



LIVONIA TOWNSHIP REGULAR BOARD MEETING MINUTES  
HELD AT THE LIVONIA TOWNSHIP HALL  
JUNE 26, 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:** Hiller/Pool unanimous to approve the Regular Meeting Agenda with the following change: move Item 2.1 to Item 2.3, and move Item 2.3 to Item 2.1.

**1.3 Approve Consent Agenda:** Maloney/Doebler unanimous to approve Consent Agenda as follows: **Item A)** May 22, 2017 Regular Board Meeting Minutes.

**1.4 Sheriff's Report:** Sgt. Wilson reported there were 228 calls for service in May; the calls included 61 traffic stops, 8 thefts, and 1 burglary, the remainder of the calls were for various reasons. The Buddhist Festival had no law enforcement issues, but there were a few noise complaints. Hass asked about the thefts that were reported, Wilson explained that they were mostly thefts from unlocked cars. He suggested that car owners lock their doors to discourage theft. Hiller asked about enforcement for unlicensed vehicle sales. Wilson explained that law enforcement involvement would depend on the issue, such as illegal parking, hazards to drivers, etc. He went on to explain that the Sheriff's Department can help the Township determine if an issue is a law enforcement issue or a civil matter. There were no other issues or concerns for Livonia Township.

**1.5 Fire Report:** no report.

**1.6 Engineering Update:** Jon Bogart, Township Engineer reported: a) 112<sup>th</sup> Street Phase 3 reconstruction project is scheduled to begin July 12, 2017. The Gerlach Tree Farm issue was discussed. Bogart reported that he received a correspondence from the Gerlach's Attorney Jim Nielson expressing that the Gerlachs do not give permission to touch any vegetation on their property. Bogart explained the prescriptive rights of use and the legal determination of prescriptive rights. Bogart distributed a map of the construction project with the boundaries of snow thrown from the road during the 2016/2017 winter season, which is a legal and accepted proof of prescriptive rights. Bogart explained the plans in place to protect the trees outside of the prescriptive ROW. Doebler added that Livonia Township has worked very hard to ensure that the Gerlach Tree Farm property is protected, the Gerlach's concerns are respected, and has taken into account even the trees and vegetation that are in the ROW that the Gerlachs are concerned about. Also discussed was the legal definition of a tree being 6 inches in diameter at 4.5 feet above the ground with all other vegetation, even young trees, are legally considered "brush" and not protected by law. Bogart also indicated that the ROW based on prescriptive rights will be well marked before construction begins with a double barrier around the trees that the Gerlachs are most concerned about. Photos will be taken throughout the project to record the efforts taken to respect the Gerlach's concerns and protect the trees that they are concerned about. B) 239<sup>th</sup> Ave: Bogart and Doebler to meet this week to look at the plan in the area of Sugarbush Preserve.

**1.7 Road Report** – Maintenance Coordinator Berghuis reported: ditch mowing is almost complete; the boom mower was used on 257<sup>th</sup> Ave and it performed well. Now that the Township owns the boom mower, he will divide the Township into quadrants for a more extensive ditch mowing rotation; Berghuis reminded the Board of the plan to tour the Girl Scout Camp road with emergency personnel to ensure that it is passable for emergency vehicles; the estimate to take down a large pine tree in the cemetery came in at \$500. He will wait to see if the tree recovers sufficiently, and if not, have it removed after the ground has frozen. Berghuis also presented the estimates for skid loaders that he has received so far. Discussion included the brand preference as the estimates for similar machines from the different dealers were close to the same price. Berghuis was instructed to narrow down his preference to 2 brands and make an estimate of



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how many hours it will be used on roads, the cemetery and the park for the next meeting. Discussion followed about possible renewal contracts that some dealers offer government entities.

**1.8 Planning Commission Report** – Spencer reported: The PAC met June 15, 2017 and recommended the following items for approval by the County Board of Commissioners at their next scheduled meeting: request for a CUP for a personal storage structure within a recreational development lake shore district – Palmer Township; request for amendment to existing CUP for a Highway Planned Unit Development – Livonia Township; request for preliminary residential standard plat of Tibbets Brookside – Big Lake Township; request for IUP to construct and operate a community solar garden – Big Lake Township.

**2.1 Request for Curve Signage:** Susan Labelle present to request curve signage on 97<sup>th</sup> Street. Labelle indicated on the aerial projection map where vehicles repeatedly go off of the road at the curve and crash into her horse pasture fence. Hiller/Doebler unanimous to approve curve signs to be placed at the curve on 97<sup>th</sup> Street as well as the appropriate speed advisory signs. Nick Anderson, Bogart, Pederson and Associates offered to provide the Township the proper advisory speed limit based on the curve radius.

**2.2 Request to Cross Drainage Easement:** Frank Carlson, Covenant Homes, was present to request permission to cross a drainage easement on the property located at 27654 133<sup>rd</sup> St, Livonia Township with a pressurized septic system pipe to the proposed drain field. Carlson explained that the septic drain field must be located on the north side of the drainage easement based on soil boring results, and the house and septic tank would be located on the south side of the drainage easement. Carlson provided a site survey. Hass asked where a secondary septic system would go in the event of failure of the first system, a requirement to obtain a building permit from Sherburne County Zoning. Carlson did not know, then indicated that the proposed drain field could be moved a few feet west to make room for a secondary location to the east. Discussion followed about the drainage easement and why it is there. Bogart explained that it appeared to be a natural depression at the time the development was platted. Bogart also gave the engineering opinion that a pipe running through the easement would not negatively affect the drainage easement or flow of water. Hass expressed concern that if there were a septic issue in the future that contaminated the soils and possible water flowing through the drainage easement, that the Township would be held liable for damages and the clean-up. That potential cost burden would need to be the responsibility of the homeowner and that responsibility disclosed to the homeowner. It was then explained to Carlson that the Township would need to issue a Drainage Easement Encroachment Permit to allow him to cross the easement with the septic system with language included concerning future liability of any damage done in the easement. Hammre explained that this license requires the Township to direct the Township Attorney to draft the document, and the cost for this would need to be paid by Carlson. The Township would require an Escrow Account to be set up with funds from Carlson to cover any costs that would be incurred concerning the issue. It was further explained that public funds, by law, cannot be used to pay for individual projects. Carlson indicated that he thinks the Township should pay for any costs involved with an Encroachment License. Mr. Carlson then said that it would be less expensive for him to avoid the easement with the septic system than to pay the cost for a license and associated Attorney fees. No action taken.

**2.3 Fence in D&U Easement:** Dianna Herrman requesting by letter that the Township enforce removal of a Drainage and Utility Easement obstruction as per Minnesota Statute. Photos of the obstruction which include fill material and a retaining wall/fence were provided. Discussion ensued about the purpose of Drainage and Utility Easements, the Township's responsibility in enforcing the law to keep the Drainage and Utility Easements free of obstructions so that they can provide the service that was intended with their creation. Hiller/Doebler unanimous to direct Hammre to send a letter to the homeowner who has placed obstructions in the Drainage and Utility Easement with information on the required setbacks and appropriate Minnesota State Statute and the request for his plans and timeline for removing the obstruction within 20 days of the date of the letter.

**2.4 239<sup>th</sup> Ave ROW Obstruction Issue – Perl update:** Township Attorney Gilchrist responded to the inquiry with steps to take to remedy the situation and the suggestion to consult with local law enforcement first. Hass suggested that Hass



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and Hammre first talk to Sherburne County Sherriff Brott and County Attorney Heaney about the matter, then proceed with legal action with the council of Gilchrist. Hass/Hiller unanimous to approve Hass and Hammre to talk to Sherriff Brott and County Attorney Heaney about the matter, then to proceed with action from Township Attorney Gilchrist if needed.

**2.5 Headwalls Update:** In the fall of 2016 road maintenance identified several driveway approach headwalls and large landscaping rocks placed in the ROW. Letters were sent at that time requesting the removal of the hazards as per Minnesota State Statue. Berghuis and Hammre recently monitored the progress on the removal of the identified hazards. There are several headwalls that have not yet been removed. The Board directed Hammre to send a follow up letter to each of these residents reminding them of the liability, hazard and the necessity of removing them. Also included a request for a timeline of when they will be removed.

**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: Hammre and Berghuis attended the Couri & Ruppe Legal Seminar, Hammre attended the Parks, Trails and Active Living Meeting.

**4.2 Approve payment of claims and transfer funds:** Maloney/Hiller unanimous to approve payment of claims, including payroll, as submitted and to transfer \$173,000.00 from savings to checking to cover claim numbers 8091-8127, check numbers 17854-17895 and Electronic Fund Transfers (EFT) #201-203 (June) Federal, State & PERA withholding tax.

**4.3 Supervisor Reports:** Hiller – no report. Maloney –no report. Doebler –no report. Pool – no report. Hass – no report.

**5.1 Clean Up Day Grant and Report:** the Sherburne County Clean-Up Day grant was received. The Grant funding covered the remainder of the cost of Clean-Up Day after resident fees.

**5.2 Annexation Resolution Flor Property:** the City of Zimmerman provided a draft joint annexation resolution, the City Council has not yet had the opportunity to accept the Resolution. **No action taken.**

**5.3 Water Plan Comments:** Dan Cibulka would like input on the 10 year Sherburne County Water Plan. He would be interested in meeting with a couple of Supervisors to discuss any improvements the Township would like to work on. Hass requested that the item be put on next month's agenda and that each Board member be prepared with comments.

**5.4 Rescind Weight Restrictions on 112<sup>th</sup> St Phase 1:** 112<sup>th</sup> Street between County Road 74 and County Road 19 has undergone a full winter season since the road reconstruction project was completed. Resolution 17-8 rescinding the temporary 5 Ton per axle weight road restriction was approved unanimously by roll call.

**5.5 Zoning Permit Issues along Hwy 169:** Several Zoning Permit and ROW infractions have been occurring in and near the Commercial area in Livonia Township on MNDOT Hwy 169. The Board directed Hammre to take the appropriate action on each of the issues by involving Sherburne County Zoning where applicable or by sending correspondence to start the process to resolve the issues.

Doebler/Pool unanimous to adjourn the meeting at 8:50 pm

Approved this 24<sup>th</sup> day of July 2017.

  
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Chairman or Vice Chairman

  
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Clerk/Treasurer or Deputy Clerk/Treasurer