

Good Morning Chairman Clemens and Transportation Committee members. I am Joel Hamar, Ellendale Township Chairman. Thank you for this opportunity to testify against HB 1444. 1-1/2 miles of township road in Ellendale Township is the reason for this bill.

As some of you know we are having some issues between Ellendale Township, Applied Digital, Dickey County, and now the City of Ellendale over 1.5 miles of 87th Ave in Ellendale Township. Ellendale Township has been thrown under the bus by Applied Digital, Dickey County, and the City of Ellendale. They have accused us of being uncooperative and not concerned with safety. Ellendale Township would also like to state that we are not against economic development.

We would like to clear the air on some of the things you have been hearing. It has been said that the Dickey County Commission has voted to take over 87th Ave. At the Commission meeting October 1st, 2024 a Dickey County Commissioner made a motion to investigate the acquisition of 87th Ave and 95th St in order for there to be turn lanes installed for the safety of all people in Dickey County. This motion passed 4-1, but was not a motion to take the road over. The Commission was expressing disappointment that Ellendale Township is not thinking about the safety issue regarding the turn lanes. That could not be further from the truth.

- First, there were numerous complaints about workers disregarding the stop sign on the intersection of 87th Ave and Hwy 11. The Township was the entity that suggested that a blinking stop sign be put by the State of ND on the intersection. The reason we suggested the stop sign be put up by the State is because it is a road that turns on to a state highway. We do not know who put the sign up but it was done.
- Second, it was requested by Applied Digital for safety reasons to reduce the speed limit on 87th Ave to 30mph. This was immediately approved by the township. The township asked Applied Digital who was going to enforce the reduced speed and they thought the Dickey County Sheriff would.
- Another issue that the township brought to Applied Digital's attention is that the slope of the ditch is becoming very steep, and especially the

shoulder drops off sharply, because of the amount of material that is being put on top of the road. It was requested that Applied Digital fix this and they stated that no action was needed. Applied Digital has a flag person watching the stop sign on highway 11. It was mentioned by the township to an Applied Digital representative that it appeared the flag person was causing some confusion due to the fact that the flag person is about 100ft from the stop sign going onto Hwy 11. It appeared they would stop for the flag man's stop sign and then continue right through the main stop sign going onto the highway.

On January 8th, 2024 there was a meeting with Applied Digital at their site. The meeting was with the Applied Digital and Ellendale Township representatives. Applied Digital was informed that load limits could go on at any time due to the unseasonably warm winter and that they should get any of their heavy loads in as quickly as possible. Ellendale Township load limits routinely go on when the county load limits go on. Township Supervisors attended the Dickey County Commission meeting on February 6th, 2024. Applied Digital representatives were also present. February 6th, at this meeting is the day the load limits went on. They then came off May 13th, 2024. This is a total of 97 days load limits were in place. On February 8th Ellendale Township, Applied Digital representatives, and contractors met to find a solution to get overweight trucks into the construction site. The Dickey County Sheriff was also in attendance at February 8th meeting. The solution at the time was to use the same permit fee and schedule that the Dickey County Highway department uses to permit overweight/oversized loads. On February 20th, 2024 the township discussed with the Dickey County Commission about joining Load Pass permits. Load Pass permits allows contractors to go online and buy/pay for their permits. All the paper work and fees are handled by Load Pass. The Commission made a motion to sign an agreement with Load Pass. It passed 5-0. On March 25th, 2024 Dickey County became an active member of the Load Pass system. At an August 6th, 2024 meeting the Dickey County Commission voted to split the Load Pass permits 85%-15%. Ellendale Township and Dickey County both received funds from these

permits. These permit fees all could have been avoided had the contractors complied with the posted weight restrictions.

Also at the February 8th, 2024 meeting there was a request from Collin's Precast to place 6 inches of rock and cover it with gravel on 87th Ave. It was stated that if Ellendale Township wants the rock removed after the project is done that the road would be put back the way it was. Ellendale Township agreed to this.

On August 21st, 2024 Applied Digital representatives stated that their legal team doesn't want Applied Digital doing any road maintenance on 87th Ave due to liability reasons. They wanted the township to be responsible for the maintenance and they would supply the funds. Applied Digital was going to get a contact for Webster Scale and that contact was never received by the township.

Applied Digital then requested that the road be paved. Because an old, un-engineered township road would need to be engineered and completely rebuilt in order to be paved and support heavy loads, Ellendale Township agreed to contact KLJ engineering and see what it will take to draw up a plan to fix the slope of road and get the road into a condition that the road would be safe to pave. This project would be at the expense of Applied Digital.

Ellendale Township contacted KLJ for the grading, widening, pipe replacements, aggregate base, and hot mix asphalt for 87th Ave SE, 1.5 miles. Cost estimated at \$4,019,000.00. Total estimated project does NOT include Right of Way purchasing or utility relocation costs. Upon further research the township discovered that there was a grant program through the DOT Flex Fund to use with townships, cities, and counties. This exact situation is what this fund is for. This already existing grant program could help the township with this road paving project without having to change any of the Century Code which HB1444 is trying to do.

February 27th, 2025 at an Ellendale Township meeting an Applied Digital representative presented Ellendale Township with a Memorandum of Understanding. In this document it's stated that Applied Digital is willing to give Ellendale Township \$300,000. In order for Ellendale Township to receive this

payment they must provide the following, “Prior to any payments, Township must provide this executed agreement and the executed agreement between the Township and Dickey County that provides for an immediate transfer of the authority of 87th Ave from the Township to Dickey County to Applied Digital.” At the meeting the Township tabled this proposal. The Township Board of Supervisors was skeptical that a private company could have authority over of a public road.

As far as the township being accused of being uncooperative the township would like to use a direct quote from an Applied Digital representative Nick Phillips. The email was sent August 29th, 2024. He states, **“I hope this message finds you well. I wanted to take a moment to thank you for your continued support and for working closely with us on the ongoing development of our project.”**

Again, Ellendale Township is not against any economic development. We have really NOT been uncooperative. We realize that this project is here to stay. What we are not in favor of is big corporate companies and local legislators thinking they can push the smallest form of government around in order to get what they want. HB1444 is a self-serving bill. This bill is for the benefit of one private company in the whole state of North Dakota and sets a dangerous precedent allowing a private company authority over a township road. Help us fix this small issue at the local level instead of changing Century Code. The state programs, DOT Flex Fund and grants to townships, are available that can fulfil this project for the township and satisfy the need of Applied Digital.

Chairman Clemens and Transportation Committee members, Ellendale Township urges that HB1444 be given DO NOT PASS.

Thank you for your time.