

WOODROW TOWNSHIP
REGULAR MONTHLY MEETING MINUTES

February 8, 2024

7:00 P.M.

The meeting was called to order by Chair Gordy Reher at 7:00 p.m. All joined in the Pledge of Allegiance. Present are Supervisor Colter Peterson, Supervisor Scott Wold, Treasurer Tim Mueller and Clerk Cathy Dietrich. To see sign in sheet for citizens present, request from Clerk.

M/S/P Reher/Peterson approve Agenda for Regular Monthly Meeting as amended to add to New Business email received for a Complaint on Board appointing Supervisor 1 and Old Business under Road Updates add email question regarding Timber Drive cost to gravel.

M/S/P Reher/Peterson approve January 14, 2024, Regular Meeting Minutes as amended to change page three, subject matter H, the last sentence, from 'Cass County' to 'Cass County Planning Commission'.

M/S/P Reher/Peterson approve January 14, 2024 Board of Audit Meeting Minutes as submitted.

M/S/P Reher/Peterson approve January 2024 Treasurer Report, subject to audit as presented by Treasurer Tim Mueller.

M/S/P Reher/Peterson approve claims as submitted by Clerk Cathy Dietrich.

M/S/P Reher/Peterson approve payroll as submitted by Clerk Cathy Dietrich.

Clerk's Report –

1. TDS email will be removed at the end of February.
2. Mike Schmitt presented the new township website which will go live on March 12, 2024, for the annual township meeting. A recap of why we changed is the old website was hard to maneuver around and the cost was increasing from \$500 to \$2,500 annually. The calendar is now a google calendar and monthly meeting minutes and agendas can be easily uploaded. During this process of moving information to the new site, Mike found some links that needed to be updated. He also created a form that can be filled out on the website for Hall Rental which will be emailed to the Clerk. This is the shell now and once the board decides if there should be more added, that can be done after we go live March 12.
3. Zoom meetings: The township invested in media equipment, a microphone, and camera for the whole purpose of eventually offering Zoom meetings for citizens. And while that was during COVID we still have the equipment and a Zoom account. The Supervisors are not fully on board with Zoom meetings due to legal issues, muting issues, unruly people, or citizens being able to contribute just to name a few. A policy needs to be adopted and

follow the statute before we could begin holding Zoom meetings. Some citizens in attendance voiced in favor and some against of the township holding the meetings through Zoom. This subject will be continued at the March monthly meeting.

4. The Local Board of Appeal and Equalization meeting for the township is going to be held on April 19th at 10 a.m. Supervisor Peterson and Supervisor Reher have taken the training and are certified.

OLD BUSINESS

1. Road update for Timber Drive email question from citizen, What is the cost to maintain Timber Drive? – Supervisor Peterson reviewed contractor invoices for the cost it takes to maintain Timber Drive. Since 2015 we have put down roughly 1,300 yards of gravel on Timber Drive. 2015, we put down 360 yards, and then in 2020, we put down 770, 2022 there was 85 yards and Lott Excavating did a 500-foot stretch in 2023. Then there is the employee hours put in the cost. All the Lott Excavating invoices from 2023 regarding Timber Drive had 22 hours' worth of grading on that road throughout the 2023 summer at \$135 an hour which is roughly about \$3,000. Lott Excavating informed Supervisor Peterson that on a road the size of Timber Drive and the traffic it gets it loses about an inch a year just from water runoff to grading, to plowing in the wintertime. And every 3-4 years the gravel would need to be redone at 3-1/2 inches.

Timber drive is approximately two miles long, that's 10,560 feet. One 10-yard load of gravel will cover 50 feet worth of 50 lineal feet for a 20-foot-wide road. That's 212 10-yard dump truck loads, to do Timber Drive. And if in the future we have to buy the gravel, at the current going rates anywhere from like \$15 to \$18 a cubic yard but would be approximately \$35 with trucking and placing it included. But the farther it comes from the price would increase. In the future as an estimate it could cost \$30,000 - \$40,000 just to do Timber Drive every 3-4 years.

Currently gravel is taken from the township gravel pit for the roads which is running out, thus the reason why we are looking for other options to maintain roads. Just to put things into perspective, the last time we had gravel crushed, we had 12,800 yards crushed. And it was just under \$60,000, so that's \$4.70 a yard.

Citizen Chapman questioned, "Has anybody talked to other townships? If we're the only one that has a gravel pit, what do the other townships do ^{for their} further gravel?" Supervisor Reher responded that it is purchased and we have more roads by far than most of the townships around us.

Citizen Scheibel questioned, "Who determines what roads get done and which roads need it? Do you do that, Gordy, or does Lott do that?" Supervisor Reher responded that it is something that he keeps track of. And he works with them, so we have a schedule of what is to be done, looking at a five-year rotation. Citizen Scheibel follow up question, "But do you make that determination then? Do you tell Lot or whomever to go out there and put gravel on the site?" Supervisor Reher

responded, the board goes out and looks at all the roads near the end of April during the Road Inspection meeting. And it's inspecting for condition, for culverts, if water's pooling here, if it indicates that it's gone off the road. And then we look at, historically, when was it graveled last, what's the condition of it, and based on that, it gets put on the gravel schedule.

Citizen question, "is Timber the only road that has three resorts on it? I mean, does Interlachen have resorts? Does Buxton have resorts? Because that would explain why Timber is going through so much gravel." Supervisor Reher responded; Timber is going through the gravel because it is... the road is crummy. It was not designed well. It has no base and it's pounding the base, the gravel, down into the mud that's underneath. So, it goes through more than it might otherwise just because it's out on that muddy peninsula. Citizen continues, "but some of those resorts have as many cabins as there are houses on Timber. I mean there's 48 owners on Timber. Those resorts have a lot. I mean, it's a lot of traffic in the resorts. I know. I'm there all summer, watching the boats and the cars fly by my cabin, because I'm the first cabin in. And it's the resorts. The Bible Camp, too. And so, for me, I look at that and just say, is there a better solution as we think about road maintenance? Should we look more towards the resorts to say you should contribute more to the management of the road?" Supervisor Reher responded; we're looking at a policy for financing that. Supervisor Wold responded; That's not what we're talking about right now. Not that we won't talk about it, just the wrong time. There's a policy that needs to be determined. Good question, but it's the wrong time. We just don't have the information.

2. Gravel Crushing – Supervisor Peterson contacted Larry Sanders who completed the gravel crushing in the past. Larry suggested that he would need an area for him to work as an extra charge. And then another charge is bringing in a piece of machinery to break larger rocks, so his rock crusher that handles up to 10-to-12-inch rock can crush into the gravel size. There was discussion on whether other parts of the township property could accommodate, and a decision was made for Larry to come back and walk the property with Supervisor Peterson to know exactly what the property lines are and where he can get the material. Supervisor Peterson is going to get someone to mark the property lines on the north side. An update will be provided at the March monthly meeting.

NEW BUSINESS

1. Cass County Highway Department sent an open maintenance agreement they had with Woodrow Township since 2009. This is where they maintain our property or roads and the agreement show \$120 per hour. Supervisor Reher will call on this and ask what it is for.

2. The township received an email complaint regarding the supervisor appointment when Dave stepped down. And we appointed Scott into the vacated position. So, we received an email, someone complaining that there is a conflict of interest.

Deb Scheibel raised her hand and stated she wrote the email. See Exhibit A.

Supervisor Reher responded; he sought counsel at Minnesota Association of Townships with this question. Here is his reply and summarized by me, "I do not see the conflict, and I also do not see the conflict. If it had been Jeff Woodford, who is the Director of Environmental Services with CAS, it would possibly be correct. There could have been a problem with incompatible offices. And he says no. Now, where we are, Dave and this board, saw Scott as a unique opportunity for Woodrow with Scott's background, education, and experience, and currency with problems Woodrow is likely to experience. That gives us a very good reason for looking at somebody, and that's what we did. In addition, Dave had other reasons for his resignation, delayed that at my request. He was going to do it in November. I asked that he wait until this last meeting so that I could get things in order. And I've got a lot of medical stuff going on too, and I really appreciated that. So the position was filled per Minnesota Statute 367.03 subdivision 6, vacancies. When a vacancy occurs in a town office, the town board shall fill the vacancy by appointment, except as provided in paragraph B, which looks at the time, the remaining time in his term. The person appointed shall hold office until the next annual town election, when a successor shall be elected for the unexpired term. Dave's term expired in 2024.

The next election is November 2024. And under subdivision six, paragraph C, a vacancy in the office of supervisor must be filled by an appointment, a committee comprised of the remaining supervisors and the town clerk. And that puts a certain obligation on us. And in addition, it's like a fiduciary obligation. We have to take care of money and things the absolute best way that we can do that. And sometimes it steps on toes, but we looked at it as a unique opportunity to get somebody who was substantially qualified and could benefit all of us. And that's just what we did.

What Graham said, conflict of interest is a term that gets thrown around a lot. The legal meaning is quite distinct from the colloquial meaning. Legally speaking, there are two kinds, statutory conflict and common law conflict. And then he went into a good deal on that, but what he said, there's a third kind of thing that often gets confused and it's called a conflict of interest even though legally speaking it's different. That is incompatible offices. And this is what was mentioned in the letter. At the heart of the issue is a determination that the nature of the two offices are so inherently inconsistent and repugnant to each other that it would be a violation of public trust for the same person to hold both offices. Or put another way, a person cannot fully serve two masters. The fox can't guard the henhouse. prohibition, a person must be attempting to hold two offices at the

same time. An office, the term to determine compatibility includes all elected offices and those appointed positions involving independent authority under law to determine public policy or make a final decision not to, not subject to the supervisory approval or disapproval of another. For example, being the chief of police is an office where being a patrolman is not. And he went on like a few more examples like this.

Assuming that a county planner is an employee who reports to the county board, doesn't set budgets, potentially does not pay money to the township, doesn't set county policy, they are not likely holding an office within the meaning of that prohibition."

Supervisor Wold responded, "I did think about that conflict of interest before accepting this position, determined myself that there was no conflict of interest between my position with the county and here. I can't think of a situation off the top of my head, and if there was, it certainly wouldn't be many, where there would be an activity taking place in my position with the county that would raise a conflict with business we're conducting here. If some such situation did arise, just as if there was a business member up here who had a bill on the agenda, I certainly would recuse myself in that instance from any decision on this board. Just as in my position at the county, if there was a situation that was coming up that potentially could cause a conflict, I would also recuse myself from involvement on that at my position with the county. And there's other people in the office who could take over whatever that task may be. I just can't think about it off the top of my head right now. But I certainly would recuse myself from both of those."

Supervisor Wold continues, "But I can't see situations where it would, A, not happen at all, and B, certainly not happen enough that I would be sitting here recusing myself left and right, unable to, you know, fulfill my duties as appointed up here. And so I'd like to just say that it wasn't a flippant thought I did seriously think about that. And since I am newly appointed and I don't know all of you and we have some very dedicated citizens here who want to be involved, I encourage you, I will get my phone number, my email will be on the website to Kathy, so if you want to talk about anything or chat or talk more and find out more about me and why I'm here and why I've done the past, I encourage you to do so. I'm happy to talk to you at any time. And it's not uncommon for others, I think Gordy even recused himself one time from making a decision for something, I can't remember. Yeah, so it's not uncommon."

Deb Scheibel responded, "when I read your job description, it said you draft land-use policies and you interpret county regulations for townships. To me that's interference. You could interfere not only with our business, but with the county's business when it comes to us. And I think that's a conflict of interest."

Supervisor Wold response, "I disagree, I guess. I don't see a situation where that would arise. And you can disagree, but I disagree with you. And if you find a situation as time goes on where that arises, then I would ask that you point that out."

Deb Scheibel responded, "Well, we will. But it's a very thin line you're on right now. Be aware of that."

Supervisor Wold explains his position that "it isn't just what you read on the website. The section that you read off our website, that deal in ordinances and land use policy, yes I do, at the direction of the county board, if they so desire, let's say a revision to the land use ordinance or any other county ordinance that would be out of the environmental office, they would direct our office to maybe make some revisions to those. We would then work with the Planning Commission, which is an appointed board by the County Commissioners, and we would provide draft edits at the direction of both the County Commissioners and the Planning Commission. So that would be my drafting of policy, is that the direction of other elected officials and the direction that they choose to go. I don't make policy, and I don't make interpretations. I can't think of anything that I would do that would involve withdrawal of township, we may provide advice at the county level if there was a question. We advise townships on, let's say, noxious weed issues. We get calls on that quite often from townships wondering, what do we do about this noxious weed issue? That's not a directive from us saying, you need to do this X, Y, Z. We are there saying, yes, we can help you interpret this and these are the steps you should take so that you can follow along. It's merely an aid, not a directive. So I once again I can't see any situation where there is a conflict of interest."

Citizen Jeremy commented, "My statement would be that whatever your job duties at Cass County environmentally are, what's good for the Cass County environment is good for Woodrow environment. So I don't see how something you were doing there would be negative for our environment. Your job is environment, it's not strange laws and things, meaning it's all about environmental needs, and so I would think your best interest at your job there would serve the best interest at Woodrow also, so if there was something that you could vote on, I don't see what type of policy that would be that would affect us negatively."

Supervisor Reher finalized with "I will finish it by saying that I don't see anything where it's a thin line between this and that in any way, shape, or form. And if it had been that, there'd have been a lot more talking on this end before we were ever making an appointment."

SUPERVISOR REPORT

Supervisor Reher –

- Regarding the work done on Timber Drive, “the courts consider road authorities, that's us, to have a common law and statutory duty to keep the roads reasonably maintained. And that's as recent as a court case in 1986. The legislature has not attempted to create a town road standard. They have, however, created legal consequences if a board is found to have failed to keep their roads properly maintained. And proper maintenance examples, allegations, include failures to cut brush, failures to keep visibility, failures to act promptly to repair road surface problems, and to manage snow removal and snow storage. And that largely, what you're seeing right now, is snow removal and snow storage. As far as tree cutting and there's a lot of people that came out and said, what are you doing? And trees are the property of the adjacent landowner, even if they're located entirely within the road right away. So, we're working totally in the road right away. And what didn't come up is that the area where the greatest number of trees were removed is actually in tax forfeit land. And that's the state, that's the county, and we talked. And that's where it was, and that's what happened. The thing that really came out is what's a minimum size to be called a tree? There's a statute. A tree or woody perennial shrub or vine which is at least six inches in diameter is measured at a point two feet from the ground. State statute 160.22 subdivision 7A. Trees smaller than indicated are brush and may be cut.”

“It tells us that boards should monitor road conditions and work closely with the contractors to ensure they're performing adequately. Grader and snow plow operators travel the roads on a regular basis. They monitor the condition of the road. We're responsible for culverts, the installation and maintenance of culverts under town roads. Culverts and drainage systems are checked as part of the annual inspection. And the law regarding culverts places the primary financial responsibility for the culverts on the abutting property owners, and that's statute 160.18.”

“The owners are responsible for purchasing and installing approach culverts. Who maintains them? Generally, Woodrow has maintained them, even though they don't belong to Woodrow. For culverts on public watercourses, which is what's been going up on, taking place out there, a DNR permit might be required, but it's not required if the existing culvert is being restored or replaced, same location, same diameter, same length, same shape, same elevation. And the number of culverts being replaced is the same as the existing number of culverts at a given location. So, it all comes out of the statutes.”

“The board decides when the work is needed, and the board must determine that the ditch has an adequate outlet. So, we've been pretty good about that. So that's the kind of work that's going on up there right now, and it's just trying to keep things, to maintain the road to the best of our ability. And there's a lot of work there because there's a lot of stuff that's wetland, the stuff that we have to look at and be pretty careful about.”

Supervisor Peterson –

- Nothing to report.

Supervisor Wold –

- Nothing to report.

PUBLIC INPUT

Doug Payne Timber Drive, "I've had the privilege of being at this meeting over the last 30 years, different supervisors, different issues, thank you for serving. It's not always a pleasant job but thank you. I appreciate you doing it. We do need a road and I'm happy to have nobody getting run over.

Dave Tanner, "Thank you very much for what you're doing. It's a difficult job. There's a lot of information that you have to absorb and take into account to make decisions that are sometimes closer than you would hope. They're not all easy decisions to make, but I think you did a good job. I think you do a good job, and working with you has been a real pleasure. I'm really proud of this. I've worked with a lot of townships over my career. This town board is probably the best town board I've run into."

OTHER BUSINESS

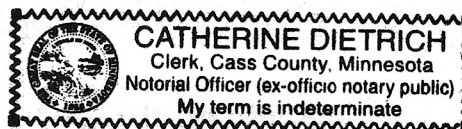
MEETING ADJOURNED M/S/P Reher/Peterson @ 8:54 p.m.



Chair, Gordy Reher



Clerk, Cathy Dietrich



Appendix A

clerk@woodrowtwpmn.com

From: Deb Scheibel [REDACTED]
Sent: Wednesday, February 7, 2024 1:10 PM
To: supervisor2@woodrowtwpmn.com; supervisor3@woodrowtwpmn.com;
treasurer@woodrowtwpmn.com; clerk@woodrowtwpmn.com
Subject: Township Supervisor position

I am addressing this issue because I feel an injustice has been done to the people of Woodrow Township. It is not a personal attack on any one individual. The manner in which Dave Tanner resigned from his position as a Woodrow Township Supervisor before the end of his elected term seemed deliberate so that a candidate of the Supervisors choice could be appointed in his place. I say this because there was no public notice that there was to be an opening. Although Dave Tanner announced at the November Township meeting that he would be stepping down before the end of his term no other mention about looking for or asking for interest in the position to be filled was announced in any public forum. This can be seen as a betrayal of the public's trust.

In the 2022 election there was many "write-in" candidates for the one open position of Township Supervisor. To my knowledge, not one of those candidates were contacted regarding the open position. This was unfair to the Township as these people obviously had the support of people in the Township. Instead the Township Supervisors choose someone who has lived in Woodrow Township for only a few months. This person also holds the office of "Cass County Planner". If you look further into his duties, you will see a direct conflict of interest.

As stated in the Minnesota Manual of Townships, chapter 10, pg. 67 "Public office is considered a public trust. Supervisors must always be aware of the potential for a conflict of interest and err on the side of caution." Two public offices whose duties may be in conflict are also thought of as an incompatibility of office. Incompatible positions exist when one of the positions `` can interfere with or has any supervision over the other". Manual of Townships, Chapter 4 pg. 29.

The description of position of County Planner taken from the Cass County website include words such as "develops, monitors, controls, modifies. This position drafts land use policies and zoning ordinances, provides technical assistance and consultations to townships, and interprets county regulations for townships.

Therefore as stated in the township Manuel, Chapter 4, pg. 20 "Public offices are incompatible when their functions are inconsistent, their performance resulting in antagonism and a conflict of duty, so that the incumbent of one cannot discharge with fidelity and propriety the duties of both. Such antagonism is more likely to exist when one of the positions can interfere with

or has any supervision over the other".

I believe the positions of Cass County Planner and Woodrow Township Supervisor are incompatible because of the conflict of interest. It is easy to see the apparent possibilities of interference of both the Township business as well as the County business in favor of or negative impact of either or both. This person should not have accepted the position of Township Supervisor and should at this time resign one of the positions.

Respectfully, Deb Scheibel