



LIVONIA TOWNSHIP REGULAR BOARD MEETING MINUTES  
HELD AT THE LIVONIA TOWNSHIP HALL  
JUNE 24, 2019

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

Staff present: Clerk/Treasurer Hammre, Deputy Clerk/Treasurer Fiedler, Maintenance Coordinator Berghuis, Township Engineer Anderson.

**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 with the following amendments: remove item 5.7 Raffle Request (requestor withdrew the item)

**1.3 Approve Consent Agenda:** Maloney/Hiller unanimous to approve Consent Agenda as follows: **Item A)** May 20, 2019 Regular Meeting Minutes; **Item B)** June 3, 2019 Workshop Meeting Minutes.

**1.4 Fire Report:** Chief Maloney provided May calls for service: 2 medical assist, 2 gas leak, 6 motor vehicle personal injury accident, 3 fire alarm, 3 grass fire, 1 vehicle fire, 3 residential garage fire (Orrock, Zimmerman, Blue Hill). Maloney also reported that the annual golf tournament was held the past weekend; someone set 2 porti-potties on fire in Zimmerman, the suspects have been identified; to answer a question from last month's meeting, Maloney reported that the mock car crash was advertised by the City of Zimmerman on the message board and Facebook, and by the school on the message board; the RFP is being prepared by the City Attorney for the new fire station. Resident Todd Curtis asked Chief Maloney about the structure of the Fire Department, who is on call, and how the system works. Maloney explained that Fire Fighters are alerted on their pager and available Fire Fighters respond, they participate in Auto Aid so the calls go to area Fire Fighters as well so other departments can help if needed. They also have active 911. Normal response for a call is about 20 Fire Fighters, but that depends on availability. Curtis had a concern about a recent fire, Maloney said that particular fire had about 9- 10 respondents due to the holiday weekend, the respondents handled the emergency well. Curtis thanked Chief Maloney for his answers.

**1.5 Sheriff's Report:** Sgt Wilson reported there were 134 calls for service in May, the calls included 15 civil complaints and 13 medicals. The 245<sup>th</sup> Ave speed sign report showed high compliance, a report was provided. The request for the speed sign on 96<sup>th</sup> Street is in the request queue and will be placed when it is available. Several 239<sup>th</sup> Ave residents expressed concern about excessive speed when the 239<sup>th</sup> Ave project is completed. Monitoring of speed on the road can be done when the project is complete.

**1.6 Presentation of the 2018 Audit:** Molly Thompson CPA, Partner and Ashley Meagher, CPA, Senior Accountant with Schlenner Wenner & Company, presented the Audited Financial Statements for year ending December 31, 2018. The audit process was explained to the assembly. The audit results including accounting policies, unusual transactions, and alternative treatments all resulted in no concerns. Also noted was the positive working relationship with the Township's management and personnel. Minnesota Legal compliance showed no noncompliance identified, except for the lack of one Responsible Contractor Verification for a small road project. Financial Highlights were discussed showing trends and stability. In the General Fund, Road and Bridge, Fire and Nonmajor Governmental funds were all detailed. Management advice recommendations acknowledged that the recommendations from last year including interested parties abstaining from votes, consistency in Developer's Agreements and Attorney communication were resolved. There are no new recommendations for this year. Thompson stated that office staff is very organized and does a good job, Maegher said the Township audit went very well. There were no questions from the Board or assembly about the audit. Hass asked about financing the future Zimmerman/Livonia fire building. Thompson gave some suggestions and said they will send information and contacts. Hiller/Pool unanimous to approve the audit as presented.



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**1.7 Engineering Updates:** Engineer Anderson – **239<sup>th</sup> Ave**) the residents meeting for the project was held prior to the Board Meeting. Tree removal will begin in the next couple of days. Anderson asked that project updates are posted on the Township’s Facebook page weekly or as needed. **120<sup>th</sup> Street**) quotes for 120<sup>th</sup> Street options were looked at and discussed. Hiller/Pool unanimous to approve the reclamation of 120<sup>th</sup> Ave from the Grams Park area to 269<sup>th</sup> Ave NW with the consideration of extending the work area to the east on 269<sup>th</sup> to CR 39 for the same unit price as the quote from Midstate Reclamation. The intention is to then pave the road either fall of 2019 or spring 2020. Reclamation depth to be 2 X the depth of the existing bituminous. **Highland Meadows 3<sup>rd</sup> Addition**) the road is mostly constructed, the punch list of final items is being compiled. After the punch list is completed, the LOC can be reduced at the developer’s request and Board approval. **WH Cates Pondsides Estates**) the road project is scheduled to begin on Thursday afternoon. Hass added that the subgrade is very close now. There is some fill that will need to be removed. Anderson will be on site during the entire project. **CIP/Road Standard**) Anderson said there needs to be some updating to the road standard plates. He also would like Developers to be required to provide detailed specifications for their projects. This requirement should be added to the Developer’s Agreement. Anderson requested that the road standards are looked at and updated by committee. There was also some discussion about the oil content and certain bituminous providers that have figured out a way to meet MN Dot Specs with a product that is not holding up. To assure that we get the best product language will need to be added to specify additional bituminous mix requirements for Township and development roads. Anderson and Berghuis were directed to compile a list of five to six top priority roads for the July meeting.

**1.8 Road Report** - Maintenance Coordinator Berghuis provided the road report as follows: The Woodlands of Livonia has a development road with a 50’ section that will need some work; shouldering is complete; Sugarbush Park entrance has been graded; rip rap was placed on 120<sup>th</sup> Ave; gravel was applied on two roads; the pile of black dirt in the ROW of 112<sup>th</sup> Street is still there, the Board instructed Berghuis to remove what he can and spread the remainder in the ROW to remove the safety hazard; discussion about the rental cost of Harley rakes for trail construction; Driveway Permit discussion on contractors who do not finish the driveway that they have pulled permits for.

**1.9 Planning Commission Report:** Spencer provided the June 20, 2019 Planning Advisory Commission (PAC) Report. The PAC recommended the following items for approval by the County Board of Commissioners at their next scheduled meeting: request for Interim Use Permit for a 1 MW Solar Farm – Clear Lake Township; request for an interim use permit for a home business in an accessory building – Clear Lake Township; request for an interim use permit for a business selling vehicles, boats or farm equipment – Baldwin Township; Amendment to Sherburne County Ordinance: Amend Section 5 Definitions and rules of language construction Subdivision 2 definitions. Update definition of agriculture building. Amend Section 17 General Development Regulations Subd. 8, accessory Structures.

**2.1 Annexation Request:** The City of Zimmerman submitted a request from Michelle Kolb, PID 30-401-1450, to annex the parcel into the City of Zimmerman so a house could be constructed, and city sewer and water could be accessed. The lot has insufficient land area to construct a well and septic system. The Livonia Board reviewed the request. there was concern over the lost tax revenue repayment schedule. The item was tabled pending discussion with the City of Zimmerman about the concern.

**2.2 Variance Request:** Karl and Beth Virkus, 9900 261<sup>st</sup> Ave NW, Zimmerman, present to request a Variance to County Zoning Ordinance Section 17, SUBD. 8.4 which states “THE TOTAL AREA OF DETACHED ACCESSORY STRUCTURES SHALL NOT EXCEED 3,000 SQ FT PER LOT WITHIN THE AGRICULTURAL AND GENERAL RURAL DISTRICTS ON PLATTED LOTS OF ANY SIZE, AND NON-PLATTED LOTS OF LESS THAN 5-ACRES IN SIZE”. The variance request is for a 5,545 sq. ft. structure with 1,092 sq. ft. covered porch resulting in a total of 6,645 sq. ft. There is an amendment to the current sq. ft. restriction to be heard in June and July that would increase the allowed square footage to 5,500 sq. ft on parcels over 5 acres if it passes. The Virkuses explained that they purchased the Cranberry Hill property which was divided into 3 large lots. They live on one lot and family members live on another with potentially another family member living on the 3<sup>rd</sup> lot in the future. The proposed building would be used for personal machinery to maintain the property as well as



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recreational items. The building would serve as storage for all three lots as all are owned by the Virkuses or family members.

Kuker/Pool unanimous to recommend for approval the request for a Variance for a building as described above and as presented. The comments and answers to the Findings of Fact questions follow:

- 1) Is the variance in harmony with the intent of the comprehensive plan and zoning ordinance?
  - a. Yes, the ordinance changed, limiting building size, after the property was purchased. When the property was purchased, the proposed building would have been allowed without a variance. The proposed building does not exceed the current impervious surface restrictions. The Comprehensive Plan and Zoning allows for the improvement of property
- 2) Without the variance is the property owner deprived of a reasonable use of the property?
  - a. Yes, 3,000 square feet is not big enough to store under shelter the equipment needed to maintain the large acreage in this 34-acre family compound consisting of 3 home sites and considerable driveway length.
- 3) Is the practical difficulty due to circumstance unique to this property?
  - a. Yes, this is a large acreage requiring suitable equipment to maintain properly. The Ordinance restricting outbuilding size was adopted after the purchase of the property.
- 4) Were the circumstances causing the practical difficulty created by someone or something other than the landowner?
  - a. Yes, the Zoning Ordinance was changed after the property was purchased in 2015.
- 5) Will issuance of the variance maintain the essential character of the locality?
  - a. Yes, the proposed building will not be visible from the road, it will match the house and is a nice looking building. Many properties in the Township have accessory buildings to store personal and recreational equipment.
- 6) Does the practical difficulty involve more than economic considerations?
  - a. Yes, economics is not a factor, the Virkuses need the building to store equipment out of the elements. Additionally, there are wetlands on the property, the Virkuses prefer that equipment is stored inside to protect the wetlands from any possible contamination from leakage. They also prefer to keep all equipment and personal recreation vehicles stored inside for a clutter-free appearance.

**2.3 Variance Request:** Charles Milam and Deborah Dagle present to request a variance to lake setback. The applicants explained that they removed the old deck previously because it was unsafe. It was also determined that the septic system was failing, and the replacement required work being done right under the deck. The homeowners removed the deck at that time to facilitate the septic system replacement with the plan to replace the deck when the septic system was complete. The original lot was too small to put in a new septic system, however they were able to purchase the two adjoining vacant lots to the north which had suitable soils for a septic system. The variance required for the location of the septic system and replacement deck was granted. When the replacement deck was going to be constructed, they realized that there was a time limit, 180 days, on when the deck would need to be constructed and they were past it. A new variance had to be sought for the replacement deck. Discussion followed about the size of the deck and the distance from the lake, when the house was built, and the impact of current ordinances put in place after the house was built.



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Pool/Kuker unanimous to recommend approval for the request for a Variance for a deck as described above and as presented. The comments and answers to the Findings of Fact questions follow:

- 1) Is the variance in harmony with the intent of the comprehensive plan and zoning ordinance?
  - a. Yes, there was a deck on the house which was removed because it was old and unsafe and had to be replaced. It was determined that the septic system had to be replaced. They removed the deck with the intention of replacing it to facilitate the necessary replacement of the septic system. Zoning allows decks on houses.
- 2) Without the variance is the property owner deprived of a reasonable use of the property?
  - a. Yes, there was a deck, removed for safety with the intention of building a new deck in its place. There are sliding doors leading to the deck area. Without a replacement deck, the doors are unusable and a safety hazard. Many homeowners in the area have decks.
- 3) Is the practical difficulty due to circumstance unique to this property?
  - a. Yes, this house was built within the current West Hunter Lake setback, the setback limit did not exist when this house was built.
- 4) Were the circumstances causing the practical difficulty created by someone or something other than the landowner?
  - a. Yes, the Lake Setback limits came into effect after the house was built. The house was built by a previous owner.
- 5) Will issuance of the variance maintain the essential character of the locality?
  - a. Yes, many houses on West Hunter Lake have a deck, enhancing the use and enjoyment of the lake property. Many houses are constructed with doors to a deck area. Many of the neighboring homes are even closer to the lake and have decks on the lake side of the house.
- 6) Does the practical difficulty involve more than economic considerations?
  - a. Yes, the house is in the lake setback, it was built before setback rules were in place, the unmet 180 day rule requires a new variance before the deck can be built, the old septic system failed.

**3.0 Open Forum:** Ryan Carlson, 26932 117<sup>th</sup> Ave NW Zimmerman, MN 55398, PID #30-520-0660, present to discuss the letter he received concerning the dock he installed in the ROW of the Lake Fremont minimum maintenance road. The letter instructed Carlson to remove the dock as his property does not include the lake shore. Carlson distributed documents to the 5 Board members stating his case that he does in fact own the ROW and is therefore able to install a dock. Carlson stated that he works for a judge. He then stated that he owns the lakeshore, that the road is an easement and he would prove it with the documents he presented. Hass interjected that Open Forum issues are allowed 3 minutes. Carlson went on to say the plat shows the road is an easement. He also said the Board should not take his advice as legal advice. He stated that there are no measurements of the road on the plat, therefore he owns the road. He also had a document of a case in Shoreview. He stated that if the Township wants to sue him then the issue could be fought out in court.

**4.1 Clerk/Treasurer Report:** Items of interest during the past month include: the 2019 Crack Seal project was completed and paid this pay claim period; the Township received a generous donation of a 1923 Booth's Township Manual from former Township Supervisor Kerr. Discussion about a display case for historical Township items.

**4.2 Approve payment of claims and transfer funds:** Maloney/Hiller unanimous to approve payment of claims, including payroll, as submitted and to transfer \$63,000.00 from savings to checking to cover claim numbers 8861-8900, check numbers 18894-18842, and Electronic Fund Transfers (EFT) #283-285 (June) Federal, State and PERA withholding tax.



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**4.3 Supervisor Reports:** Pool –no report; Kuker – Zimmerman Park Board report – Night to Unite was discussed, a member of the Zimmerman Park Board said he did not like the stop sign on the Lake Fremont minimum maintenance road. Kuker also said he attended the Couri and Ruppe Legal Seminar along with Supervisor Hass. **Maloney** – regarding previous discussions about the hours of operation of the Town Hall Offices, Maloney/Pool unanimous to keep the Town Hall office hours the same as they have been. **Hiller** – reported on the statistics of the Township Facebook page and reported that the page has a lot of action. Hiller also explained what Facebook “check ins” are and that the Township has no control over check ins. Also discussed was the progress in the Township Parks including work on park trails, picnic tables, and more brushing for visibility in North Point Park. **Hass** – no report.

**5.1 Schedule Public Hearing – Subordinate Services.** Hass/Pool unanimous to schedule the Public Hearing for July 22, 2019 Meeting.

**5.2 Clean Up Day Report:** the report will be given at the July 22, 2019 meeting

**5.3 Park Dedication Resolution:** Resolution 19-14 Determining/Approving Park and Trail Dedication Fees In lieu of Land for the Plat/Subdivision known as W.H. Cates Pondsides Estates and W.H. Cates Pondsides Estates Second addition. Resolution adopted unanimously by roll call.

**5.4 Variance Samples:** Kuker submitted several samples of Variance responses. The Board will look at the samples and submit comments during the July 22, 2019 Board Meeting.

**5.5 Fire Building Lease Renewal:** the lease will be presented at the next Fire Board Meeting.

**5.6 Lake Fremont Illegal Dock:** Hass/Hiller unanimous to table the item until a future Board Meeting to allow time for the Township Attorney to review the issue.

**5.7 Raffle Request:** Item withdrawn, item will be addressed at a future Town Board Meeting.

Hiller/Pool unanimous to adjourn the meeting at 9:39 pm

Approved this 22<sup>nd</sup> day of July 2019.

Chairman or Vice Chairman

Clerk/Treasurer or Deputy Clerk/Treasurer