None

New Business: Bryan informed Beach of his right to request closed session, and asked if he would prefer to do so. Beach stated that it didn't matter to him and stated no.

1. Discussion and Status of Triplett Lane Split. Moved by Lemieux, seconded by Thomas to table the discussion regarding Brad, the reversals and all matters until we have a full sitting Board including a Supervisor.

ROLL CALL: Yeas – Lemieux

Nays – Bryan, Cain, Belill, Thomas

Motion denied

Bryan stated that she would like to open discussion on the status of the Triplett Lane split reversal. Belill questioned whether the reversal had been completed, Bryan stated that it has been reversed but it would not be completed until the 2016 tax year because the 2015 assessments have already been finalized. Cain asked Beach for details on what caused the assessment values to vary from the original split and then again for the reversal. Beach stated that there were things that had not been put on the tax roll. Cain stated that it was confusing to him because there was no detail provided beyond it stating new and questioned if it was a new structure or updates. Cain stated the issue is that each time a change was made, the value has gone up. Bryan asked if there was something tangible to make the increase, Beach stated that there were decks, concrete and a shed at the back of the property. Bryan stated that she just wanted to be prepared in case the resident questioned, Beach stated that assessing questions should be referred to the assessor. Cain asked Beach why he exercised the split after the ZBA denied the split on more than one occasion for both property owners. Beach stated that the split that he performed was not the same as the one denied by the ZBA and explained the differences between what was turned down and what he was presented with. Cain stated the ZBA denied the split because it didn't meet the criteria for splitting such as 4:1 ratio and whatever else, specifically

Article 27, Section 27-30 stating that all five requirements were not met. Cain asked if the split that he performed met all five of the articles listed in the previous denial. Beach stated that it did not satisfy the 4:1 depth ratio and that the original parcel did not meet the 4:1 depth ratio. Beach presented the Board with a packet of plot maps detailing similar parcels throughout the Township that do not meet the 4:1 ratio. Cain stated that he appreciated the examples, Beach stated that his point was that no, the split did not meet the requirement but that if the Board looked at what had been done previously in the Township there are many non-conforming parcels. Cain stated that it is shame that it has happened, but that he couldn't go back to what happened 10 years ago and that none of these other parcels have resulted in an attorney contacting the Township regarding the violation of the ordinance. Cain suggested that the assessor should probably work on clearing them up by making compliant through a variance if necessary. Beach stated that would happen through the process if the parcels are sold and a buyer attempted to get a building permit. Cain stated that he felt the Board should protect all residents by getting them into compliance before they are purchased by an unsuspecting buyer. Beach suggested that the Township have a policy that the assessor take all requests to the Zoning Board and the Township Board before any splits are completed. Bryan asked what would prevent him from doing the split after it has been denied by the ZBA. Bryan stated that there have been many discoveries over the past couple years of things that have not been done correctly and they have been working hard to fix those errors and moving forward you need to follow the ordinance. Bryan stated what is more upsetting and disturbing was the lack of correspondence and communication with the resident or his attorney after they made initial contact. Beach stated that he faxed it over to Peter Doerr and he instructed him to look at the zoning ordinances, but that he felt the reason to have an attorney was for them to make the determination on whether it is right or not. Bryan stated that Doerr informed her that he did not approve the split, but rather instructed Beach to look at the ordinance and determine if the claims made by the resident were valid. Bryan stated that when she spoke with Beach in January after hearing the residents' concerns, Beach stated that he wasn't calling him back. Beach stated that he was awaiting word from Doerr, Bryan stated that he did not indicate that he was awaiting the attorney opinion when she spoke with him in January when they spoke. Bryan stated that she felt this could have been prevented if the resident had been responded to in the beginning and questioned if there may be other residents who have had questions and not been responded to. Bryan stated the situation of the split and the pure disregard to the resident and his attorney is, in her opinion, very serious. Thomas stated that it may be good to form a committee, consisting of the assessor, members of building department and zoning department and possibly the supervisor who would look over any splits before they are completed. Thomas felt it might cover the Township from

liability. Bryan stated that it wasn't a bad idea, but when a piece of property is split, it goes through the assessor and it would be their responsibility to ensure the split meets the requirements set forth in the ordinance. Bryan stated that by law the Township has to perform assessing, tax collection and elections. Bryan stated that the people performing those duties need to know what they are doing and the Board needs to be darn sure that they are being done properly. Thomas stated that the committee could ensure that the requirements are met, but that she understood that the Assessor needed to know his job. Thomas asked if Beach required a survey each time that a property is split. Beach stated that it was a requirement and necessary to get a proper description. Bryan stated that the survey presented to the Assessor was dated for August, after the denial in May and questioned why the resident would take it upon themselves to go through the process of getting a survey after they had already been denied. Beach stated that it was a whole different split. Bryan asked why they didn't take it back to the ZBA where they had been previously denied. Beach stated that they came in and talked to himself and Canterbury and after looking at their proposed split, they determined that the split was ok and didn't need to be taken to the ZBA. Bryan questioned how it was ok when there was no frontage on the two acre parcel. Beach stated that frontage was not necessary and stated that there was no frontage on properties by Verl Newman on Field Road. Bryan stated that this was going back to how things were done in the past, Beach stated that Michelle's was done the same way. Bryan asked about the existing barn, Beach explained that the barn was to be torn down, Bryan stated she sees nothing that indicates that. Thomas questioned whether Triplett intended to build another house on the smaller parcel and sell the existing house. Beach stated that his intentions were to purchase a parcel to the west and combine it with the two acre parcel. Belill questioned how much land there was and who it belonged to. Canterbury stated that it was owned by an elderly woman and her son has agreed to sell it after her passing. Belill asked Beach if he looked into the Township ordinance when the attorney instructed him to do so. He stated that he did. Belill asked why the split was completed. Beach stated that it was already completed when he contacted Doerr. Lemieux questioned how close the Township ordinances are with the State Land Division Act. Bryan stated that they go together and both are included in the packet. Lemieux questioned if the restrictions apply if the property touches a state road, Bryan stated she had no knowledge of any exclusions. Lemieux stated that there are many what he would call pan handled properties and wondered how owners of those properties could ever subdivide the property with the existing restrictions. Bryan stated that a variance would come into play. Lemieux stated that he attended meetings in the past when these splits have come before the Board and that each time they just make minor adjustments in attempt to get an approval. Lemieux stated that he recalled that Triplett wanted a split to build a house for his son or daughter.

Lemieux stated that he did not recollect in any of the meetings the issue of the 4:1 ratio coming up. Cain stated that it did during the May meeting when the last request was denied and that Lemieux voted no at that meeting. Lemieux stated that he voted no because the property owner could not come up with a clear definition of what he was going to do. Cain asked if Lemieux felt there was a clear definition in the split that was completed. Lemieux referenced a different parcel and stated that he didn't see it on the existing request and he recalled the dispute being over lakeshore property. Bryan stated that her question for Beach was why he would choose to perform the split knowing the history of denials by the ZBA and the dispute between property owners. Beach stated that because of the way it was laid out with the road frontage and easement, they looked at it and thought it was an ok split. Beach stated that section 14-35b gives the property owner 45 days to appeal the decision to the Zoning Board. Bryan stated that they weren't notified of the decision because it didn't go through the ZBA which would have required neighbors to be notified and by the time they found out the 45 days had passed. Bryan stated that their request for a meeting was ignored, Beach disagreed that it was ignored. Lemieux stated that Mr. Fejedelem attended all meetings regarding the property with his attorney and Bryan stated that it may be the case, but that this split was approved outside of the ZBA and they would not have been made aware of it because of that. Cain stated that there are issues with interpretation and taking the stance that because it has been done in the past it can continue to be done. Cain stated that ordinances must be followed to the best of our ability and everything regarding this split seemed to deteriorate through the entire process and the timeline of events took a bad situation and made it worse. Cain questioned why or how the split could have been made. Beach questioned whether the property was split before or after the lake was dug, Bryan stated that she did not know. Beach stated that the Township should not have allowed a lake to be dug down the middle of two properties. Beach stated that the split was reversed now and we have to move forward. Bryan stated that it is reversed, but that there is still some issues that have to be dealt with. Lemieux stated that likely the property owners would continue to come to the ZBA with different site plans and that he saw no end to it. Bryan stated that may be the case and that the end is that rules, regulations, ordinance and statutes need to be followed and no employee or Board member should disregard them. Bryan stated that this decision seemed elementary in that the assessor should know the rules and regulations of his job. Bryan stated that she had been in contact with the Genesee County Equalization Department to ensure that the parcel is flagged in the event that the resident attempts to sell the parcel before they are combined in 2016. Beach stated that he had completed that through the legal description, Bryan stated that Equalization stated that the legal descriptions were for internal purposes only and they suggested that it be recorded in the deed and that they might be able to flag the

property, which would be able to be seen by realtors. Beach stated that he sends legal descriptions to their office every month to be updated. Bryan stated once she informed Triplett, she would stay in contact with the County to ensure everything that can be done to prevent these parcels from selling in 2015 will be done. Cain questioned whether Triplett had been notified of the assessment value changes, Beach stated he would have been through the assessment change notices. Cain asked if he got the notice of split with the notice of assessment change and Beach stated that he did. Beach suggested that the ordinance be looked at and possibly changed. Thomas asked whether Triplett knew the variance was denied, Cain stated that what was denied is different from the request they submitted. Lemieux stated that policies and procedures are in place and that the building inspector, assessor and Canterbury need to be knowledgeable regarding what the other is doing and minutes of the ZBA should be distributed electronically to everyone. Thomas stated that a lot of the parcels that do not meet the requirements were split before the ordinance was put into place. Bryan agreed that the three entities needed to work closely together and the other set of departments do work closely together, that all of them know the rules and regulations, and that they do nothing without taking those into consideration. Bryan stated that it goes back to what Lemieux is always harping on and that is communication and also knowing your job. Bryan stated that distributing the minutes can be done, but it boils down to each employee knowing their job and what it entails. Belill asked Beach if there was a reason why he did not return communication with the resident. Beach stated that he was waiting to hear back from Doerr and he never heard back from him. Bryan stated that he contacted Doerr a month after the resident first made contact. Beach stated that he faxed the documents to Doerr as soon as he got the letter from the attorney. Bryan stated that Beach told her Doerr and the County had approved it, Beach stated that the County said it was ok and that he sent it over to Doerr for approval. Bryan stated that Doerr has stated that the only contact he had with Beach was on December 17, 2014 when he instructed Beach to look into the ordinances. Bryan stated that Doerr never heard back from Beach. Beach stated that he had already looked at the ordinances and that the reason he sent it to Doerr was for him to look at it. Bryan asked why he didn't communicate with the resident or his attorney, Beach stated that he informed them that he was awaiting the attorney opinion. Bryan stated the resident had never received any response from Beach. Beach stated that people will say anything you want to hear. Lemieux stated that the issue had been beaten to death and suggested that they move on to item #2. Beach presented the Board with a letter from the County and a detail of the steady assessment value increases since he has been the assessor and stated that he felt he was doing a decent job for them and if the split is a problem mistakes happen. Beach stated that he has tried to protect Township funds through the tax tribunal. Lemieux stated that the numbers

provided by Beach reflect a \$20,000,000.00 upswing. Cain stated that this increase percentage is likely in line with most other Townships. Thomas stated that the market is gradually coming back. Beach stated that he attributes it to being out in the field and finding items that have not been on the role. Cain agreed and stated that having a building official also helped and that it should be expected. Cain stated that the dispute is more about how a conflict is handled when it arises. Beach stated that he has an understanding on how to move forward on situations like this when they arise. Bryan stated that the other events recently have added fuel to the fire and as a Board member she is frustrated and disappointed. Bryan stated that she is not questioning Beach's dealings with County Equalization.

2. Assessor Employment Status. Moved by Belill, seconded by Bryan to terminate the contract with the current assessor effective immediately. Thomas asked whether it would be possible to place Beach on probation to watch him more closely, as a warning. Bryan stated that she wondered with four municipalities how Beach would have the time to research the ordinances and get back with residents in a timely manner. Belill stated that rules, policies, regulations and laws need to be followed and she has problems with the fact that they weren't. She continued that mistakes happen, but she believes they are being ignored. Cain stated the fact that wanting to negotiate the contract to get to three days and finding out that outside employment had been taken during that time which is against the contract without prior notification, really upset all members of the Board. Cain stated that those actions have changed the outlook of how assessing will be done at Vienna Township either with Beach or without. Cain stated having Vienna Township pay a decent salary, medical and retirement benefits and then to have an employee go somewhere else to get another salary but having the benefits fall solely on Vienna Township seems unfair. Cain stated maybe Vienna Township should be the one contracting the assessing rather than employing an assessor. Cain stated Beach could have avoided the issue if he had been forthright about his outside employment. Cain continued that he didn't have a real issue with Beach obtaining outside employment provided the Township was being taken care of, but to do so behind the backs of the Board and against the contract calls into question Beach's integrity and it is difficult to try to gain back. Cain stated that he is speaking for himself and at least one other Board member that he knows of, who isn't here. Falardeau re read the motion at the request of Bryan.

ROLL CALL: Yeas – Belill, Bryan

Nays – Lemieux, Thomas, Cain

Motion denied

Moved to adjourn at 4:28PM

Cynthia J. Bryan
Clerk

CERTIFICATION:
STATE OF MICHIGAN
COUNTY OF GENESEE

I, the undersigned, do hereby certify that the foregoing is a true and complete copy of the minutes of the regular meeting of the Township Board of the Charter Township of Vienna, Genesee County, Michigan, held on the 27th day of April, 2015.

David Cain
Treasurer

Cynthia J. Bryan
Clerk