



LIVONIA TOWNSHIP REGULAR BOARD MEETING MINUTES
HELD AT THE LIVONIA TOWNSHIP HALL
MAY 22, 2017

Supervisors present: Doebler, Hass, Hiller, Maloney & Pool.

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

Others Present: Jon Bogart, PE Bogart, Pederson & Associates, Nick Anderson, Bogart, Pederson & Associates

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: Maloney/Doebler unanimous to approve the Regular Meeting Agenda

1.3 Approve Consent Agenda: Doebler/Hiller unanimous to approve Consent Agenda as follows: **Item A)** April 24, 2017 Regular Board Meeting Minutes; **Item B)** April 24, 2017 LBAE Meeting Minutes; **Item C)** May 10, 2017 Board Meeting Minutes; **Item D)** May 10, 2017 Board Meeting Minutes.

1.4 Sheriff's Report: Sgt. Wilson reported there were 207 calls for service in April; the calls included 49 traffic stops, 26 security checks due to concerns after a recent burglary of an area business, the remainder of the calls were for various reasons. There were no issues or concerns for Livonia Township in April.

1.5 Fire Report: Chief Maloney provided April calls for service: 1 medical assist, 2 gas leak, 3 motor vehicle personal injury accident, 3 fire alarm, 2 good intent (smoke in the area, 1 water/ice rescue (cancelled en route) 2 vehicle fire, 2 residential house fire (Princeton mutual aid). Chief Maloney also reported: the annual golf tournament will be held on June 17 at 12:00 pm at the Princeton Golf Course.

1.6 Presentation of the 2016 Audit: Molly Thompson CPA, Audit Partner with Schlenner Wenner & Company, presented the Audited Financial Statements for year ending December 31, 2016. The Audit is in accordance with Generally Accepted Auditing Standards. The following areas were tested: deposits & investments, conflicts of interest, public indebtedness, claims & disbursements, contracting & bidding and miscellaneous provisions. The Township complied with the material terms and conditions of applicable legal provisions tested. Thompson reported preferred accounting practices are being used, no significant or unusual transaction were noted, no audit adjustments posted or misstatements to report. During their audit they found no material weaknesses, and no difficulty in doing the audit. Supervisor Hass asked if there is anything that we should be doing differently, Thompson replied that no changes need to be made, the budget has been consistent with actual and Township controls and proper accounting are practiced. Chairman Hass thanked Thompson for the report. Supervisor Doebler thanked Hammre and Fiedler for doing a great job.

1.7 Engineering Update: Jon Bogart, Township Engineer reported: a) the pre-con meeting for the 112th Street Phase 3 Project will be on May 31 at 11:00 am, Livonia Town Hall; b) the 239th Ave plans and estimated cost are done. Bogart also discussed the problem with the chip-seal raveling on the roads in The Woodlands of Livonia, turning over the discussion to Nick Anderson, Bogart, Pederson & Associates Engineer. Anderson reported that the problem is because either the oil or aggregate is causing failure. Anderson explained that the oil is state certified for quality before it can be used, he suspects the issue may be dirty aggregate. Discussion followed about recourse from the contractor, however the warranty has expired. For future seal coat projects, the Township will consider a longer warranty period and proof of clean aggregate.

1.8 Road Report – Maintenance Coordinator Berghuis reported: pothole repair with hot patch is complete - they used approximately 20 tons of hot patch; the boom mower is back, the bushings have been replaced; Berghuis asked the Board how much they want him to do to maintain the Girl Scout Camp roads. It was determined that Hass, Maloney and Sgt. Wilson will tour the road to determine what needs to be done for safety and maintenance; one of the snow plow trucks is ready for the Wild West Days Parade – Berghuis will drive it in the parade; a quote for painting the box of truck #40 has been obtained from JV Industries, he will get a couple more quotes; Berghuis would like an account set up and funds budgeted for the eventual replacement of the Township grader and payload; there is a dead tree in the center



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of the cemetery close to some of the historic grave markers. He will get an opinion and quote from Jesse Ewert Tree Service to take it down safely.

1.9 Planning Commission Report – Spencer reported: The PAC met May 18, 2017 and recommended the following item for approval by the County Board of Commissioners at their next scheduled meeting: request for a two-year residential preliminary plat extension – Baldwin Township. The Amendment to the Sherburne County Subdivision Ordinance Section 10.1 Residential Planned Unit Development was recommended for denial.

2.1 112th Street ROW- Luther Gerlach, Ursala Gerlach and Jerry Peterson present to discuss the 112th Street Phase 3 Project. Luther Gerlach provided a series of slides to illustrate his points as he addressed the Board with his concerns. He stated that his attorney has declared the Road Order, recorded document #174183, is procedurally improper and illegal. He goes on to say it does not give a legal description and that he and Peterson did not receive notice of this document in 1982 when it was recorded nor did they grant the Township easement or agreement. He further stated that the road does not follow the section line, and is in fact entirely located on Gerlach Tree Farm LLC property. He stated that it is not a dedicated road and therefore not authorized, but a user road which only includes the traveling surface and the ditch. Gerlach suggested that the Township move the entire road to the east so that it is located on the section line. Mr. Gerlach went on to explain that he and his wife, Ursala, maintain their property as a managed forest which contains oak, cherry, birch and conifer trees. He went on to express his concerns about Oak Wilt entering his property through wounds that may be inflicted on the trees during construction. Gerlach then discussed a previous outbreak of Oak Wilt on Gerlach Tree Farm LLC property and that they were finally able to control the outbreak. Mr. Gerlach explained that they manage their land with the advice of the DNR and a contract forester. He went on to state that if they get Oak Wilt again, they will have no recourse but to seek remedy. He pointed out that the property owners on the east side of the road do not have trees along the road, therefore the Township should move the road to the east. At this point Gerlach thanked Livonia Township Engineer Bogart for making changes to the road plan to accommodate the Gerlachs' request to protect their trees. Gerlach then went through a series of slides to illustrate the road, utility poles, Gerlach trees, the trees in the road Right of Way, and what they feel the boundaries of the road should be. Jerry Peterson helped to explain the slides, pointing out the landmarks. Gerlach discussed at length the tree species on the property, their management of the property, the trees in the ROW and the stakes that Bogart, Pederson & Associates put up in preparation for the construction project. Mr. Gerlach again stated how they love their land, and would love for it to be a park rather than developed into residential lots. He said that this is a chance for Livonia Township to move the road to the section line, and that it is not fair and just that it is located on his property. Jerry Peterson then gave some background on his parcel of land – his parents purchased the land in 1950, and the Gerlachs purchased their land in 1964. He said there are original road stakes still on the property across the road, and then he said that roads "tend to drift" over the years with road grading and as trees grow. He is asking that the Board put the road back on the section line or the original 33 feet. Hiller asked Peterson when the road moved, his family has been in ownership of the land since 1954. Mr. Peterson said he did not know when the road moved, it has been re-tarred since then, and it happened sometime when the new lots were created on the east side of the road. He said it is on line at the intersection of County Road 4 and 112th St, was moved to the west, then it curves back another quarter mile south. He stated there was no reason to move the road. He said the Township is asking for more, Bogart interjected that the Township is not asking for a Temporary Easement from the Gerlachs, the plan has been altered to accommodate the Gerlachs' concerns. Hiller explained that the Township is not trying to take advantage of the Gerlachs, and the preservation of their forest is commendable, but the Township is trying to make a safe road. Mr. Gerlach acknowledged that they understand the need for a safe road. He also expressed his confidence in Jon Bogart to make sure the contractors are aware of the importance of protecting his trees. Supervisor Doebler asked Bogart for clarification on the changes that were done to the original construction plan to accommodate the Gerlachs' concerns. Bogart also said that he has met with the Gerlachs at the site to walk the property line and explained the project and to hear the Gerlachs' concerns, including Oak Wilt. Bogart explained a potential prevention of Oak Wilt access, trenching, that the Board may be willing to do for



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the Gerlachs, at this point Mr. Gerlach interjected that he is not interested in this option, and that his attorney, Jim Neilson, agreed that he should not allow this prevention option. Hiller explained that in 1982 the state required that Townships to record any roads that are not along a section line, as this is a very common situation. That is the document that was referred to earlier, the Township did in 1982 do as was required by Minnesota law to record these roads, and it was at the current location in 1982 – it has not moved or been moved and was not moved to take land away from Gerlach or Peterson. Mr. Gerlach agreed that is true, that the Township did not move the road. Mr. Peterson stated that when he was a Supervisor in Orrock Township, it was the responsibility of the Township to put a road “back on the section line” and the Township gave tax “rebates” back to the tax payers” if the road was on their property. Bogart explained that the road order states that there is a road in this location, it does not specify or need to specify a surveyed description of the road location. He also brought up the fact that by moving a road it would negatively affect the property owners on the east side of the road. Hass stated that all of the property owners along the road construction were informed last fall (by letter) about a resident road meeting for questions and issues because the Board wants the landowners to be informed and to show them the project. Gerlach explained that they received the letter but were unable to attend the meeting. More discussion followed about Oak Wilt and how it is spread. Hiller clarified that if there is no scarring of the tree, Oak Wilt will not enter the tree. Bogart again asked Gerlach if a tree is inadvertently damaged, if they can immediately cut of the branch and paint a barrier on the wound. Peterson argued that Oak Wilt can spread any time for no apparent reason. Hass asked how the previously mentioned Oak Wilt that infected his trees in the middle of the Gerlach Tree Farm LLC managed forest happened. Gerlach said that they did not know how it happened, but it can be from events such as damage from a lightning strike or wind breaking a branch. He said that a person can do all of the management practices that he has spoken about, and still get it. Hiller asked if there are more than the one large Red Oak that are at risk in the construction area. Gerlach said yes, there are more as roots can be damaged from construction work and compacted soil. Hass then gave Gerlach and Peterson the opportunity to summarize their points. Gerlach summarized by saying they are very worried about the impact of the project on their trees, and that the road is entirely on their property. Their position is that the Township should move the road to the section line. If the Township cannot do that, then the concern is how to save the Oak trees. Hiller asked Gerlach that if he were advising someone else, would he advise them to sacrifice one tree that could be potentially damaged by the construction project to save the whole forest from the risk of Oak Wilt. Gerlach said that he would advise them to stay away from the trees, but if that is not an option, he would have to think about it, but “in the abstract, sacrificing one tree to save a forest is a no-brainer”, but he doesn’t want it to come to that. Peterson then summed up his position by saying that he thinks the location of the power poles and markers dictate where the edge of the road was originally, and the road moved to the west when the houses were platted and built on the east side of the road. He also said that his GPS on his tractor shows him that his field is not even, and he would like the road to be moved so that he can “farm all of his field”. Gerlach offered a tour of his property if anyone on the Board is interested in seeing it. Doeblner commented that given the high expense of moving a road, he does not think the road has ever been moved. Roads at the time this road was built were done without the benefit of current technology, and in fact it was likely an old ox-cart road originally. He asked Jon if he can put in a guard rail to stay away from the trees. Bogart replied that he has already altered the plans for a guard rail to accommodate the Gerlachs, he has done all that he can to respect their concerns and minimize any potential damage to the trees in the ROW. Peterson asked if he can move his fence to 2 feet off of the road. Hass said no, that is not possible. He also stated that the fence has been in the location it is in for many years, and that is the accepted edge of the Peterson property. Hass stated that a silt fence should be erected along the ROW to protect the trees from accidental injury from construction equipment, acknowledging the Gerlachs’ passion for their trees, as well as the Boards’ desire to protect the trees, otherwise the Board would not have spent an hour on the topic at this meeting and he hoped the Gerlachs and Peterson understand that. He again stated that keeping the construction equipment away from the drip line of the trees will go a long way in protecting the trees. Bogart again asked for permission to cut and paint any broken branches that might be inadvertently damaged during construction. Gerlach said absolutely, sure, and to ask them if they have any questions. Hass invited the Gerlachs to attend the 112th St Pre-Con Meeting on May 31st at 11:00 am.



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Doebler identified himself as the Chair of the Park Board and his love of trees, and that the Board will do whatever they can to protect their trees. Hass suggested that if in the future they want to pursue the possibility of turning the property into a park, to contact the Township.

2.2 Request for Second Driveway – Selthofner: did not attend the meeting.

2.3 Request to Amend CUP: Brian and Ruth Akre present to request Conditional Use Permit (CUP)/Hwy PUD Amendment to add exterior sales to existing CUP. Discussion followed about the request including the type of items manufactured on site, which Akre clarified as everything that is sold on the property is manufactured on site with the exception of paddle boats. Also discussed was the size of the display area, Akre stated that the current display area is approximately 100' X 150', they would like to increase the display area size to approximately 25,000 square feet to accommodate additional items that they are now manufacturing. Due to the nature and variety of the items manufactured, the Board and Akre concluded that restricting the number of items on display for sale would not be feasible, having a limit on the size of the display area would be more appropriate. Akre explained that they typically have one of each of their items on display, which include docks, fire rings, clothes line poles, paddle boats, etc. Also discussed was the potential for a future frontage road along the Highway 169 corridor. The Board agreed that MNDOT has not discussed the Highway 169 long term plan in many years, and a restriction on the Akre property at this time would not be applicable. The Board is recommending approval by Sherburne County Planning and Zoning to approve a Conditional Use Permit (CUP)/Hwy PUD Amendment to add exterior sales to existing CUP. Town Board comments include: the existing business has improved the Highway 169 Corridor with good landscaping and a neat and orderly appearance; the business supports the community; the business employs local people; the potential frontage road on Highway 169 is many years out and should not be a consideration; the display area should be limited to 25,000 square feet in area.

2.4 239th Ave ROW Obstruction Issue – Perl: Hammre reported that a certified letter was sent to Perl Sod Farm, Inc. addressing the obstructions and hazards placed in the 239th Ave ROW and the law that prohibits the obstruction of a ROW or road. The letter stated that Perl Sod Farm had 30 days to remove the obstructions and hazards and included MN State Statute 160.2715. Mr. Perl was also invited to attend the May 22, 2017 Town Board Meeting to discuss the issue with the Board. There was no communication from Mr. Perl and he was not present for the meeting. Hass/Pool unanimous authorize engaging the Town Attorney to proceed with resolving the ROW Issue with Perl Sod Farm, Inc.

3. Open Forum: no one was present for Open Forum

4.1 Clerk Treasurers Report: Hammre reported items of interest during the past month include: the individuals responsible for the theft of the camera from the Lake Fremont minimum maintenance road were identified and charged with the crime.

4.2 Approve payment of claims and transfer funds: Hass/Hiller unanimous to approve payment of claims, including payroll, as submitted and to transfer \$74,000.00 from savings to checking to cover claim numbers 8056–8089, check numbers 17812-17853 and Electronic Fund Transfers (EFT) #198-200 (May) Federal, State & PERA withholding tax.

4.3 Supervisor Reports: Doebler – Park Board report as follows: the Park Board would like to proceed with the installation of the driveway and parking pad in the addition to Sugarbush Preserve. Hass and Pool both said they would like to be involved and can assist Livonia Maintenance in staking and construction of the driveway and parking pad. Doeber also reported that Karen Rohs-Sherper and family would like to install two Little Free Libraries, one at the Town Hall and one at Sugarbush Preserve, and two benches in Sugarbush Preserve in memory of past Supervisor Don Sherper. The Board agreed that this is a very nice donation and the Township would be honored to have these items placed on Livonia Township property in memory of Don Sherper. Hass/Doeber unanimous to allow Livonia staff to assist in installing the Little Free Libraries and benches. **Pool –** no report. **Hiller –** no report. **Maloney –** no report. **Hass –** no report.



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5.1 Annexation Request: Discussion about the Annexation request from the City of Zimmerman of the land including the parcel that the Zimmerman/Livonia Fire District is purchasing for a future fire station. Doeblner reported that the Park Board discussed the Annexation and the Park Dedication Fees that would have been collected for the lots when this land was developed. In a previous Annexation Agreement with the City of Zimmerman, Livonia Township was paid the amount that would have been collected as Park Dedication Fees as part of the Annexation Agreement. Hammre instructed to contact City of Zimmerman Administrator Randy Piasecki to discuss the Agreement.

5.2 Clean-Up Day report: Hammre presented statistics from Clean-Up Day: there were 184 vehicles, 14,100 pounds of furniture, 11,785 pounds of electronics, and 17,720 pounds of scrap iron. The proceeds from the scrap iron is deducted from the cost of the other items. The total cost for the event was \$10,721.74, resident fees totaled \$4,612.00 for a net cost of \$6,109.74. We will receive Clean-Up Day Grant funding through Sherburne County to help pay for the costs of the event. The City of Zimmerman has also offered to help Livonia pay the net cost after the Grant is received due to the fact that the City of Zimmerman does not hold a Clean-Up Day Event and the residents of the City dispose of their items at the Livonia event.

5.3 Couri & Ruppe Legal Seminar Attendance/Reminder: the Legal Seminar will be held on Thursday June 8.

5.4 MAT Summer Short Course Attendance/Reminder: the Short Course will be held on Monday, June 19.

5.5 Headwalls Update: Headwall/obstruction removal letters were sent out in the fall. Several residents responded with questions and information on when they would be removing the headwalls and hazardous obstructions. The Board directed Berghuis to determine which of the Headwalls are still in place and need follow-up.

Doeblner/Pool unanimous to adjourn the meeting at 9:15 pm

Approved this 26th day of June 2017.

~~Chairman or Vice Chairman~~

Clerk/Treasurer

~~Clerk/Treasurer or Deputy Clerk/Treasurer~~

Chairman