

**CHARTER TOWNSHIP OF COMMERCE
REGULAR BOARD OF TRUSTEES MEETING**

September 11, 2018
2009 Township Drive
Commerce Township, Michigan 48390

CALL TO ORDER: David Scott, Supervisor, called the meeting to order at 7.00 p.m. and introduced the members of the Board.

PLEDGE OF ALLEGIANCE TO FLAG

ROLL CALL: Present: David Scott, Supervisor
Melissa Creech, Clerk
Molly Phillips, Treasurer
Robert Berkheiser, Trustee
Vanessa Magner, Trustee
Rick Sovel, Trustee
George Weber, Trustee

Also Present: Phillip Adkison, Township Attorney
Jason Mayer, Giffels Webster Engineers
Hans Rentrop, Township Attorney

Suervisor Scott asked everyone to remember those lost in the 9/11 terror attack on the World Trade Center, at the Pentagon and aboard Flight 93.

APPROVAL OF MINUTES

MOTION by Sovel, supported by Weber, to approve the August 14, 2018 Regular Township Board of Trustees Meeting minutes, as submitted. **MOTION CARRIED UNANIMOUSLY**

ITEM 1:9-11 PRESENTATIONS

A. Life Saving Awards

Fire Chief Jim Dundas, presented Life Saving Awards to Captain Gall, Lt. Liker, Firefighters Easley, Pennington, Buzynski, Freitnik, Filipiak, Cyr, Hester, Marguin, and Schoder.

ITEM 2:9-11 APPROVAL OF AGENDA

MOTION by Sovel, supported by Phillips, to approve the September 11, 2018 Agenda with the addition of C. CW3 Bond Agreement under ITEM 5:9-11 CONTRACT AWARDS AND AGREEMENTS and C. Outrun Hunger under ITEM 9:9-11 NEW BUSINESS.

MOTION CARRIED UNANIMOUSLY

ITEM 3:9-11 PUBLIC COMMENTS

Kari Cotter, Race Director for Outrun Hunger, 10177 Lakeside Dr., White Lake, Michigan thanked the Township for their partnership with Outrun Hunger (a 5K race for charity) to raise money to feed families during the holiday season. They also contribute money for Hospitality House in Commerce and Open Door Outreach Center in Waterford. Along with volunteers from Grace Community Church, a number of local area businesses donate their time, products and/or services for the event. This will be their eighth annual charity race with the last seven events held at the Township Hall. On May 15, 2018 the Township approved use of the Township Hall for the 5K Charity Race. Subsequently, Supervisor Scott said they cannot use the facility for the run because it will set a precedent for anyone else who wants to use Township facilities and also this is a church event. She said it is not a church event it is a community event.

Thomas Zoner, 2355 East Commerce Road, is in support of staging the Outrun Hunger 5K race at the Township Hall. He stated Outrun Hunger has used the Township hall for the past 7 years and there have been no problems. The Township should allow the event to take place as initially agreed upon on May 15, 2018. To refuse use of the Township Hall at this late date would be detrimental to a successful outcome of the charity race. The race has always been a success in the past and helps feed needy families. The Township could work out a policy for future use.

Donovan Neal, Executive Director of Hospitality House, 2075 E. West Maple Road, Commerce Township, said Grace Community Church has held this event for the past several years and is disappointed the Township asked them to move to another location at this late date. He is asking the Township Board to reconsider their decision and allow staging at the Township Hall for the 5K Charity Run.

Dan Steinhart, 4157 Silver Birch Dr., Waterford, Pastor of Grace Community Church, said they provide assistance to families with no expectation of return. Outreach Hunger originally started at Grace Community Church. Although they support the event, they do not advertise or are in charge of the 5K Charity Run. He is asking the Township Board to allow Outrun Hunger to stage their 5K Charity Run at the Township Hall as previously agreed upon.

Deena Brightman, 1405 Summit Dr., Commerce Township, said the Outrun Hunger 5K Charity Run is very important to the children of Commerce Township. They look forward to the run, want to be a part of the run and even save their own money to contribute towards the event. The children receive a sense of pride and happiness by participating in the event.

ITEM 3:9-11 PUBLIC COMMENTS (continued)

Pam Balas, 5455 Bentwood Lane, Owner of Biggby Coffee (Commerce), is in support of Outrun Hunger. She is asking the Township Board to reconsider their decision and allow the use of the Township Hall, a taxpayer building, for the 5K Charity Run.

Karen Myers, 24219 Bashion Drive, Novi, Michigan, Executive Director of Open Door Outreach, is in support of the 5K Charity Run being held at the Township Hall. They receive money from Outrun Hunger to support their mission to help those in need.

Kathryn Eberline, 1820 Alton Circle, said seven years ago her son came up with an idea to sell wristbands to raise money for Outrun Hunger. This has now been expanded to colleges. She is asking the Township Board to allow the 5K Charity Run to be held at the Township Hall because this is a great community event.

Tom Parker, 5820 Old Sherwood Dr., is in support of the 5K Charity Run. He does not see a downside for this event that will help families. He is asking the Township Board to extend use of the Township Hall for this year to Outrun Hunger for their charity run.

Supervisor Scott asked the Township Board if there were any objections to move ITEM 9:9-11 NEW BUSINESS C. Outrun Hunger after ITEM 3:9-11 PUBLIC COMMENTS. There were no objections from the Township Board.

ITEM 9:9-11 NEW BUSINESS

C. Outrun Hunger

Supervisor Scott said he advised Outrun Hunger they cannot use Township buildings to stage the 5K Charity Run. He said this is a church function put on by Grace Community Church. If the Township allows them to use Township buildings, then it opens the door to allow anyone to use the buildings because we cannot discriminate against who uses them. He is following the advice of the Township Attorney.

Trustee Sovel asked Kari Cotter, Race Director for Outrun Hunger, if they carry insurance. She answered yes they have a certificate of insurance naming Commerce Township as additional insured.

Trustee Weber asked if approval needs to be obtained to use trails governed by the PUD Homeowner Associations. Phillip Adkison, Township Attorney, said they do not need to get permission to use the trails.

Trustee Sovel asked if they will use any type of security at the building. Ms. Cotter said they will have volunteers monitoring the front and rear of the building.

Trustee Sovel asked Tom Zoner, former Supervisor for Commerce Township, if there were any problems in the past. Mr. Zoner said there were no problems.

ITEM 9:9-11 NEW BUSINESS (C. Outrun Hunger continued)

Trustee Magner said the facility was left clean when they used it in the past. She said in the past, a draft policy was created by the Township Attorney but never acted upon by the Township Board. She would like to revisit the policy. She said it is not the DDA's place to rent the Township hall to anyone.

Trustee Berkheiser said this is a community event and not a church event. He feels at this late date it is unfair to ask them to hold their event somewhere else, especially since there is no policy in place.

MOTION by Berkheiser, supported by Sovel, to allow Outrun Hunger to hold their 5K Charity Run on November 10, 2018 at the Township Hall.

Discussion – Supervisor Scott said if the church does not have a facility to use, they can start the run outside of the church, use the trailways and then finish at the church. They can use the Township parking lot for overflow parking.

Phillip Adkison, Township Attorney, said it is not so critical that this is a church event or not. The law says you cannot discriminate against public use of Township facilities. If the Township allows someone to use Township facilities, in a situation like this, then it opens up the door for others to request use of the facilities and the Township will have to allow it. He said Supervisor Scott is acting upon his advice.

Trustee Weber suggests we allow Outrun Hunger use of the Township Hall this year as we have done for the past several years and create a policy to address all future use of the Township Facility.

Phillip Adkison, Township Attorney, said if this happens, the Township cannot discriminate if someone requests use of a facility before the policy is approved.

Trustee Magner would like to expedite the policy.

Supervisor Scott asked -

- If there will be any motorized vehicles. Ms. Cotter said they will have a golf cart for transportation. She said one year they put the golf cart inside the building so it would not get stolen.
- Will there be any medical personnel on site? Ms. Cotter said volunteers from Community EMS will be on site.
- Are you a nonprofit organization? Ms. Cotter said they are a 501C3 under Grace Community Church.
- What are the hours of operation? Ms. Cotter said 7:30 a.m. thru 11:30 a.m. or 12:00 noon. The race begins at 10:00 a.m. and ends approximately 11:10 am.

ITEM 9:9-11 NEW BUSINESS (C. Outrun Hunger motion continued)

ROLL CALL VOTE

AYES: Berkheiser, Sovel, Magner, Creech, Weber

NAYS: Scott, Phillips

MOTION CARRIED

ITEM 4:9-11 PUBLIC HEARINGS

A. Commerce Crossing Lighting SAD

Supervisor Scott opened the Public Hearing

No one present had any comments.

Supervisor Scott closed the Public Hearing

MOTION by Sovel, supported by Phillips, to approve the Resolution of the Township Board of the Charter Township of Commerce Determining to Undertake an Improvement Project and to Establish and Maintain a Special Assessment District to Pay Costs Associated Therewith and Approving the Plans and Estimates of Costs Therefor, Commerce Crossing Lighting Special Assessment District.

Discussion – Trustee Weber questioned how the 5% estimated administrative cost was determined and if this will be enough to cover expenses paid for by the Township. Phillip Adkison, Township Attorney, said the 5% figure was set in place for the first Township SAD. Trustee Weber asked if this is consistent with other municipalities. Mr. Adkison said White Lake Township charges 15% but our 5% adequately covers expenses paid for by the Township. Treasurer Phillips said if there is any money left over it will go back to the parcels.

MOTION CARRIED UNANIMOUSLY

B. Lake Pine Lighting SAD

Supervisor Scott opened the Public Hearing

No one present had any comments.

Supervisor Scott closed the Public Hearing

MOTION by Sovel, supported by Phillips, to approve the Resolution of the Township Board of the Charter Township of Commerce Determining to Undertake an Improvement Project and to Establish and Maintain a Special Assessment District to Pay Costs Associated Therewith and Approving the Plans and Estimates of Costs Therefor, Lake Pine Lighting Special Assessment District.

MOTION CARRIED UNANIMOUSLY

C. First Amended and Restated Lower Straits Lake Weed Control SAD

Supervisor Scott opened the Public Hearing

No one present had any comments.

Supervisor Scott closed the Public Hearing

ITEM 4:9-11 PUBLIC HEARINGS (C. First Amended and Restated Lower Straits Lake Weed Control SAD continued)

MOTION by Sovel, supported by Phillips, to approve the Resolution of the Township Board of the Charter Township of Commerce Determining to Undertake an Improvement Project and to Establish and Maintain a Special Assessment District to Pay Costs Associated Therewith And Approving the Plans and Estimates of Costs Therefor, First Amended and Restated Lower Straits Lake Weed Control Special Assessment District.

MOTION CARRIED UNANIMOUSLY

ITEM 5:9-11 CONTRACT AWARDS AND AGREEMENTS

A. SAD Snow Plowing Contracts

Jay James, Building Official, advised the Board LMC Management Services was the low bidder combining all projects (Lower Mount Royal, Whitlow Court, Joe Drive, and Demarist-Barkley Streets) together. He included Half Penny Court in the bid which will be removed if their SAD does not go through. This contract is for a five-year period.

Phillip Adkison, Township Attorney, advised the Board of a risk for approving a 5-year contract is if gas prices go up this will have to be revisited by the Board.

MOTION by Sovel, supported by Scott, to approve the 2018-2023 SAD Snow Plowing Contracts (Lower Mount Royal, Whitlow Court, Joe Drive, Demarist-Barkley Streets) to LMC Management Services and authorize the appropriate signatures.

MOTION CARRIED UNANIMOUSLY

B. Richardson Community Center Catering Consultant Contract

Hans Rentrop, Township Attorney, advised the Board the Township has applied to the Michigan Liquor Control Commission for a Class C Liquor License for the Richardson Center. This license will be owned by the Township. However, the Township is neither interested nor equipped to provide direct alcohol service to attendees at the Richardson Center. It is therefore necessary for the Township to engage the services of one or more qualified catering companies which have experience and training in the service of alcohol. The proposed Consulting Agreement with Bonnie Peck-Koliba is to assist in creating a RFP for catering services and in the selection of a catering company for the Richardson Center.

Kelly Allen, Adkison, Need, Allen, & Rentrop, PLLC, was present to explain the steps the Township will need to take when a liquor license is issued to them.

Trustee Berkheiser spoke on behalf of the Parks and Recreation Committee. They would like those who use the facility to have the option to have alcohol and choose the caterer of their choice.

Trustee Weber questioned if we are looking for a list of caterers who service food and alcohol or just serve alcohol.

ITEM 5:9-11 CONTRACT AWARDS AND AGREEMENTS (B. Richardson Community Center Catering Consultant Contract continued)

Kelly Allen said the Township will comply with state law by having qualified caterers that have experience and training in the service of alcohol. If a caterer provides food only, then the Township will have to have a concession agreement approved by the MLCC and the liquor license will have to be put in escrow for that day.

Trustee Weber asked if someone wants to have a cookout and not serve alcohol, can they do that without having to hire a caterer. Ms. Allen answered yes. Also, as long as they are bringing in their own food and not hiring someone to cook or bring it in, they do not have to have a concession agreement and no action needs to be taken regarding putting the license into escrow.

Trustee Weber asked Emily England, Senior Director, what she would like to have in terms of caterers. Ms. England said she would like to offer a variety of caterers for renters to pick from. Mr. Weber said the agreement presented here tonight does not refer to more than one caterer. Hans Rentrop, Township Attorney, said the agreement can be changed to reflect what the Township Board agrees to.

Trustee Weber would like to set the payment to Bonnie Peck-Koliba to a "not to exceed amount", if the agreement is approved.

MOTION by Berkheiser, supported by Weber, to approve the Charter Township of Commerce Consulting Agreement Ralph Richardson Center Catering with Bonnie Peck-Koliba at a rate of \$75.00 per hour, but not to exceed \$7,500 (100 hours) for her services and authorize the appropriate signatures. **MOTION CARRIED UNANIMOUSLY**

B. CW3 Bond Agreement

Phillip Adkison, Township Attorney, said the law requires a payment and performance bond. We are currently holding onto \$100,000 from CW3.

MOTION by Weber, supported by Berkheiser, to Amend the CW3 contract to include a cash bond to be refunded upon performance and payment by the contractor.

MOTION CARRIED UNANIMOUSLY

ITEMS 6:9-11 ADOPTIONS

A. An Ordinance to Amend the Code of Ordinances to be known as Code Amendment Ordinance No. 1.040 – Regulate Tobacco, Vapor, and Alternative Nicotine Use by Minors

MOTION by Sovel, supported by Creech, to Adopt an Ordinance to Amend the Code of Ordinances, Charter Township of Commerce, Oakland County, Michigan to be Known as Code Amendment Ordinance No. 1.040, post and publish according to law.

MOTION CARRIED UNANIMOUSLY

ITEM 7:9-11 CONSENT AGENDA

- A. Banner Permit – St. Patrick’s Summer’s End Fair**
- B. Banner Permit – Grace Community Church Outrun Hunger Charity Event**
- C. Application for Alcoholic Liquors Special Permit – Orphan Medical Network International**

MOTION by Sovel, supported by Creech, to approve the Resolution of the Township Board of the Charter Township of Commerce Approving Consent Agenda.

MOTION CARRIED UNANIMOUSLY

ITEM 8:9-11 OLD BUSINESS

A. 2019 Township Budget

There will be a meeting to discuss the Township Budget on September 18, 2018 at 5:00 p.m. at the Township Hall.

Trustee Berkheiser would like to add a line item for rental fees for the Richardson Center.

B. An Ordinance to Amend the Code of Ordinances to be known as Code Amendment Ordinance No. 1.039 – Noxious Weeds, Tabled 9-11-2018

MOTION by Magner, supported by Sovel, to remove an Ordinance to Amend the Code of Ordinances to be known as Code Amendment Ordinance No. 1.039 – Noxious Weeds from the Table.

MOTION CARRIED UNANIMOUSLY

Hans Rentrop, Township Attorney, advised the Board this is a revised amendment to add a provision addressing only Phragmites.

MOTION by Scott, supported by Creech, to approve an Ordinance to Amend the Code of Ordinances, Charter Township of Commerce, Oakland County, Michigan to be known as Code Amendment Ordinance No. 1.039 – Noxious Weeds.

MOTION CARRIED

Berkheiser voted No

ITEM 9:9-11 NEW BUSINESS

A. Sale of Township Property

Randy Thomas, Insite Commercial, gave a presentation on the property values of Rose Button, the horse farm (Wixom Road), and the property at the southwest corner of Benstein and Sleeth Roads (Hilltop),

Rose Button property (Wixom and Glengary Roads) per unit basis – low end \$12,000 per unit, high end \$15,000 per unit.

MOTION by Sovel, supported by Phillips, to direct the Township Attorney to start the process to revoke conditional rezoning on parcels A and B and to revert back to R1A for the Rose Button property.

MOTION CARRIED UNANIMOUSLY

ITEM 9:9-11 NEW BUSINESS (A. Sale of Township Property continued)

Horse farm - zoned R1A - per unit basis - low end \$17,000 per unit, high end \$25,000 per unit

Phillip Adkison, Township Attorney, advised the Board there is a report with Giffels Webster on drainage problems. This should be given to Randy Thomas so he can see if the values will change.

Benstein and Sleeth Roads – zoned R2

This will be sent to the Parks and Recreation Committee to see if they want to use the property as a Township park

Supervisor Scott advised the Board there is a group home owned by the Township located at 740 Glengary Road. We may want to see if the tenant would like to purchase the property.

B. Oakland County CISMA Match Funding

MOTION by Berkheiser, supported by Magner, to approve Oakland County CISMA Match Funding not to exceed \$3,000. **MOTION CARRIED UNANIMOUSLY**

ITEM 10:9-11 ORDERS AND ADD-ONS

MOTION by Magner, supported by Sovel, to approve the Orders and Add-Ons. **MOTION CARRIED UNANIMOUSLY**

ITEM 11:9-11 OTHER MATTERS

Trustee Magner asked if we will be going out for bid on garbage pickup. Supervisor Scott said the contract is up the end of 2019. He is asking Republic Services about a no call bulk pick up service. He said senior citizens would like to have a rolling cart and residents would like to have a 32-gallon recycling bin. He said other supervisors he talked to are having the same problem with GFL Environmental that we are having with Republic Services. Treasurer Phillips would like to go out for bids.

Supervisor Scott said Val McFarland made a request 10 days ago to use Township hall for a fundraiser. He denied her request.

Trustee Sovel asked for an update on the M5 Bridge. Phillip Adkison, Township Attorney, is waiting to hear from MDOT on the steel vs aluminum section of the bridge.

Clerk Creech said she needs workers for the November election.

Treasurer Phillips gave an update on the RFP for audit services. She is reviewing the proposals received from five companies. She received one proposal for actuary evaluation.

Trustee Berkheiser asked if letters will be sent to everyone on the November ballot letting them

ITEM 11:9-11 OTHER MATTERS (Trustee Berkheiser continued)

know about our Sign Ordinance. Supervisor Scott said the Sign Ordinance is on the Township website. If signs are placed in areas they shouldn't be, he will have them picked up and placed near the dumpster. Trustee Berkheiser would like them picked up and disposed of.

Trustee Berkheiser asked if we received any bids on grass cutting. Supervisor Scott answered no.

Trustee Weber said we need closure on the Benstein Grill property issue. Hans Rentrop, Township Attorney said a title search needs to be done on the property. We have not received an offer to purchase from Benstein Grille. Supervisor Scott will follow up with the owners of the Benstein Grille to determine if they want to make an offer to purchase.

ITEM 12:9-11 CLOSED SESSION

- A. Discuss Purchase of Property Pursuant to MCL 15.268(d)**
- B. Union Contract Negotiations Pursuant to MCL 15.268(c)**

MOTION by Scott, supported by Sovel to enter into Closed Session for the purpose of discussing Purchase of Property and Union Contract Negotiations.

MOTION CARRIED UNANIMOUSLY

Entered into Closed Session: 11:05 p.m.
Returned from Closed Session: 12:15 a.m.

MOTION by Magner, supported by Creech, to adjourn from closed session, approve the closed session minutes, and direct the Supervisor to proceed as directed in Closed Session.

MOTION CARRIED UNANIMOUSLY

ITEM 13:9-11 ADJOURNMENT

As there were no other matters to come before the Board.

MOTION by Creech, supported by Magner, to adjourn the meeting at 12:16 a.m.

MOTION CARRIED UNANIMOUSLY



Melissa Creech, Clerk
Charter Township of Commerce