

Fredonia Township Board-Regular Meeting
October 19, 2020 6:30 PM
Fredonia Township Hall
8803 17 Mile Rd, Marshall, MI 49068

MINUTES

BOARD MEMBERS present: Doug Damon, Supervisor Cathy Combs, Clerk JC Skowron, Treasurer Ken Heustis, Trustee Terry Day, Trustee
STAFF present: Phil Damon, Fire Chief Jacob Washburn, Deputy Supervisor/FD Training Officer Dan Livingston Sr., Calhoun County Planning Commission George Crandall, Twp. Planning Committee

PLEDGE OF ALLIGENCE:

AGENDA – Additions/Deletions: None

Manhattan Park Partners LLC Conditional Use Permit: Doug advised the Planning Commission has held 2 meetings allowing residents to ask question and tonight will be for any specific comments about the approved conditions. The commission has presented their approved conditions on the conditional use permit issued by Manhattan Park Partners LLC. Also, Doug noted the planning commission has done a great job spending hours researching and providing recommendations. George explained the board received packets with current documentation to review. George explained the condition listed pertaining to Jake brakes will need to be removed as they are not mandated or enforceable by the township, but will be undertaken as a courtesy. Board reviewed and suggested the following updates: Unrestricted letter of credit; 15 days prior or after October 15 to conduct yearly review with committee members George Crandall and Doug Damon. At the September 2021 board meeting, would open to public for any review of conditions as well as throughout the year addressing any issues that arise. Terry suggested removing “if applicable” on #3: Traffic: Complete a traffic study for the area within in 1 mile of the pit entrance, including the intersection near the Township Hall. Board discussed: Hours of operation: Adding will approve or disapprove and that Doug and George will meet with Manhattan. Also, removing specific projects because no current contract. After discussion, Terry made motion with support from JC to approve the Conditional Use Permit for Mining by Manhattan Park Partners LLC with the updated conditions above and outlined in the attached document, Fredonia Township Board, Approved Conditions. Roll call vote: Ken-Yes; Cathy-Yes; Doug-Yes; JC-Yes; Terry-Yes. Motion carried unanimously.

PUBLIC COMMENTS FOR ITEMS ON THE AGENDA: The ordinance adopted by the Albion Township outlining mining was provided to the board for future reference and review. Tommy Miller discussed upcoming election and running for County Commissioner. Chris Vreeland also discussed upcoming election and running for prosecuting attorney. In addition, Chris suggested updates to the mining permit conditions: suggested to update line of credit to real bonds. Also, change coverage to reclaim property for all acreage vs. 20 acres and to include environmental studies.

CORRESPONDENCE: None

MINUTES FROM PREVIOUS MONTH:

Motion made by JC and supported by Ken to approve the minutes of the September 21, 2020 board meeting.

APPROVED AS READ

FINANCIAL REPORT-

Treasurer JC Skowron provided financial report for review.

FILE FOR AUDIT

READING OF THE BILLS by Cathy Combs

NO CORRECTIONS REQUESTED

Motion made by Ken and supported by JC to accept the *Reading of the Bills* as read.

APPROVED AS READ

REPORTS:

Fire Department: Chief Damon advised there were 5 fire calls and 3 medical calls for this month. The department held pump operations and water drafting/hose lines training.

Ambulance: Ken reported a meeting held at the new Tekonsha Fire Department and that almost all easy lifts have been installed in ambulances.

Roads: Meeting to be held November 10, 2020

County Planning: None

Cemetery: Doug advised a busy month with burials and selling lots. 3 new foundations have been put in and 3 more in the upcoming weeks. A lot of tree trimming of low hanging branches took place on October 17 by a few community members. There are lots of leaves if anyone wishing to volunteer to assist with cleanup. We are expecting top soil to be delivered soon to put on plots that the ground has settled.

Zoning/Ordinance: Robert advised there was a zoning board of appeals meeting held last week to discuss/approve zoning variance on Lyon Lake.

Fredonia Planning Commission: None

Board of Review: None

Finance: A meeting to review revenue and expenditures and discussing utilizing funds provided by Firekeepers. Recommend to board to replace refrigerator in kitchen and microwave.

Old Business:

Lyon Lake Water Level (Pump): Calhoun County Water Resource Department determines when money is needed for the Water Level per Sherrie at the Water Resource Department. This charge is under township direct billing and not township at large. This charge is sent to the township office the first part of October and informs the township how much to charge each resident at the Lake. In 2019, there was a total charge of \$4,000 and for 2020 there is no charge. All controlled by the water resource department.

Lyon Lake Lights: JC reported the monthly bill is \$246; Annual rate is \$2,952. \$2952 divided by 142 units equals \$20.79 per parcel rate.

Lyon Lake Special Assessment:

JC made motion and Terry supported to move that the following will be the board policy of Lyon Lake Weed Control and supersedes any prior action. Pursuant to the terms of Resolution 02-2005 regarding the Special Assessment District, paragraph 13 requires redetermination of the assessment amount every five years. Therefore, on years that end in Zero (0) and Five (5), the Lyon Lake Association must provide a five-year budget figure that will be used for this redetermination. The redetermination to be made as follows: Add the total of expenses for five-year budget, including weed & Algae treatments, sonar treatments, DEQ permit and annual surveys, add the reserve amount allowed by Act 188, subtract the current fund balance, divide by five years, and then divide by number of units on file with the Assessor’s Office. If the Lyon Lake Association fails to provide a budget by 9/30 of those years, the last five-year total expenses will be used to determine the new budget amount to be used in this process. As noted in Resolution #01-2005,” periodic re-determination of cost may be made without further notice to record owners or parties in interest in the property, provided the increase in the assessment is less than Ten (10%) percent. As applicable to the statutory law this formula was applied below:

Budget	\$53,500
5%	<u>2,675</u>
Sub-Total	\$56,175
Current fund balance:	<u>-(28,000)</u>
Sub-Total	\$28,175
Divide by years	5
Annual Rate	\$5,635
Value per full unit	43.85
Divide by units:	128.5 (on lake 115 units, behind 27 partials = 13.5 full units)
On Lake value	\$43.85
Back Lake value	\$21.93

Motion carried unanimously.

NEW BUSINESS:

PA 116: Farmland Preservation: Township received Farmland and Open Space Programs Applications for Kevin and Denise Weber, parcel #11-119-015-01 and 11-119-015-10, 8300 12 Mile Road, Marshall, MI. This is a 15 acre farm. Cathy made motion with support from Ken to approve the PA 116 provided from the Weber’s. Motion carried unanimously.

Public Comment: Discussion held regarding township funding for roads

Board Comment:

Cathy thanked Fred Woods, Doug, and Randy Combs for cutting limbs and cleaning up cemetery on October 17. Also, provided update on upcoming election.

Supervisor Doug Damon adjourned the meeting at 8:53 PM

Minutes prepared by Cathy Combs

Cathy Combs, Township Clerk

Date

10/26/2020

Doug Damon, Township Supervisor

Date

Fredonia Township Board

Approved Conditions

October 19, 2020

The applicants are: (1) Manhattan Park Partners LLC (optionees for the 3 Line properties), and (2) the Steven and Teresa Washburn Revocable Trust (property owner, represented by Manhattan Part Partners LLC as Manager). The Applicants are seeking Conditional Use permits to conduct aggregate mining operations in Fredonia Township. The Planning Commission has provided the Township Board with copies of the application and the site plan.

As required by Section 10.06 of the Fredonia Township Zoning Code, the Township Planning Commission has held two public hearings; reviewed the particular circumstances and facts of each application; recorded adequate data, information and evidence. We have determined, based upon the data, exhibits and information supplied by the applicants, that the applications will meet the relevant general and specific standards of the Fredonia Township Zoning Code *to the extent legally enforceable today*, if the applicants comply with the following conditions:

1. **Trees**. No existing vegetation will be removed within the required setbacks from boundaries, except as required for ingress/egress, and to remove dead or damaged trees for safety.
2. **Fencing and Berms**.
 - a. Enclose pits with a 4-foot fence for the safety of the general public. Standards from OSHA and any other regulating agencies will govern where fencing must be placed, and where/when it may be removed. For example, fencing may not be required around portions of the new lake that have been graded and otherwise reclaimed to a condition where they are as safe to the public as any other open body of water in the Township.
 - b. Pile stripped topsoil into temporary berms to buffer any directly adjacent residences, except where not practical due to distance dirt must be hauled, and where other natural screens are already present.
 - c. Do not remove trees to create berms.
 - d. Any berms may be removed when the topsoil is sold or used for reclamation.
3. **Traffic**
 - a. Complete a traffic study for the area within in 1 mile of the pit entrance, including the intersection near the Township Hall.
 - b. Comply with all other traffic-related requirements of MDOT and County Road Department.
4. **Financial Guarantee**. Provide a unrestricted letter of credit or other mutually acceptable financial guarantee (not a bond) at \$2,500 an acre to cover reclamation for any "open areas" being actively mined, not including any lake area being dredged, and not including any area that has been returned to ag use, as these areas will already be deemed reclaimed.
5. **Hours of Operation**
 - a. 7am-6pm Monday through Saturday, or 7am-7pm Monday through Friday
 - b. Do not run processing equipment on Saturdays
 - c. Do not run trucks on Sundays

- d. All operations closed on national holidays
- e. When special projects require longer hours, operator will notify township of need and duration, and Township Supervisor Doug Damon and George Crandall will approve or disapprove.

6. Noise and Dust

- a. Follow all noise and dust control procedures that are standard for aggregate mining operations and/or legally required by governing agencies.
- b. Use active dust control measures, not to include oil or oil products

7. Annual Review. Meet annually with the Township representatives Doug Damon and George Crandall 15 days prior or after October 15, 2021 to submit reporting for volume of materials mined, review (and if necessary, adjust) the financial guarantee for reclamation, and work out how to resolve any new complaints or concerns relating to agreed conditions that have not been changed, removed or preempted by new laws and regulations.

8. Final Reclamation. Finish reclamation and remove all equipment, pumps, wells, buildings, etc. within 12 months of completing the last mining activity.

9. Project Area Size. Active area of extraction may not exceed 20 acres, not including any lake area being dredged, or any area that has been returned to ag use, as these will already be reclaimed.

10. Other Agency Requirements. Comply with all applicable laws and conditions imposed by other agencies.

The Township Attorney has advised that Sections 10.06 (c), (e), (f), (g) and (h) of the Fredonia Township Zoning Code are not enforceable to the extent that they conflict with section 235 of the Michigan Zoning Enabling Act, attached.

MZEA Subsection 235(3) provides that an ordinance shall not prevent the mining extraction of valuable natural resources from any property unless very serious consequences would result. Natural resources shall be considered valuable for the purposes of this section if a person, by extracting the natural resources, can receive revenue and reasonably expect to operate at a profit.

MZEA Subsection 235(5) further provides that in determining whether very serious consequences would result from the mining extraction, the *Silva v Ada Township* standards set forth in subsections (a) through (e) shall be applied and may be considered, if applicable. A local unit of government may impose reasonable regulations for hours of operation, blasting hours, noise levels, dust control measures, and traffic, provided that the local regulations are *reasonable in accommodating customary mining operations*.

After considering these requirements, the Planning Commission has determined:

- That the aggregate to be mined is valuable and the applicants can likely be expected to operate at a profit from other future infrastructure projects in this area of the state.
- That no “very serious consequences” will result from the proposed aggregate mining operations for the reasons stated in the minutes from our public meeting on October 1st.

- That the above recommended conditions address community concerns about hours of operation, blasting hours, noise levels, dust control measures, and traffic to the extent that we are able, while meeting the legal standards of the MZEA.

The applicants have agreed to comply with the proposed conditions (except for the ban on JAKE brakes), for so long as the conditions remain legal and applicable under the laws and regulations governing their operations.