

OFFICIAL PROCEEDINGS OF THE  
BOARD OF COUNTY COMMISSIONERS FOR  
NICOLLET COUNTY, MINNESOTA  
JULY 28, 2020

The Nicollet County Board of Commissioners met in regular session on Tuesday, July 28, 2020, at 9:00 a.m. Commissioners Denny Kemp, Jack Kolars, Marie Dranttel, Terry Morrow and John Luepke were present. Also present were County Administrator Ryan Krosch, County Attorney Michelle Zehnder Fischer and Recording Secretary Abigail Lewis.

The meeting was held via teleconference pursuant to Minnesota Statute 13D.021 due to the coronavirus pandemic. There were no public comments submitted by email or phone. No members of the public requested to participate in the meeting by phone. The meeting was recorded and broadcasted live online.

**Approval of Agenda**

Motion by Commissioner Kolars and seconded by Commissioner Kemp to approve the agenda. Motion carried with all voting in favor.

**Consent Agenda**

Motion by Commissioner Kemp and seconded by Commissioner Morrow to approve the consent agenda items as follows: approval of the July 14, 2020 Board Meeting minutes, approval of the Commissioner Warrants as presented for the following amounts: Revenue Fund - \$127,991.93, Road & Bridge Fund - \$58,205.19, Human Services Fund - \$127,113.77 and acknowledge review of the Auditor's Warrants; Voting Equipment Grant Agreement (VEGA-2); Sheriff's Office out of state travel; end of probations: Laura Benzkofer, effective July 29, 2020 and Breanna Allen, effective August 5, 2020. Motion carried with all voting in favor.

**Public Appearances**

Roger Hippert, New Ulm, MN, the attorney representing Velda and Wade Cordes, appeared before the Board to express safety concerns due to the increase in use, concern about the impact of the shooting on his client's property and horses, and opposition on behalf of his clients in regards to the conditional use permit (CUP) requested by Christine and Joe Michaletz.

Tim Gulden, New Ulm, MN, appeared before the Board to express concerns about the safety of not only himself and his family, but also the 15-20 youth Mr. Gulden hires to work on his vegetable farm. Mr. Gulden noted that he had grown up listening to the shooting from the prior gun club and it was not an issue. Mr. Gulden expressed that his fear for his safety was a direct result from what appeared to be a rifle bullet that was shot into a tree near where he was working on his property in June.

Tim Plath, Courtland, MN, appeared before the Board as a representative from Minnesota Valley Lutheran High School. Mr. Plath expressed concern for the safety of

their students, faculty and staff concerning the requested CUP. Mr. Plath noted the school is farther from the gun club than others, but noted the land did provide some barriers.

Brenda Gulden, New Ulm, MN, appeared before the Board to express safety concerns in regards to the requested CUP by Christine and Joe Michaletz. Ms. Gulden expressed that her main concern is the high power, or center fire, rifles that would be used on the gun range. Ms. Gulden noted that she could tolerate the noise and dust generated by the gun club.

Veleda Cordes, Courtland, MN, appeared before the Board to express her concern about rifle bullet velocity and the number of bullets that have the potential to be shot in one day if the CUP requested by Christine and Joe Michaletz is approved. Ms. Cordes expressed concerns for the safety of her family, along with the safety and well-being of her horses.

Joe Michaletz, North Mankato, MN, appeared before the Board to express his efforts to do the gun range project right. Mr. Michaletz indicated that he and his wife are working closely with DNR experts in regards to Minnesota Statutes 87A that establish laws for shooting ranges, as well as using NRA shooting range guidelines. Mr. Michaletz indicated that safety is the main concern with controlling noise levels being number two. Work will continue with professionals to ensure that all conditions laid out in the CUP are carried out.

David Stoering, Courtland, MN, appeared before the Board to express safety concerns in regards to the requested CUP by Christine and Joe Michaletz. Mr. Stoering expressed his concern with the inaccuracy of pistols and the possibility of overshooting the protective berm. Additionally, Mr. Stoering addressed concerns relating to adequate enforcement of all of the applicable regulations regarding the gun club if it is approved.

Christine Michaletz, North Mankato, MN, appeared before the Board and expressed her gratitude to the Board for their meticulous review of all the information provided. Ms. Michaletz then provided an overview of the proposed plan that was provided with the application in regards to the volume of shooters and noise requirements. In regard to the concerns about the Cordes' horses, she noted that the gun club existed before the Cordes purchased their property and placed horses next to the gun club. Additionally, Ms. Michaletz noted that it is their intention to keep people safe and to operate under noise standards.

Jason Schreder, Courtland, MN, Courtland Township Supervisor, appeared before the Board to provide information on the township road that leads to the Michaletz's property. Mr. Schreder noted that from the township's standpoint, the township realizes the road is not in the best shape, and that they are in the process of looking for bids to do work on it. At this time, no bids have been accepted.

County Attorney Zehnder Fischer confirmed with Mr. Schreder that Courtland Township has taken no formal vote on its position regarding the CUP submitted by Christine and Joe Michaletz.

With no further public appearance, Chair Luepke closed the public appearance portion of the meeting.

## **Planning and Zoning**

**June 15, 2020 and July 20, 2020 Planning & Zoning Advisory Commission Meetings**

Property Services Director Mandy Landkamer appeared before the Board to request approval on one item from the June 15, 2020 and July 20, 2020 Planning and Zoning Advisory Commission Meeting.

- 1) Michaletz Properties, LLC. – To amend existing conditional use permits C-26-05 and C-23-93 to include trap, long range rifle, short range pistol, sporting clays, a pistol target range, and an outdoor archery range, and to remove specific conditions from C-26-05 and C-23-93. The following summaries the submissions received in response to the gun club permit request:
  - a. Neighboring landowners Wade and Velda Cordes, David, Josiah, and Emily Stoering, and Gary Zimanski objected to the request. Their concerns included: noise, traffic, dust, road damage, speed limits, stray bullets, alcohol sales, littering, trespassing, hours of operation, occupancy, property depreciation, and the use of high-powered rifles.
  - b. Courtland Township Board Chair Larry Luepke commented the Township was concerned about traffic and road damage.
  - c. David M. Gross, co-author of MN State Statute 87A, known as the Shooting Range Protection Act, commented on noise standards and requirements.
  - d. Planning and Zoning Advisory Commissioners Jason Enter, Justin Laven, and Ron Regenscheid met with the applicants onsite on Friday, July 17, 2020. Also present were DNR Shooting Range Coordinator Chuck Niska and DNR Conservation Officer Thor Nelson.
  - e. The Board also received emails from the Cordes and the Michaletz that were added to the information for consideration.

Commissioner Kolars discussed adding an additional condition that would prohibit the gun club from serving alcohol to customers prior to, or while shooting, at the range and suggested this topic for discussion.

Commissioner Morrow clarified that the guidance from the NRA is the guidance that statutorily, the Board is to apply. Director Landkamer confirmed this. Additionally, Commissioner Morrow inquired about noise monitoring and who is responsible to investigate noise complaints. Director Landkamer stated that the Property Services Office would start an investigation, upon receiving a noise complaint, to pinpoint the specific date and the events that were taking place. Property Services would then make a call to the MN Pollution Control Agency, to speak with them regarding the complaint and guidance on how to proceed. Depending upon the situation, a separate private entity might be requested to come investigate whether the noise levels meet State regulations. The individual or individuals who the complaint was filed against would incur the cost, based on previous experiences, for the private entity investigation.

Commissioner Morrow asked for clarification about the incident Mr. Gulden addressed in his public appearance in regards to a stray bullet in June, and questioned if Planning and Zoning was aware of any other incidents of that nature. Director Landkamer stated that it is her understanding that in the late 1990's or early 2000's there was some concern of stray bullets crossing property lines to the south of the property. There was reference in some of the email exchanges provided to the Board about bullets going over

the east property lines, but there is no evidence of anyone making a report to either the Property Services Office or to law enforcement.

Commissioner Morrow asked for clarification whether there is a limitation on the type of ammunition allowed at the Club. Commissioner Morrow inquired if this would be an appropriate condition to include with the CUP. Commissioner Kolars agreed and suggested that the Board consider a limitation on ammunition as a condition with the CUP.

Motion by Commissioner Kolars and seconded by Commissioner Dranttel to accept the Planning and Zoning Advisory Commission's June 15, 2020 and July 20, 2020 report, recommendations and findings with two additional conditions in regards to a limitation on the size of ammunition to be used at the range, and a prohibition on the consumption of alcohol at the gun club facility prior to shooting or while shooting.

Chair Luepke moved to amend the motion on the table to accept the Planning and Zoning Advisory Commission's June 15, 2020 and July 20, 2020 report, recommendations and findings with the exception of denying the long-range rifle range portion of the request. With lack of a second motion, the motion to amend died.

Commissioner Kemp asked for clarification from County Attorney Zehnder Fischer on the standing motion. County Attorney Zehnder Fischer stated that her understanding of the motion on the table from Commissioner Kolars is to approve the CUP with conditions imposed by Planning and Zoning, with the additional condition of no service of alcohol onsite to individuals before they shoot or while shooting, and the second additional condition would be no rifle caliber larger than .39. County Attorney Zehnder Fischer stated that it is her recommendation that if the Board passed the motion to approve the CUP with the two additional conditions that the Board approve specific language for the two conditions at a future meeting. If the Board took this action, the CUP and conditions would be approved, reserving only the issue of the language for the alcohol restriction and the caliber of ammunition.

County Administrator, Ryan Krosch, inquired whether the motion should also include muzzleloaders, as they are larger than .39 caliber.

At 10:24 a.m., Chair Luepke called for a recess.

At 10:35 a.m., Chair Luepke resumed the meeting.

Upon resuming the meeting, County Attorney Zehnder Fischer clarified the motion on the table at the request of Commissioner Kolars.

Motion by Commissioner Kolars and seconded by Commissioner Dranttel to accept the Planning and Zoning Advisory Commission's June 15, 2020 and July 20, 2020 report, recommendations and findings as submitted therein, which included the following:

Michaletz Properties, LLC	PLN20-11	Amend existing conditional use permits C-26-05 and C-23-93 to include trap, long range rifle, short range pistol, sporting clays, a pistol target range, and an outdoor archery range, and to remove specific conditions from C-26-05 and C-23-93.
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and with the following additional conditions:

1. That if an alcohol license is approved, there be no service of alcohol on site to individuals while they shoot or before they shoot.
2. That there be a limit of .39 caliber rifles used on the property.
3. That recommendations for additional conditions be provided at the August 25, 2020 County Board meeting for the use of black powder guns on the property that are more than .39 caliber and restrictions on the type of ammunition used on the property.

With the amended motion on the table, Chair Luepke called for discussion. Chair Luepke inquired if there was a liability insurance requirement for this permit. Director Landkamer confirmed that there was not a specific condition requiring liability insurance. Commissioner Kemp stated that this is not a requirement on other conditional use permits. The consensus of the Board was that the original motion was amended to accommodate changes brought forth in discussion by the public and the amendments to the original motion was agreed to by both Commissioner Kolars and Commissioner Dranttel who moved the original motion. Chair Luepke called the question.

Motion carried on a roll call vote with three voting in favor and two against. Commissioners Kolars, Dranttel and Morrow were in favor, while Commissioners Luepke and Kemp were opposed.

Motion by Commissioner Kemp and seconded by Commissioner Dranttel to request staff to prepare the findings and conditions for the August 25, 2020 regularly scheduled Board meeting. Motion carried with all voting in favor.

At 10:45 a.m., Chair Luepke called for a recess.

At 10:56 a.m., Chair Luepke resumed the meeting.

## **Public Services**

### **Consider Resolution to Apply for Federal Cares Act for Elections**

Public Services Manager, Jaci Kopet, requested approval from the Board on the Resolution to Apply for Federal Cares Act for Elections.

The Secretary of State's (SOS) office has received Federal Cares Act grant money for elections in the amount of \$8.32 million. Of that amount, 40% was allocated to the SOS office for their expenses and to purchase PPE (facemasks and hand sanitizer) for all polling locations. Sixty percent of the grant is allocated to counties (and polling places within the county). Nicollet County is allocated \$24,493.79 with \$11,444.68 allocated to share with the city's polling place needs. Manager Kopet will be working with each city that has a polling place to allocate the funds to them if needed.

This is an 80/20 matching grant. The county or city is still responsible to pay for 20% of the costs. Required with this grant application is a resolution from the County Board that gives Manager Kopet approval to apply for the grant.

Motion by Commissioner Kemp and seconded by Commissioner Morrow to approve the Resolution to Apply for Federal Cares Act for Elections. Motion carried with all voting in favor.

### **Public Works**

#### **Consider Award of Bid for 2020 Aggregate Materials Project**

Public Works Director, Seth Greenwood, appeared before the Board to present results and recommendations on bids for the 2020 Aggregate Materials Project. Bids were opened on July 20, 2020 and four bids were received. The bid results are as follows:

<b>Contractor</b>	<b>Total for 2020 Aggregate Materials</b>
Engineers Estimate	\$441,250.00
Ferguson Brothers Excavating, Inc.	\$404,870.00
Mathiowetz Construction Co.	\$554,960.00
Ulland Brothers	\$402,300.00
Timm's Trucking, Inc.	\$240,310.00

Director Greenwood noted that since the low bid was so favorable and under budget, additional work may be added to this contract to take advantage of the low unit prices.

Motion by Commissioner Kolars and seconded by Commissioner Kemp to award the 2020 Aggregate Materials Project to the low bidder, Timm's Trucking, Inc., for the low bid amount of \$240,310.00, and authorize entering into a contract with Timm's Trucking, Inc. pending contract language approval by the County Attorney. Motion carried with all voting in favor.

#### **Consider Professional Service Proposal for CSAH 21 Slope Slide**

Director Greenwood requested approval on the professional service proposal for the CSAH 21 slide slope.

Gale-Tec and SRF have concluded their initial investigation and reports for the CSAH 21 slope slide issue. Gale-Tec has recommended one temporary remediation measure and two options for the permanent repair of the slope. Plans and specifications need to be completed for the temporary repair early this fall, so that the temporary repairs can be completed late this fall. This would allow for CSAH 21 to be fully reopened to traffic for the winter and allow time to develop and complete the permanent repair plans and specifications, permitting, and right-of-way acquisition. The permanent repair would then be constructed sometime in 2021. The cost for this would be covered by Road and Bridge reserves, but there is a potential that Federal Highway Administration (FHWA) or State Aid Disaster funds may be available to cover some, or all, of this expense.

Motion by Commissioner Kemp and seconded by Commissioner Luepke to approve the SRF CSAH 21 professional service proposal and authorize Public Works

Director Seth Greenwood to execute the proposal. Motion carried with all voting in favor on a roll call vote.

Additionally, Director Greenwood provided updates on various road projects in the County.

### **Attorney's Office**

#### **Purdue Pharma, L.P. Bankruptcy – Proof of Claim**

County Attorney, Michelle Zehnder Fischer, appeared before the Board to request authorization to have the proof of claim approved and signed.

Litigation has been ongoing regarding the role and accountability of the pharmaceutical companies in the opioid epidemic. Purdue has filed for bankruptcy. The County received correspondence from Co-Lead Counsel and the Plaintiff's Executive Committee regarding the bankruptcy action filed by Purdue. To preserve the County's ability to claim loss in the bankruptcy filing, the County must file a proof of claim with the bankruptcy court.

An online calculator has been established to help calculate the County's claim. The calculator estimates Nicollet County's claim to be \$7,187,277 for the time period of 2003 through June 2020 and estimated future damages and abatement costs for the period July 2020 through 2040 to be \$7,440,136. There is no assurance made that Nicollet County will recover these costs, given the large number of entities involved in the litigation and who likely will be filing claims.

Motion by Commissioner Kemp and seconded by Commissioner Morrow to approve submitting the proof of claim and have Chair Luepke sign the proof of claim. Motion carried with all voting in favor.

### **Administration**

#### **CARES Act Funding**

County Administrator, Ryan Krosch provided an update on the CARES Act funding the County has received through the State.

Nicollet County received over \$4.1 million of Federal CARES Act funds to assist with costs associated with responding to the COVID-19 pandemic. In order for expenses to be approved, the expenses need to be incurred between the period of March 1, 2020 through December 30, 2020 and meet criteria set forth by the Federal Government.

Administrator Krosch has two informational sessions with the Association of Minnesota Counties (AMC) and the Minnesota Office of Management and Budget, in regards to the CARES Act, in the coming week. Health and Human Services will be meeting with schools in the coming weeks to discuss possible back to school needs, primarily related to health issues, but also to inquire on what their distance learning and PPE needs might be. Commissioners were encouraged by Administrator Krosch to engage with businesses in their districts on possible needs in regards to a proposed grant stemming from CARES dollars upon future Board approval.

### **Commissioner Committee Reports**

The Commissioners reported on various meetings and activities including:

#### **Commissioner Marie Dranttel**

- Sibley County Joint Ditch Meeting
- Law Library Meeting
- Joint Powers Transit Board Meeting
- Board Workshop
- Out St. Peter Meeting
- Planning Zoning Advisory Meeting
- Special Drainage Authority Meeting
- Brown Nicollet Environmental Health Meeting

**Commissioner Terry Morrow**

- Public Health Meeting
- Board Workshop
- Special Drainage Authority Meeting

**Commissioner Denny Kemp**

- Drug Treatment Court
- SECB Finance Committee Meeting
- Local Mental Health Advisory Council Meeting
- Special Drainage Authority Meeting
- Board Workshop
- Finance Subcommittee for South Central EMS
- South Central EMS General Board Meeting

**Commissioner Jack Kolars**

- Board Workshop
- Brown Nicollet Environmental Health Meeting
- Special Drainage Authority Meeting

**Chair's Report**

- Sibley County Joint Ditch Meeting
- State Auditor Meeting
- Board Workshop
- Special Drainage Authority Meeting
- Brown Nicollet Environmental Health Meeting

**Approve Per Diems and Expenses**

Motion by Commissioner Kolars and seconded by Commissioner Kemp to approve the expenses and per diems for the meetings noted above during the Commissioner Reports and/or as submitted on approved expense reports, and authorize payment of those expenses and per diems by the Finance Office. Motion carried with all voting in favor.

**Adjourn**



Motion by Commissioner Dranttel and seconded by Commissioner Kemp to adjourn the meeting. Motion carried with all voting in favor. The meeting adjourned at 11:25 a.m.

  
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JOHN LUEPKE, CHAIR  
BOARD OF COMMISSIONERS

ATTEST:

  
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RYAN KROSCH  
CLERK TO THE BOARD