

Approved January 19th, 2021 Clear Lake Township Board Meeting Minutes held at Clear Lake Township Hall

Members present were; Chairman: Gary Gray, Supervisor: Bud Stimmler, Supervisor: Ross Imholte
Treasurer: Paul Goenner, Road Engineer: T. Vander Eyk, Deputy Clerk: Gary Anderson Clerk: Peggy Berger

Others present were: none

The meeting was called to order at 7:00PM by Gary Gray.

The Pledge was said.

Minutes will stand approved as read with two corrections.

Bud Stimmler made the motion to pay the bills. Seconded by Ross Imholte. Motion carried.

SHERIFF'S REPORT: December Call Summary Report: 70 calls for service.

NO LIBRARY BOARD TO REPORT ON: none

NO WATER ADVISORY TO REPORT ON: none

FIRE DEPARTMENT ADVISORY BOARD TO REPORT ON: Fire Department came out to see the Township Hall. Ross is going to install the heater & try it out.

PARK & TRAILS REPORT: Tree order available- three bunches of each for white pine. Total will be \$75.00

ROAD REPORT: Sherwood shores notice- 70 letters sent out for notice. Notices will go out regarding the meetings. Gary Anderson will keep track of residents & the meetings they would like to attend.

Partial Pay for \$1740.30 to Aztec for seal coat project. Ross Imholte made a motion to make the last payment. Bud Stimmler seconded it. Motion carried. Final Pay will be done.

Quote for No golf cart signs: \$75.73 each. Brown sign with white legion to be mounted at park entrance. It is a 12 X 18" sign comes to \$21.53 that says park closed sunset to sunrise. Ross Imholte made the motion to pay for signs. Budd Stimmler seconded it. Motion carried.

Dog park rules revisions- Park closed sunset to sunrise, and nuisance barking.

A bit of a drainage problem between main entrance of town hall & Sheriffs entrance. One option is a dry basin. One is a putting an 8" pipe in. Eliminate the downspout and put in a gutter across and behind the column. This will take of the problem at \$650.00. Ross Imholte made the motion to pay for the drainage problem Gary Gray seconded it. Motion carried.

Complaint or a number of instances on 100th Ave. Trucks have been blocking off the entrance to the road from Hwy. 10. Put out a proposal (draft a letter) to NSF from township to put them on notice and see what happens.

The township magazine put out an article on getting a LRIP (Local Road Improvements Program) for road projects. Eyk provided information and was going to look into it further. Our portion of Gin lane (97th St.) could be part of the project.

OLD BUSINESS:

Agreement for monitoring & Security to be signed.

Notice that Sherco Solar would be available to come again if needed.

Ross Imholte made a motion to approve there be a bingo permit for Travelers on the Mississippi. Bud Stimmler seconded it. All were favor. Motion carried.

NEW BUSINESS:

Board of Appeal Meeting: April 7th, 2021 at 10:00AM was approved by board.

Honor Wall: An opportunity to honor someone within the community to be displayed on a township wall.

The lions would like township to get prices for a picknick table. They said they thought \$20,000 to \$25,000 would be a good possibility to give to township for park.

Discussed ideas for Clear Lake Township Logo.

Board of Audit to take place on Feb. 24th at 9AM at Clear Lake Township Hall.

Clean up day: Tentatively Saturday May 1st 2021.

Discussed possible map of Township to be put up in office.

Verified that town hall would not be rented out.

Reminders:

Gary Gray made a motion to adjourn. Bud Stimmler seconded it. All were in favor, motion carried.

Meeting was then adjourned.

Mr. Gary Gray
October 2, 2020
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COURI & RUPPE, P.L.L.P

Michael C. Couri*
Robert T. Ruppe**

Attorneys at law
705 Central Avenue East
PO Box 369
St. Michael, MN 55376-0369
(763) 497-1930
(763) 497-2599 (FAX)
www.couriruppe.com

*Also Licensed in Illinois
**Also Licensed in California

October 2, 2020

Mr. Gary Gray
Chair, Clear Lake Town Board
P.O. Box 305
Clear Lake, MN 55319

Dear Mr. Gray:

It is my understanding that an application for a very large solar energy project ("Solar Project") is before the Minnesota Public Utilities Commission ("PUC") and that a significant portion of the land upon which this project is to be located lies in Clear Lake Township. It is also my understanding that the PUC will be taking public comment regarding the potential establishment of this Solar Project within the Township and that the views of the Town Board, as an affected governmental unit, will be material to the PUC's decision on this issue. I also understand that two of the three Town Board Supervisors own land that will be leased by the developer of the Solar Project for use in the Solar Project.

Within this backdrop, the question has arisen as to whether the two Supervisors whose land is proposed to be leased as part of the Solar Project can vote on the question of the submission of comments from the Township to the PUC regarding the Solar Project.

Minnesota law generally holds that a Township Supervisor may not vote on an issue before the Town Board that the Supervisor has a pecuniary (direct and personal) financial interest in. Normally, the interested Township Supervisor would be required to abstain from voting on such an issue due to a conflict of interest on that particular issue. However, the law also holds that the prohibition on voting on an issue when a conflict of interest exists can be overridden in certain circumstances, particularly where the vote of one or more of the interested Supervisors is necessary in order for any decision to be made.

In this case, the Town Board consists of three Supervisors, two of whom have a conflict of interest on this issue. The one remaining Town Board member cannot both make and

second a motion, so at least one of the Supervisors needs to participate in the voting on this issue in order for the Township to make a decision one way or the other. Because both Supervisors have the same type of conflict, I believe that both can vote on this issue under the analysis of *Lenz v. Coon Creek Watershed*, 153 N.W.2d 209 (Minn., 1967).

In *Lenz v. Coon Creek Watershed*, the Minnesota Supreme Court held that while public officials are generally prohibited from voting on issues in which they have a direct financial interest in the outcome, there are five factors that must be considered when determining whether an interested official can vote:

- (1) The nature of the decision being made;
- (2) the nature of the pecuniary interest;
- (3) the number of officials making the decision who are interested;
- (4) the need, if any, to have interested persons make the decision; and
- (5) the other means available, if any, such as the opportunity for review, that serve to insure that the officials will not act arbitrarily to further their selfish interests.

In this case, the nature of the decision being made is essentially one of a recommendation from the Town Board to the PUC relating to the establishment of the Solar Project in Clear Lake Township. Because the Township will be directly affected by the placement of the Solar Project within its borders, the decision of the PUC will have a material impact on the Township in terms of land use and in terms of potential tax and electrical generation revenue the Township may realize from the Solar Project. Further, because it is only a recommendation to the PUC, the interested officers have no direct control over the outcome of the PUC decision, thereby reducing their ability to directly affect the final decision on whether the solar project should be approved. This issue would seem to favor the Township weighing in on the decision.

The nature of the pecuniary interest is direct—the two interested officers will leasing their land to the developers of the project. This issue would seem to argue against the interested officers participating.

Two of the three Township Supervisors who would vote on recommendations to the PUC are interested. As a majority of the Board, this on the one hand would provide an argument against the interested officers being allowed to vote.

However, since two of the interested officers make up a majority of the Board, their abstentions would mean that the Township would not submit any comments or recommendations to the PUC and would deprive a governmental entity that will be directly impacted by the Solar Project from having any voice in this issue before the PUC. The need to have the interested officers participate is absolute if the Township is to

Mr. Gary Grey
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COURI & RUPPE, P.L.L.P.

Attorneys at Law
1000 Central Avenue East

Michael C. Couri

have any voice in this issue at all. This would argue strongly in favor of the participation of the interested officers so that the Township can take a position on this issue before the PUC.

Finally, since the final decision will be up to the PUC, the PUC stands as an intermediary between the interested officers and the final decision affecting their financial interest. Essentially, the PUC can act as a check on any tendency of the interested officers to advance their own interests over those of the Township. This issue would argue in favor of allowing the interested officers to vote.

On the whole, after weighing the five factors from *Lenz v. Coon Creek Watershed*, it is my belief that overall the factors favor the participation of the two interested officers such that they would be allowed to vote on this issue so that the Township can express its preferences and concerns to the PUC as part of the PUC's decision making process.

I recommend that before voting on this issue, the two interested officers publicly identify their financial interest in this issue, and inform the public that they have consulted the Township's attorney regarding their potential vote and that it is the Township's attorney's opinion that they may vote despite their financial interest in this issue.

Finally, it should be noted that neither of the interested officers are required to vote. If either feels uncomfortable voting, they each have the right to abstain due to the conflict of interest discussed above. While I believe that *Lenz v. Coon Creek Watershed* authorizes the two officers to vote on this issue, it does not require that they vote.

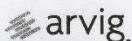
Please feel free to contact me if you have any additional questions regarding this issue.

Sincerely,

Michael C. Couri

Couri & Ruppe, P.L.L.P.

LETTER OF AUTHORIZATION



Customer Name / Business Name: CLEAR LAKE TOWNSHIP				
Physical Address: 7684 1ST AVE. W.				
City, State, ZIP: CLEAR LAKE, MN 55319				
Mailing Address: P.O. BOX 305				
City, State, ZIP: CLEAR LAKE, MN 55319				
This letter authorizes Arvig to act as our communications representative and/or agent and represent the above-mentioned customer to obtain information and/or copies of all of our network services. We also authorize Arvig to issue orders for disconnection, reconnection, reconfiguration and installation of services authorized below:				
<input checked="" type="checkbox"/> Local Service		<input checked="" type="checkbox"/> Outbound Interstate Long Distance		
		<input checked="" type="checkbox"/> Outbound Intrastate Long Distance		
Authority to Release Customer Service Records				
Provider/s: FRONTIER COMMUNICATIONS is/are hereby authorized to release pertinent information to Arvig and for following Arvig's instructions with respect to any changes to or maintenance of the undersigned's telecommunications service(s). You are requested to release to Arvig any customer proprietary network information concerning the undersigned's services as may be required by Arvig in connection with its furnishing of services to the undersigned. You may deal directly with Arvig on all matters pertaining to our telecommunications service(s) and you should follow Arvig's instructions with respect thereto. This authorization will remain in effect until modified or rescinded in writing by the undersigned.				
Authority to Release Customer Proprietary Network Information (CPNI)				
The undersigned hereby designates _____ (Agent) as its authorized telecommunications representative(s) and agent to act on its behalf in the procurement and maintenance of its network telecommunication services. Arvig is hereby authorized and requested to provide all information requested by Agent as it pertains to call detail records, contracts, configuration and service information. This authorization will remain in effect until modified or rescinded in writing by the undersigned.				
CHANGE IN LOCAL SERVICE PROVIDER				
This letter authorizes Arvig to act as our agent for purposes of ordering changes in and/or maintenance on our telecommunications and related services. This authorization includes, without limitation, the removal, installation, addition to, or rearrangement of our local access services, as well as equipment interconnected to our telecommunications service(s).				
Provider: FRONTIER COMMUNICATIONS		Current Provider Acct#/pswd: 320-743-2472-052097-2		
Telephone Numbers Converting to Arvig:				
320-743-2472				ACCT #320-743-2472-052097-2
				PIN/PASSWORD 5850
CHANGE IN PRIMARY LONG DISTANCE CARRIERS				
This letter authorizes Arvig consistent with the above general authorization and FCC requirements, to act as our agent to change our primary interexchange carrier from our current service provider for each of the telephone numbers listed on the service agreement and any supplement to this authorization. (We understand that only one interexchange carrier may be designated as our interstate primary interexchange carrier for any one telephone number, and we further understand that any primary interexchange carrier change made on our behalf may involve the imposition of a charge by local exchange carrier that we are responsible for paying.) If any jurisdiction allows for the selection of additional primary exchange carriers (e.g. for local, intrastate, or international calling), then Arvig is hereby authorized to change our primary carrier for those services from our current service provider for each of the telephone numbers listed on the service agreement or any supplement to this authorization.				
Provider: FRONTIER COMMUNICATIONS				
Telephone Numbers to be PIC'd to Arvig:				
320-743-2472				
Customer Authorized Representative (Print Name) Gary D. Anderson Date 11-13-2020				
Signature <i>Gary D. Anderson</i> Date 11-13-2020				
Clear Lake Township Deputy Clerk. Job Title (business customers only)				