



LIVONIA TOWNSHIP REGULAR BOARD MEETING MINUTES
HELD AT THE LIVONIA TOWN HALL
NOVEMBER 22, 2021

Supervisors present: Hass, Hiller, Kuker, Maloney and Pool

Staff present: Clerk/Treasurer Hammre, Deputy Clerk/Treasurer Fiedler, Maintenance Coordinator Berghuis

Others Present: Township Attorney Gilchrist, Township Engineer Davis

Chairman Hass called the meeting to order at 7:00 pm.

1.1 Pledge of Allegiance: the assembly recited the Pledge of Allegiance.

1.2 Approve Regular Meeting Agenda: Hiller/Maloney unanimous to approve the Regular Meeting Agenda as presented.

1.3 Approve Consent Agenda: Kuker/Pool unanimous to approve Consent Agenda as follows: **Item A)** October 25, 2021 Regular Meeting Minutes; **Item B)** October 25, 2021 Public Hearing Minutes.

1.4 Fire Report: Chief Maloney provided the October calls for service: 5 medical assist, 1 gas leak, 4 motor vehicle personal injury accident, 2 carbon monoxide alarm, 2 fire alarm, 1 residential house fire. Maloney also reported that the Zimmerman Elementary Walk-a-thon was a success. He explained that the students walk around the track rather than to the Fire Station now that it is farther away. The student who raises the most gets a ride to school in a fire truck. This year over \$40,000.00 was raised; new pagers were purchases with grant funds from the DNR; the craft fair held at the Zimmerman/Livonia Station One Event Center on November 21st was well attended.

1.5 Sheriff's Report: Sgt. Wilson provided the Sheriff's report: there were 214 calls for service in October in Livonia Township including 61 Traffic stops, 9 motor vehicle accidents, and 4 thefts (2 valid). The rest of the calls for service were for miscellaneous items. There were no items of concern for Livonia Township. Hass asked if a warning ticket can be issued for parking violations. Wilson explained the process and enforcement possibilities if there is a State Statute or Township Ordinance that prohibits parking on the road.

1.6 Sherburne County Zoning: Mitch Glines and Gabrielle Holman presented information about Sherburne County Zoning including explaining the programs withing the Zoning Department and a summary of the work Planning and Zoning does in Livonia Township. Questions and concerns were welcomed and answered.

1.7 Engineering Update: Engineer Davis reported that the 2021 projects have all been wrapped up and are all in the Warranty Period. The projects will be inspected in the spring before the last payment is released. The plans for the approved future projects are being worked on now for bids. Maloney asked that Davis review for the Board the projects that are scheduled for next year. Davis explained that the Board approved the second lift of bituminous for the Hollander Oaks, Oak Haven, and Pine View Estates, the 2020 project area. Projected cost was discussed based on current bituminous prices. A question was asked about how the projects are determined each year. Hass explained that each year the roads are inspected for deterioration and the final projects are based on that as well as the traffic on each potential road.

1.8 Merger Info: Township Attorney Gilchrist presented information about the annexation process and the multiple ways a city can annex part or all of a township. He also discussed the process of how a township can attempt to become a city (incorporation). The benefits and risks for each were presented and discussed as well as the limited control a township has regarding its own fate if a neighboring city or cities want to annex part or all of a township even when the process to incorporate or willfully annex has begun. Gilchrist explained that the final decision is the responsibility of the Chief Administrative Law Judge, and that Judge can decide a course that the township does not want. Tom Butz, 24885 100th St NW, commented that people like Livonia Township and its local representation. He asked how does the judge know what the people want for their community?



LIVONIA TOWNSHIP REGULAR BOARD MEETING MINUTES
HELD AT THE LIVONIA TOWN HALL
NOVEMBER 22, 2021

Gilchrist answered that the case is presented from the city wishing to annex part or all of a township. He also explained that Orderly Annexation conveys jurisdiction and needs the approval of the Chief Administrative Law Judge.

2.0 Open Forum

Chair Hass opened the Open Forum portion of the meeting with the reminder that the Board is providing information only, a decision or vote will not be made regarding annexation or incorporation at this meeting. He also stated that each person wishing to speak needs to sign the Open Forum Sign-In Sheet and will be limited to 3 minutes. Each resident who signed in on the Open Forum sheet will be asked in order if they wish to speak. Residents who spoke are as follows:

Brian Denker, 24570 114th Street, thanked the Board for the letter that was sent to all residents. He then stated that he worked for Rogers/Hassan when Hassan was annexed into Rogers. He said that money is the motivator for a neighboring city to annex a township. He advised concerned residents to stay involved and to come to township meetings.

Mary Alice Clava, 23556 116th St, raised concerns about Elk River Landfill. Clava provided photos of the garbage that is blown out of the landfill during high winds. She also commented that the odor can be bad and that everyone in the area is downwind sometime and many people drive by on HWY 169 and can smell the odor and see the garbage blowing across the road. She asked if it is the proper place for a dump. She also asked how far along in the process the landfill expansion is and if the Elk River Landfill plans on doing a better job of controlling odors and keeping the garbage from blowing out of the site. Hass stated that Sherburne County regulates the Landfill. (these concerns are addressed later in the meeting)

Karen Sherper-Rohs, 12275 239th Ave, stated that when Elk River Landfill came to the Livonia Town Board to request Construction Debris Expansion into Livonia Township, it was stated that the area would not be used for MSW in the future.

Hiller explained to the assembly that Waste Management operates the landfill and it is overseen by Minnesota Pollution Control Agency (MPCA) regarding pollution. MPCA regulates the liners and the replacement of old liners to protect ground water. Hass encouraged residents to come to board meetings, they are always open to the public, but residents rarely attend. Butz asked if there is a methane standard. Maloney answered that the MPCA regulates that. Hass added that there are plans to capture more of the methane that is released and causes a lot of the odor.

Zoom question: is there a conflict of interest on the Livonia Town Board with several of the Board members being developers? Jay Whiting, Zimmerman Council Member replied that no developer would have a financial advantage as land cost would be no different for them.

Gilchrist also stated that there is no conflict of interest as there is no financial benefit for a developer on the board.

Kuker stated that as one of the developers on the Board, he would not gain anything as his buildings are of a size to require city sewer and water. He also said he has donated a lot of money to the community. His goal is to protect residents by making sure the township has a say concerning the effect on township residents.

Dave Lucas, 25970 141st St, said that he is not only a resident of Livonia Township, he is also the Solid Waste Administrator for Sherburne County Planning and Zoning. He added these comments: the Landfill Environmental Impact Statement (EIS) is a two-year process, and comments can be made regarding that; A Certificate of Need is required for expansion; permitting (Sherburne County) will need to be modified for conversion; liners are



LIVONIA TOWNSHIP REGULAR BOARD MEETING MINUTES
HELD AT THE LIVONIA TOWN HALL
NOVEMBER 22, 2021

required, sandy soil needs special consideration. The liner at the construction waste pit will need to be upgraded to a MSW liner; there is a bloom (groundwater contamination) that is being worked on now; Elk River Landfill needs to show that they can manage a landfill well; more cover eliminates odor and they must capture as much methane as possible. Lucas encouraged residents to report to Sherburne County Planning and Zoning if debris is blowing out of the landfill into surrounding areas. They will be required to control it and clean it up.

Doug Manthei, 23130 112th St, stated that as a former township supervisor, he understood that a township could not incorporate around an existing city and thereby taking away its opportunity to expand its borders, and that a city cannot do “leap-frog” annexation. That would leave the City of Zimmerman the only city that could annex Livonia Township. He asked about an Orderly Annexation Agreement with the City of Zimmerman. Hass explained that the Orderly Annexation Agreement we had has expired. He also explained that the Board would rather work with the City of Zimmerman, stating that we already have a shared Fire Department and have worked together on community projects. Manthei stated that the Board has already made up their minds to merge with the City of Zimmerman. Hass explained that it is not yet decided, the Board is exploring now. Hiller also explained that we are one community with the City of Zimmerman, and that the revenue from the future expansion of the Landfill is better spent in this area, where the expansion area is located. He also explained that the township area would have equal representation and a two-tier tax system. Gilchrist verified that there is authority to impose a two-tier tax system so there is a lower rate in the rural district. The Agreement would address that and lock in the system. He also said that is unlikely that land-locking a city would be allowed, and it is likely that the township would be carved up.

Tom Butz, 24885 100th St, suggested a working group or sub-committee of residents to work more closely with the Board through this process. He also believes that all options are fully flushed out and in a document. Butz also asked was if the City of Zimmerman can give input on supporting the Township incorporating and if they are allowed to annex a portion. Gilchrist stated that there is not a public comment option for annexation or incorporation when it goes to the judge. Hass discussed the possibility of a city to “cherry-pick” prime land. Hass encouraged residents to attend Board meetings to stay informed.

Kurt Johnson, 24865 113th St., asked if there is a timeline for annexation/merger. Hass replied that it is in early stages and to keep attending meetings for updates.

Shane Rasby, 26696 112th St, also wants to know what the timeframe is. Maloney replied that it could be up to a year. Gilchrist replied that there are many issues to work out before it can be completed. He also said that the Agreement needs to be as specific as possible.

Karen Sherper-Rohs, 12275 239th Ave, commented that township government is different from city government. Townships have the Annual Meeting where the residents can change the Levy and have control over our own taxes, and that city government does not work that way. She also said that it is apparent to her that the Board is leaning toward annexation/merging with the City of Zimmerman. Sherper-Rohs also said the Town Board has the authority to form a resident advisory group that could work on the issues and make advisements to the town board about the issues. (The assembly applauded this statement).

Kevin Hembre, 25895 112th St., asked the difference of the cost of one acre of land in the City of Zimmerman vs one acre of land in Livonia Township. No one was able to answer that question, he was referred to the Sherburne County Assessor. He discussed cost of development. He also asked about the host fee difference between Construction debris and MSW and how much and where the current host fees go from the construction debris. Hiller explained that we receive roughly \$18,000 per year for construction debris host fees. Hammre stated that the fees are split equally between three funds as determined when the Landfill was



LIVONIA TOWNSHIP REGULAR BOARD MEETING MINUTES
HELD AT THE LIVONIA TOWN HALL
NOVEMBER 22, 2021

expanded into Livonia Township. Dave Lucas explained that the difference in fees is because there is a different amount per ton between MSW and Construction Waste.

Crystal Huss, 24380 128th St., stated that the "County" said it is a done deal, and a local businessperson also said it is a done deal. Hass said nothing has been signed or decided. Pool explained that there has been some annexation that has been happening over the last 20 years. Hass agreed that it has been happening and we have no control over it, but this potential agreement has not been made yet.

Tom Sagstetter, 25885 102 ½ St, addressed Gilchrist, asked if the City of Zimmerman has a need for the Elk River Landfill to claim the land to annex. Gilchrist stated that the City of Zimmerman would not be in a position to leap-frog and annex the land. They would need to take land down to the landfill. This would be a planned annexation/merger agreement. It would be a contested case if it came from the City of Elk River, though a smaller portion. Hostile annexation possibilities were discussed.

Todd Curtis, 10988 235th Ave, asked where the \$2 million number comes from and how easy it would be to overturn the agreement or parts of the agreement. Maloney explained the revenue comes from the tipping fees which are per ton and can fluctuate depending on the amount of waste. Jay Whiting, City of Zimmerman Council member, clarified that the City of Zimmerman already has a rural tax district. Gilchrist explained that a city can adopt tax districts by Ordinance. He also stated that an agreement has not been made and these issues need to be worked out still. Kuker brought up the fact that we have a shared Fire District and a new fire station that was just built. If a portion of the Township were annexed into the City of Zimmerman, the rest of the township residents would have to make up the difference to pay the debt owed on the building.

Melanie Curtis, 10988 235th Ave, asked if we merge can there be a larger council and how would that be organized. Gilchrist said St. Cloud expanded their council when they merged with a neighboring township, but that is a Chartered City. He is still investigating statutory regulations and options. Curtis also asked about the process to determine the details. Gilchrist said this will need to be worked out based on what the township wants and what is possible and legal. Jay Whiting stated that he would willingly give up his seat if needed to merge the boards.

Hass thanked the attendees as some people were leaving, and he encouraged them to contact the town hall office if they have questions.

Darrel Debrobander, 13887 254th Ave, asked if township residents would be forced to have city sewer and water if their property is near the current City of Zimmerman border. Hiller replied that usually a resident is not required to hook up unless they have a failing septic system.

Hass brought up the issue of how our roads in the township are paid for, currently by levy, not assessed in individual taxes. The City of Zimmerman imposes a special assessment on properties located on any road based on their road frontage. Gilchrist added that extension of city services and special assessments are issues that will need to be worked out for the agreement.

Tom Butz, asked if there will be an opportunity for residents to vote on this. Gilchrist clarified that the decisions are made by the Board, this is based on State Statute.

There was a question about addresses for those that have Elk River addresses. Hiller replied that the Post Office has regions, and this would not be affected.

Hiller asked that residents please comment or ask any questions or concerns they have, the board members are doing their best to think of everything, but need input from residents to know what all of the concerns are. Hass



LIVONIA TOWNSHIP REGULAR BOARD MEETING MINUTES
HELD AT THE LIVONIA TOWN HALL
NOVEMBER 22, 2021

stated that they are doing their best for the township and welcome the input. He thanked everyone for attending.

1.9 Planning Commission Report: Spencer provided the PAC report: at the November 18, 2021 PAC Meeting the following were recommended for approval: Request for an Interim Use Permit for a Home Business in accessory building - Haven Township; Request for Preliminary & Final Standard Simple Plat - Baldwin Township; Request for an Interim Use Permit for Home business in accessory building - Orrock Township; Request to amend existing Conditional Use Permit for a riding stable and horse boarding facility - Big Lake Township.

1.10 Park Committee: Kuker -no report.

2.1 Waste Management Agreement: Hiller explained that the agreement is amended by Gilchrist from what Waste Management sent us. Maloney/Kuker unanimous by roll call to approve the agreement as drafted by Town Attorney Gilchrist, and to allow Hass and Pool to accept and sign the agreement if Elk River Landfill has small changes. Office directed to send the draft agreement to Elk River Landfill by certified mail.

2.2 Pine Crest Estates Warranty Inspection: Request to approve the completion of the Warranty Period for Pine Crest Estates on recommendation by Engineer Davis. Kuker/Hiller unanimous to approve the completion of the Warranty Period on Pine Crest Estates. Pool and Maloney abstained.

2.3 WH Cates Pondsides Estates Update: Hammre reviewed the request and the progress made by developer Stelter to finish the project. The SOS standing has been renewed; the retention pond erosion has not been repaired and stabilized. Maloney/Kuker unanimous to deny request to release LOC funds for WH Cates Pondsides Estates and to have a letter sent directing Stelter to complete the repairs before April 15, 2022 or Livonia Township will collect the LOC funds to make the repairs.

2.4 Park Feedback: a resident sent an email thanking Livonia Township for creating the township parks and trails. She walked the trails of Sugarbush Preserve and Sugarbush Park and was looking forward to snowshoeing on them this winter.

4.1 Clerk/Treasurer Report: Items of interest during the past month include: The new heat pumps are ordered and should arrive and be installed around the first of the month; two cemetery lots were sold; we have been working on research and communication for possible merger.

4.2 Approve payment of claims: Kuker/Pool unanimous to approve payment of claims and payroll totaling \$110,409.59 as submitted from Bremer Bank, to cover check numbers 20542 through 20588, and Electronic Fund Transfers (EFT) #67-72 (November) Federal, State, and PERA withholding tax.

4.3 Supervisor Reports: Pool – no report; **Kuker** – no report; **Maloney** – no report; **Hiller** – no report; **Hass** – there have been a lot of phone calls, many were thanking the Township for the letter. Hass brought up scheduling another Board Meeting to keep everyone up to date on information. A meeting for Monday, December 13 at 7:00 pm was the agreed date and time.

4.4 Road Report: Berghuis stated that it is getting to be a very long meeting and he did not have anything of significance to report this month. No report.

5.1 Polling Place Resolution 21-15: Resolution to Designate Annual Polling Place For 2022. Kuker/Hass unanimous to approve the 21-15: Resolution to Designate Annual Polling Place For 2022 by roll call.

5.2 Prosecution Agreement: Sherburne County Attorney Kathleen Heaney requested the consideration of an agreement to give the County Attorney authority to enforce township ordinance violations. The County Attorney has been performing this service without an agreement, the agreement is necessary for the enforcement to continue. If the township decided not to enter the agreement, the township will be responsible for prosecuting the cases. Hass/Maloney unanimous to enter into this agreement.



LIVONIA TOWNSHIP REGULAR BOARD MEETING MINUTES
HELD AT THE LIVONIA TOWN HALL
NOVEMBER 22, 2021

Hass/Hiller unanimous to adjourn the meeting at 10:13.

Approved this 27th day of December 2021.

Chairman or Vice Chairman

Clerk/Treasurer or Deputy Clerk/Treasurer