

CITY OF HERMANTOWN
BOARD OF APPEALS & ADJUSTMENTS
April 12, 2016 Meeting Summary
7:00 PM

1. ROLL CALL

Members Present: Robert Kanuit; Cyndy Reno; Joe Peterson; Councilor Gloria Nelson

Members Absent: Anna Tanski

Others Present: Jim Rich, Building Official; Lara Nygaard, City Attorney; Wayne Johnson,
3617 Secora Rd.

2. APPROVAL OF AGENDA

Motion made by Bob Kanuit to approve the April 12, 2016 agenda as presented. Seconded by Cyndy Reno. Motion carried.

3. APPROVAL OF MINUTES

Motion made by Bob Kanuit to approve the June 9, 2015 minutes as presented. Seconded by Cyndy Reno. Motion carried.

Motion made by Cyndy Reno to approve the February 23, 2016 special meeting minutes as presented. Seconded by Joe Peterson. Motion carried.

4. PUBLIC DISCUSSION

There was no one present for public discussion.

5. PUBLIC HEARING

6. CONTINUING BUSINESS

Appeal taken by Great Lakes Alarm & Wayne Johnson from the Directive of the Building Official of the City of Hermantown that the Hermantown General Store Canopy located at 5105 Morris Thomas Road is hazardous and unsafe and directing its removal.

This matter was previously before the Board at the February 23, 2016 Special Meeting at which time a motion was passed to table consideration of the appeal until April 12, 2016.

Chair Kanuit – He asked Mr. Johnson if there is any new information he wanted to bring forth to the Board today.

Wayne Johnson, 3617 Secora Rd. – He received the proposal back from Oday. He's moving forward with financing and looking at other contractors to see if the price is fair.

Kanuit – He asked what the scope of the project was and what is he going to be doing.

Johnson – He stated that if we touched the canopy then the footings have to be pulled out, so everything has to be pulled back to the tanks to bring them up to new Minnesota EPA standards, put in new dispensers, and update/fix the canopy, and concrete. The original proposal is for \$198,000.00 and he's working on the financing now and other proposals.

Kanuit – He asked if the proposal includes removal of the existing canopy and installation of a new one.

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Johnson – He indicated that Oday didn't include the canopy. Someone else is doing that and he's got a rough price on that. The canopy will get taken down, the concrete taken out; the pumps and all the pipes; and all the new electrical has to be updated. The canopy is figured in that price.

Kanuit – He asked if Oday puts the actual canopy up. He asked if Oday's price included removing the existing canopy.

Johnson – He stated that Oday does not put the canopy up. They farm all that work out. He could not remember the name of the company that will be doing the canopy. Just to get the tanks updated, the lines, and the concrete is \$138,000. The other difference is putting the canopy back up and new dispensers, that brings it to \$198,000.

Jim Rich, Building Official – He stated he has seen the proposal. His interpretation in reading the scope of work provided, under the pricing, there's no listing of a new canopy. It speaks of the dispensing system and the piping and electrical work involved in that. The necessary labor indicates removing the concrete on the ground. It talks about removing the existing tank top equipment, and the pump assemblies. It says "re-pour canopy columns." That's the only reference in the initial scope of work that indicated anything about a canopy. Under exclusions, it says "canopy removal install." That's the only references that Rich is aware of in the Oday proposal. His interpretation is it's excluded any canopy work. He does not know if that means concrete. Are they hoping to leave the structure up and pour new concrete? Rich was hoping that he and the Board were going to see a proposal or a scope of work that would indicate that the footings are going to be removed and the canopy is going to be removed. He's not concerned about seeing a new structure, but if there is a new structure it should have been identified that there's an approximate 20' x 50' two post canopy going to be built. There's nothing in this proposal that clearly talks about it.

Johnson – He stated it is because they can't get the new islands down without taking the canopy down. All Oday really does is put the dispensers in and hook it up. Everything else gets farmed out to different contractors. The concrete, electrical, plumbing and canopy work is all farmed out. Johnson has no idea who they picked for providers.

Kanuit – He stated that the work should probably be clearly spelled out for Johnson's protection and what he's contracting them to do as well as what the Board is asking him to do, especially if he's trying to get financing.

Johnson – He stated that's a good point and that they know what the project is and they know what he's doing. They understand the canopy is the number one priority. He has not signed anything yet because he's waiting for other quotes to come back. One is from another company called Pumps and Meters out of the Cities. There is only one other one in Duluth and they're doing a quote too, B&D. Johnson is waiting for Hermantown Federal Credit Union to do their due diligence. Johnson also said that taking the canopy down is in writing and that it is part of the proposal.

Rich – He repeated that the proposal does not clearly talk about the canopy, but only states "re-pour canopy columns."

Johnson – He stated it would be impossible to re-pour the columns if a canopy was there.

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Rich – He did not feel the information addressed his or the Board's concerns.

Councilor Gloria Nelson – She asked Johnson what happens if he were unable to obtain any sort of financing.

Johnson – He hoped to have the other quotes in by the end of April. He said that he hopes to have the proposal from his vendors by the end of this month. He's waiting for Hermantown Federal Credit Union to approve financing.

Kanuit – He asked how long it would take to do the work once Johnson had approval from Hermantown Federal Credit Union or whether Johnson was financing it himself.

Johnson – He stated that Oday says approximately six weeks to get all the materials here. Once the materials are here, weather depending, five days to two weeks. Johnson stated he doesn't know how long the bank takes on approving a business loan. He feels the Board pushed the issue to get it done this year, so he's trying as fast as he can.

Joe Peterson – He asked Mr. Johnson to explain why the EPA is involved.

Johnson – He stated that if he moves forward the lines between the tanks have to be updated to new, fiberglass coated lines.

Cyndy Reno – She asked what would happen if you just cut the canopy off?

Johnson – He stated that there are no lights out there at night and if it rains, there's no cover. That's a different proposal for \$10,000 to \$12,000. Oday won't do anything that you have to reuse used material.

Peterson – He asked if Johnson has a proposal from somebody to reuse the existing canopy if possible.

Johnson – He stated yes, but he couldn't remember the name.

Rich – He stated that the only proposal he has seen is from Oday Equipment.

Peterson – He asked if Johnson understands that Oday takes care of the tanks and all the underground work. They pour all the concrete. They remove the existing materials, including the canopy, and then over and above that Johnson would re-use the canopy again with the help of an engineer and a third party.

Johnson – He stated that's his ultimate goal. It is more expensive than he had expected. There are only two people in the Midwest that do canopies. He is waiting for answers back from the other provider and the credit union and another financing company. He stated that he would like to come back in June with an answer. He will also give the Board updates through the City Attorney or Rich.

Peterson – He stated the business is a viable business on that corner and provides a good service to the community.

Johnson – He believes that business will increase having it cleaned and fixed up.

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Peterson – He stated that the Board needs some sort of resolution within 30 or 60 days.

Johnson – He agreed with that. He also indicated that he will get the information to the Board as soon as he can.

Cyndy Reno – She stated that if the Board agreed to pushing it to June 14th, she would like it if Johnson was more forthcoming on providing information to the City.

Lara Nygaard –She updated the Board on what has occurred since the last meeting. Johnson had expressed an interest in meeting with Rich and her. On February 25th, she served the resolution and amended directive on Attorney Patrick Spott indicating April 12, 2016 as the date the canopy be removed and for this meeting. On March 1st, Spott responded with a Notice of Appeal. Nygaard responded on the same date asking for a date and time for meeting so that the four of them could sit down and discuss this matter. She followed up with emails on March 7th and March 14th to Spott asking for dates. She received no response. On March 18th, she sent a letter to Spott and set a meeting for March 22nd at the Hermantown City Hall with herself and Rich. She received a phone call from Spott on March 21st telling her that he and Johnson were not prepared to meet and that they were waiting on a proposal. Nygaard then set another meeting on March 29th and sent another letter to Spott on March 23rd. Spott and Johnson did not show up for the scheduled meeting on March 29th. On March 30th Nygaard sent a letter to Spott indicating that she and Rich were prepared to meet with them and that they had not received the proposal. On that same date. Spott then emailed the Oday proposal which is dated March 9th. The City did not receive it until March 30th. Rich and Nygaard reviewed the proposal and noted the exclusion of the canopy removal. She asked for additional details and information from Spott and did not receive that.

Johnson – He stated that he wasn't getting any information.

Kanuit – He stated that Nygaard cannot send things directly to Johnson if he's represented by counsel. He also stated the Building Official made a decision and what's before the Board is to affirm or not affirm his decision or table it. I'm inclined not to table it any further. If the Board agrees, we will not table it again unless Mr. Johnson can present two things at the June meeting, and that would be a written, binding and accepted contract that specifically provides for removal of that canopy signed by him and agreed to him by one company. Also a signed financing commitment from a bank or another lender or credit union, offering to provide the financing requested. The Board needs to make a decision tonight. Two months is plenty of time to get those two things in place.

Nygaard – She stated she would be on board with that but she wouldn't consider tabling this again beyond that date.

Peterson – He agreed with Nygaard regarding the timeframe.

Johnson – He stated he'd bring all the information he has next time.

Kanuit – He stated that the Board is not asking to see proposals. The Board wants a signed deal and pricing from one company only.

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Johnson – He stated hopefully he'll have an answer by then.

Cyndy Reno – She stated it would be great to have an estimated start date too.

Motion made by Bob Kanuit to table the Appeal taken by Great Lakes Alarm & Wayne Johnson from the Directive of the Building Official of the City of Hermantown that the Hermantown General Store Canopy located at 5105 Morris Thomas Road is hazardous and unsafe and directing its removal and amend the directive to June 14, 2016. Seconded by Reno. Motion carried.

7. NEW BUSINESS

8. COMMUNICATIONS

Communication 16-23 from Patrick Spott, Spott Law Office to Jim Rich, Building Official regarding Notice of Appeal, Hermantown General Store, 5105 Morris Thomas Rd.

9. COMMISSION MEMBER REPORTS

Cyndy Reno – No report
Joseph Peterson – No report
Anna Tanski – Absent
Robert Kanuit – No report
Gloria Nelson – No report

ADJOURN

Motion made by Robert Kanuit to adjourn the meeting. Seconded by Cyndy Reno. Meeting adjourned at 7:45 pm.

Officiated by:

Transcribed by:

Robert Kanuit, Chairman

Mary Melde, Administrative Assistant