

**CHARTER TOWNSHIP OF COMMERCE
TOWNSHIP BOARD OF TRUSTEES MEETING
September 14, 2021
2009 Township Drive
Commerce Township, Michigan 48390**

CALL TO ORDER: Clerk Melissa Creech called the meeting to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE

STATEMENT BY CLERK CREECH: Supervisor Gray is participating in this meeting remotely due to a medical condition, pursuant to the Open Meetings Act and the Township Procedures for Electronic Meetings policy.

STATEMENT BY SUPERVISOR GRAY: I hereby certify that

- a. I am attending remotely and
- b. I am located in Commerce Township, Michigan.

ROLL CALL: Present: Larry Gray, Supervisor (via electronic technology)
Melissa Creech, Clerk
Molly Phillips, Treasurer
Robert Berkheiser, Trustee
Vanessa Magner, Trustee
Rick Sovel, Trustee
George Weber, Trustee

Also Present: Hans Rentrop, Township Attorney
John Kummer, Township Attorney
David Campbell, Planning Director
Emily England, Senior/Parks and Recreation Director
Jay James, Building Official
Jason Mayer, Giffels Webster Engineers
Jim Dundas, Fire Chief
Alyson Lobert, Library Director
Lt. Reyes, Oakland County Sheriff's Substation
Ben Sebrowski, Director of Technology

MOTION by Magner, supported by Berkheiser, to appoint Trustee Rick Sovel as Interim Chairperson.

ROLL CALL VOTE

AYES: Magner, Berkheiser, Creech, Phillips, Sovel, Weber, Gray

NAYS:

MOTION CARRIED UNANIMOUSLY

APPROVAL OF MINUTES

MOTION by Phillips, supported by Magner, to approve the August 10, 2021 Regular Township Board Meeting minutes, as submitted.

ROLL CALL VOTE

AYES: Phillips, Magner, Creech, Weber, Berkheiser, Sovel, Gray

NAYS:

MOTION CARRIED UNANIMOUSLY

PRESENTATIONS

A. Community Arts Project

Cheryl Popow gave a presentation on the Community Arts Project. The project will promote artistic expression and appreciation for the creative arts in the community. This will help high school students, special needs students, etc. gain recognition for their talents. The school board is supportive of the project as an after school program. They are asking for Board approval to move forward with the project.

MOTION by Gray, supported by Magner, to support the Community Arts Project and approve all art sculptures prior to placement within the Township.

ROLL CALL VOTE

AYES: Gray, Magner, Creech, Phillips, Weber, Berkheiser, Sovel

NAYS:

MOTION CARRIED UNANIMOUSLY

B. Plante Moran CRESA – Kevin Donnelly

Kevin Donnelly, Plante Moran CRESA, gave an update on the Commerce Fire Station #3. The completion date is anticipated to be the end of November 2021.

C. Wise Woods History and Projects – George Weber

Trustee Weber gave a presentation on the factual history of Wise Woods Park. He said everyone has had an opportunity to participate to attend Township meetings, read the minutes of the meetings and become educated on what is happening in the Township. There were some comments on Facebook that people felt they had no say in the process and no knowledge that anything was going to happen in Wise Wood Park. That is not true. Everyone has had the opportunity to participate.

Emily England, Senior/Parks and Recreation Director, has had a Master Plan Parks update session, most recently in 2019. She literally begged residents to attend the meeting. She posted notices on the Township's website & Facebook, placed ads in the Spinal Column and posted notices in the Township parks weeks in advance, encouraging people to attend the meeting. Unfortunately, approximately 12 people were all that attended the meeting. False information has been posted on Facebook.

Trustee Sovel – In 2004, before the property was even considered to be sold by the State of Michigan, he approached the Township Board to consider a Parks Millage and

PRESENTATIONS (Wise Woods History and Projects – George Weber continued)
purchase property for an open space park. Wise Road property was not even for sale at that time. The Millage **was not** created to acquire the Wise Road property. The Township purchased the Wise Road property 7 years after. There were approximately 11,000 residents who voted for the open space millage and 8,000 residents who voted against it.

Trustee Weber – The Wise Road property was purchased from the DNR in 2012. Two years after purchase, the Master Plan Concept Plan was developed with the focus on this being a passive recreation and trails park for the community. The Wise Wood plan is included in the Parks & Recreation 5 year Master Plan and was approved by the DNR. There were comments on Facebook that the DNR did not know what was going on; that is not the case.

The deed restriction when the DNR sold the property to the Township:

II. Uses Expressly Allowed; Rights Not Reserved

The provisions of Section I notwithstanding, all remaining rights and responsibilities of ownership of the Property shall vest, without limitation, in the Township, except for those rights reserved by DNR in Section III. The following rights, uses, and activities of or by the Township and its employees, agents, tenants, subtenants, licensees, permittees and guests shall be and remain expressly allowed: A. The right to engage in all acts and uses that are not expressly prohibited herein and are not inconsistent with the purpose of this Declaration; B. The right to construct, install, and place improvements, including buildings, structures, shelters, roads, drives, parking lots, paths, trails, decks, boardwalks, lighting, utilities serving the Property and other infrastructure so long as such improvement is specifically intended and only used to enhance the outdoor recreational value of the Property and to facilitate its use as an outdoor recreation resource. Such improvements may include, but not be limited to, an outdoor heritage education and recreation center appropriate for carrying on educational activities related to natural resource conservation, sheltered archery and gun ranges, fishing ponds and related facilities, trails, signage, lighting and related infrastructure; C. The right to facilitate and engage in public outdoor recreational activities, including hunting and fishing, that are consistent with the purpose of this Declaration; D. The right to construct, install and operate active outdoor recreation facilities and fields such as soccer, baseball, and football fields, tennis and basketball courts, and ice rinks in areas of the Property specifically delineated on Exhibit B, which areas have been previously developed, or are adjacent or proximate to areas previously developed, and which do not contain sensitive or valued natural environmental attributes or characteristics; E. The right to operate and maintain all improvements, and to conduct, or cause or allow to be conducted, programs, meetings, classes, games, tournaments and other events consistent with the purposes set forth above on the Property;

IV. Obligations of Township

PRESENTATIONS (Wise Woods History and Projects – George Weber continued)

A. To enforce this Declaration and prevent any activity on or use of the Property that is inconsistent with the purpose of this Declaration, and to require the restoration of such areas or features of the Property that may be damaged by any such inconsistent activity or use; B. To incorporate management of the Property into a Master Plan for township parks.

Trustee Weber – This is important because there were comments made that this is not a park, this is just an open space. It is obvious the DNR contemplated, and we agreed, that this would become a park within Commerce Township. The DNR obviously contemplated a lot more than what we have planned or have done with this land. Putting in a parking area is expressly allowed in the park.

Trustee Weber showed an aerial of the parking area showing before and after pictures. Someone on social media posted that acres of land and hundreds of trees were removed. There were only 7 trees removed. The parking lot will include spaces for 19 vehicles with 2 handicap spaces. The reason for the parking area is because the access to Wise Park is not safe. Parking on the other side of the street and crossing over is not safe. This will provide a safe access to the park for all residents, not just a few that border the park. The plan was started in 2014. Additionally, the Township will plant 11 new oak trees and 127 perennials. The trails will be improved with crushed limestone or wood chips. Motorized vehicles are not allowed in Township parks.

Trustee Weber encouraged the residents to become more active with the Parks planning process and to use social media responsibly. Too many people have been spreading false information for selfish reasons.

Supervisor Gray encouraged people to go on the Township's website and register to receive meeting agendas and newsletters.

ITEM 1:9-14 APPROVAL OF AGENDA

MOTION by Magner, supported by Creech, to approve the September 14, 2021 agenda with the addition of **ITEM 14:9-14 CLOSED SESSION A. Attorney-Client Privileged Information.**

ROLL CALL VOTE

AYES: Magner, Creech, Phillips, Berkheiser, Sovel, Weber, Gray

NAYS:

MOTION CARRIED UNANIMOUSLY

ITEM 2:9-14 PUBLIC COMMENTS

Interim Chairperson Sovel opened Public Comments.

The following residents spoke of the Wise Woods Park:

ITEM 2:9-14 PUBLIC COMMENTS (continued)

Alex Clixby, 8916 Shady Point, thanked the Board for making Commerce Township a nice place to live. He does not want to see more paving done in the park.

Russ Lafevre, 2032 Kratage Court, said if we cannot have motorized vehicles in the park, how will we stop them? Trustee Weber said the Sheriff's Department will take care of motorized vehicles if they see them in township parks. We are working on installation of signs at the entrance of parks.

Supervisor Gray said he will have signs reinstalled by winter, but if someone sees a problem at a park please call the Sheriff's Department.

Dave Franklin, 8900 Shady Point, said he thought the south side was going to be developed into soccer fields and is confused why the parking lot was put on the north side instead of the south side. Trustee Weber said there is a plan to develop a parking area on the south side but this meeting is to discuss the north side.

Jacob Preston, 617 Commerce Road, feels by placing a parking area in Wise Woods Park will invite "riffraff people" to the park and in turn they will cause damage at the park.

Ed Glomb, 8948 Shady Point, does not understand why the township will spend \$50,000 to put in a parking lot when there is no problem at the park now. He wants the park kept as wooded space.

Susan Matthews, 2069 Helmsford Drive, thanked Trustee Weber for clarifying everything that is put on social media. She requested the township save our trees when contemplating a development because our environment is in danger.

Interim Chairperson Sovel closed Public Comments.

ITEM 3:9-14 PUBLIC HEARINGS

A. Reprogramming of 2018 Community Development Block Grant Money

Emily England, Senior/Parks and Recreation Director, said this project will bring pathways that are ADA Accessible around the Richardson Center and provide ADA access to the east deck. The Parks and Recreation Committee recommends approval.

Interim Chairperson Sovel opened the Public Hearing.

There were no public comments.

Interim Chairperson Sovel closed the Public Hearing.

MOTION by Berkheiser, supported by Weber, to approve the Resolution to Reprogram 2018 Community Development Block Grant Money by The Charter Township of Commerce in the amount of \$55,112.

ITEM 3:9-14 PUBLIC HEARINGS (Reprogramming of 2018 Community Development Block Grant Money motion continued)

ROLL CALL VOTE

AYES: Berkheiser, Weber, Phillips, Creech, Magner, Sovel, Gray

NAYS:

MOTION CARRIED UNANIMOUSLY

B. Vital Massage Permit/License Suspension

John Kummer, Township Attorney: We are here for a Public Hearing regarding the revocation of a massage permit that was issued by the Township to a business in the Township, that being Vital Massage located at 8420 Richardson Road. The status of that license is that it is currently suspended as of August 23, 2021. A Notice of Suspension and a Notice of Hearing was provided to the permit holder, that being WenLi Xu. On Exhibit 1 you will see that is the Notice of Hearing issued by the Township Clerk, Ms. Creech. Within that Notice of Hearing it sets forth the charges and the grounds for revocation. That is three charges. I'll go through those in greater detail in a few moments but I wanted to direct your attention to that exhibit. In addition, Exhibit 2 is the documents provided from the Department of Licensing and Regulatory Affairs regarding the limit liability corporation of the Dragon Group, LLC, and the resident agent WenLi Xu, who is the owner and operator of Vital Massage. Pursuant with the township's ordinances, the Notice of Suspension was provided to her in compliance with the ordinance. Council is here on her behalf today. With respect to the charges contained within the notice, the purpose of this hearing is ultimately to determine whether or not to reinstate the permit that is currently suspended or to permanently revoke that permit. There are grounds for revocation contained within the township's ordinances and the charges for the basis for the revocation is provided in the notice.

I'll go through each of those acts, each of those charges. But prior to doing so it's important for me to say that this is a Public Hearing so the board is in control. If at any time the board wishes to control the manner of mode or the time limits, the board is, of course, able to do so, the Chairperson. Also, the ordinance's plain language demonstrates that this is an opportunity for hearing but this is not a court of law. There's not a specific burden that's imposed as far as determinations to make when finding just cause for a revocation and there's no conviction that is required. I'll go forward with the charges if you turn to the notice you can follow along and the addition of Exhibit 6 is a copy of the Township's Code of Ordinance Chapter 26 that pertains to massages.

The charges are as follows:

Charge I

Violation of Section 26-3 of the Township Code of Ordinances which states:

ITEM 3:9-14 PUBLIC HEARINGS (Vital Massage Permit/License Suspension continued)

It shall be the responsibility of an owner, operator, manager or permittee hereunder in charge of, or in control of, a massage parlor, massage school or similar business to ensure that each person employed or engaged by him in said business as a massage therapist shall have first obtained a valid massage license pursuant to Part 179A and to provide a copy of the license to the township clerk on or before the date the person is employed. Any owner, operator, manager or permittee in charge of, or in control of, a massage parlor, massage school or similar business, who employs a person performing as a massage therapist who is not in possession of a valid massage therapist license pursuant to Part 179A or who fails to provide a copy of the employee's license to the township clerk shall be in violation of this chapter.

Vital Massage employed or engaged Binyi Wang as a massage therapist without Ms. Wang having a valid massage license as required by Part 179A. Further, Vital Massage failed to provide such a license to the Township Clerk before employing Ms. Wang in violation of Chapter 26 of the Code of Ordinances.

Exhibit 3, pages 11-21 of the exhibit packet, the Township records on file for Vital Massage which includes the application packet received from Vital Massage as well as the massage licenses on file. There are only two massage licenses that were provided for Vital Massage, those being for Bao Zhang and WenLi Xu but there is no license for Binyi Wang provided.

That same statement provided in a letter by Melissa Creech, Township Clerk, provided in Exhibit 4, on page 23 of the exhibit packet. While it is expected that council for the permit holder will contend that Ms. Wang was hired with the intention of providing Asian Bodywork services which would be excluded from the licensing requirements for massage therapists under Michigan law and township's ordinance. Exhibit 5, which is the police report by Oakland County Sheriff's Office which details the type of massage that was received by the ununiformed detectives that went into Vital Massage based on an anonymous tip received. There is no question that massage therapist services as well as acts exceeding that were performed. So, whether or not she was actually originally intended to be performing Asian Bodywork services or that of massage therapy, massage therapy did take place on two occasions.

Charge II

Violation of Section 26-12(a) of the Township Code of Ordinances which states:

- (a) It shall be unlawful for any person to massage any other person, or give or administer any bath, or to give or administer any service mentioned in this chapter for illegal purposes, or-for monetary -gain or profit have any contact with a person's breasts, genital area or buttocks in a manner intended to arouse, appeal to or gratify a person's lust, passions or sexual desire. Any violation of this provision shall be deemed grounds for the revocation of the permit granted hereunder.

ITEM 3:9-14 PUBLIC HEARINGS (Vital Massage Permit/License Suspension continued)

This hearing arose from an anonymous complaint that was provided to the Oakland County Sheriff's Office and forwarded to the Oakland County Special Investigation Unit which then sent two detectives on multiple days into Vital Massage to make sure that there were no illicit services or illegal activity occurring under the guise of the law.

On August 10, 2021 a misdemeanor citation was issued to Binyi Wang for Prostitution/Solicitation arising out of a police investigation on June 30, 2021 and July 7, 2021 at Vital Massage wherein it is alleged Binyi Wang had contact with a customer's genital area. Having violated the above referenced provision, Vital Massage's Permit is subject to revocation.

The above charges are still pending. The language of the township's ordinance does not contemplate there must be a conviction for this Board to act. It is this Board's discretion to determine, based upon the evidence provided, whether or not those acts occurred or whether or not they constitute just cause. In the revocation provision, as

well the provision prohibiting these unlawful acts of unlawful contact, if the Board does find that those acts occurred that is grounds for revocation.

The first page of Exhibit 5, page 25, is the citation that was issued. That case is still pending. There has been no disposition. Page 26, is the beginning of the Oakland County Sheriff's report.

As indicated on page 30, this investigation began based upon an anonymous tip of this business that was "acting as a brothel". The tip was received in the form of a letter sent by an unknown person. The letter identified employees, Jenny, aka Jenny Xu as a suspected person being involved. Based upon this, there was surveillance that was conducted by Sheriff's Detectives from SIU. There was also the enlisting of two detectives for actual marked bill operation undercover. The procedural steps that followed this was there was the officer in charge and there were two detectives that did go in. On the first occasion Detective Ashley was briefed, he entered the business with marked bills to obtain a massage and during his first encounter in the business he received a massage from Binyi Wang. During the course of that massage, as detailed on page 38 of the exhibit packet, which is contained in Exhibit 5, paragraph 3, that does detail the sexual act of the unlawful act as well as detail regarding payment of \$70 for the massage and then \$30 that then follows. I will direct your attention to the portion of the narrative that states prior to massaging the detective's genitals, Ms. Wang reportedly stated OK but you can't tell anyone. Shortly after that, the detective states that he waved off Ms. Wang with his left hand indicated that he was OK and at that point in time the unlawful touching did cease. That was on June 30, 2021 that that occurred. That is the first charged act on a criminal complaint and forms part of the basis of Count II in the Notice of suspension and revocation.

ITEM 3:9-14 PUBLIC HEARINGS (Vital Massage Permit/License Suspension continued)

Going forward then to July 7, 2021, in order to, I presume, make a determination of whether or not this was an isolated incident or possibly more widespread conduct within the business itself, two detectives were then sent into the business. The stated purpose in the report for that was to make sure that there was one massage that took place with at least one masseuse who was not Binyi Wang. In order to make sure that this was possibly something that was occurring outside of Ms. Wang's course of conduct within the business. Detective Ashley then received a second massage with Ms. Wang because there was no other massage therapist available. And then Detective Karsen received a massage from someone who identified themselves as Lily, the manager. Exhibit 5, page 30, paragraph 1, notes the second instance of unlawful touching or prohibited conduct when the detective rolled over on his back, Ms. Wang began to massage his genitals without hesitation and the detective stated he was OK in which not to proceed. There was again, an exchange of payment at the conclusion of that act. Prior to performing that massage without hesitation she had asked previously, as recorded, if he had been there before, been a customer before. That's a distinction between the first time he was there and the second time he was there. During that same day, the second detective, Detective Karsen, did receive a massage, as stated, from Lily, the "manager". During the massage the woman identified as Lily massaged the detective and she reportedly, according to the report, asked if he'd like a massage, which he replied "yes". She then reportedly stated "I know what you want but I don't want to get in trouble". Per the detective's report, Lily then said he should come back and get another massage and see one of the other girls. I bring this portion of the report to the board's attention because a reasonable inference could be drawn that this shows some knowledge amongst at least the level of employees and someone who self identifies as the manager and no known illicit act was performed during that massage there seems to be enticement to return for illicit services at a later date.

Detective Ashley did return for a massage on July 20, 2021 and reported that he received a massage in a professional manner and that nothing sexual had occurred or was hinted at (cited on page 16 or 17 of the report).

Charge III

Violation of Section 26-12(c) of the Township Code of Ordinances which states in relevant part:

(c) It shall be unlawful for any person to massage any other person unless the person giving the massage is a licensed massage therapist pursuant to Part 179A. A permit holder who allows, with or without knowledge, an employee who is not a state licensed massage therapist, to massage any other person, shall immediately have the permit suspended and subject to revocation pursuant to section 26-18 of this chapter.

Binyi Wang is not a licensed massage therapist with the State of Michigan. Vital Massage, as the permit holder, allowed her to give massages without being licensed

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in violation of Section 26- 12(c) which requires the Township to immediately suspend Vital Massage's Permit.

Exhibit 2, page 9, Binyi Wang did not receive a massage therapist license until July 13, 2021.

Exhibit 5, pages 26 – 42, Binyi Wang provided massage therapy services while she was not licensed on June 30th as well as July 7, 2021.

I would just reiterate the fact that Mr. Hom might expect to emphasize the fact that this was possibly without knowledge of the Vital Massage owner and permit holder, and that she had simply been retained for Asian Bodywork, not for massage therapy purposes. I would just note that the ordinance makes clear that the permit holder who allows with or without knowledge. There is a specific portion of that. An employee who is not a state licensed massage therapist. It was upon that basis that the ordinance calls for immediate suspension of the license. It also states that a violation of that subsection subjects the permit to revocation pursuant to Section 26-18. The permit holder ultimately, when reviewing the township ordinances has a duty and responsibility for the actions of its employees and those working under their permit at a permanent establishment.

Trustee Berkheiser: In your comments you commented I want to say one of the names was Jenny. How many different massage therapists are supposedly there? Is it only one person? How many other people were in there?

John Kummer, Township Attorney: That's a good question. As far as the obligation of the permit holder to provide records to the Township Clerk, they have a continued obligation to provide massage therapist's licenses. Now there could potentially be contemplated that Mr. Hom has raised informally to me that there might be an employee there who tends to perform other services where a license is not required and they don't have that obligation to provide a copy of that license. But at the time they provided the application they are to list those employees. There were only two employees listed at the time of application. There were no licenses that were received after that date. Now it's my understanding that there's multiple locations, one in Wixom, another one in Commerce. I don't know the business practices of Vital Massage or Miss Xu as far as their massage therapists rotating between those sites, but I can say that based upon the narratives of the detectives there were at least multiple females who had conversations. Whether one was a receptionist and one was a therapist, I can't speak to that it's not detailed. I can say that it contemplates a Jenny aka Jenny Xu being involved, which suggests one person. There was a self-identified Lily would be a second person who made a suggestive comment indicating some knowledge that this practice [*inaudible*]. There is Miss Wang who is charged with having performed the unlawful acts. And then when the detective did return on the later date in July, I think the 21st, he noted that there were new two individuals that were in the lobby who he had not previously seen.

ITEM 3:9-14 PUBLIC HEARINGS (Vital Massage Permit/License Suspension continued)

One of whom provided a massage, another massage therapy act. But to my knowledge, based on a letter I received from Trustee Creech dated September 7, 2021 there was no new licenses that were received.

I'll just note that there's still some that's unknown about past practices of Vital Massage that this police report cannot inform the board on as well as other locations which this report cannot speak to. But this is specific to the 8420 Richardson Road location. There's also unknown as far as the full extent of any sexual acts that are performed in frequency of such acts, however, as I've stated already based upon the Sheriff's Department in this investigation, it would at least make a reasonable [inaudible] suggestion that the unlawful action would [inaudible] that the undercover detective, in his first visit to the business, was able to receive a massage that provided the tipped illicit service. And out of the three times that he did appear there with the same individual, it occurred twice and there was a separate reference from another massage therapist indicating the possibility or the option of future visits. Based upon that, as I stated that this was not something that was isolated specifically to Miss Wang's actions. That may have been a practice of the business amongst employees whether or not that goes to an ownership level the police report [inaudible] it to. I would also just add the Township's Code of Ordinance, it's not an automatic right to operate a massage business, it's a conditional privilege granted by the township after the business complies with the township's requirements in application. And there are inspections that take place which are intended to protect the health and safety of the community. Here, it appears even the most basic conditions requiring that a person being licensed and that proof be provided to the township were not complied with. Now Mr. Hom will have an opportunity to speak. If required, I will respond briefly in follow up. But at the end, I ask that the Public Hearing be closed and then the township board will be left with the decision to make a Motion either to reinstate the permit and allow the business to continue as usual which is contemplated by the township's ordinance of the Notice of Appearing that was issued or a Motion to revoke that permit. When a township trustee makes that Motion, that should include factual findings or counts I, II or III or all counts. That's an important determination for just cause for the revocation of the permit or reinstatement, whatever the determination might be.

Interim Chairperson Sovel opened the Public Hearing.

Mr. Hom, Attorney for Vital Massage (WenLi Xu, owner): Said he has the responsibility to represent and fight for the right of one of the businesses, who is one of your own. You heard the city attorney speak. That is his view. You have the police reports in front of you. I want to talk a little bit about our position in general before I get into the immunity argument. My client owns the business. I'll go into a little bit about their business practices. But this came down to one bad actor. You keep hearing the name Miss Wang. Binyi Wang was filling in at Vital Massage. She did not do what she was supposed to do. She was not supposed to give out massages, she is supposed to be doing Asian acupuncture which is not a license requirement at a spa and she is not

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supposed to engaging in illegal acts. We, as the employer, have a course of duty to maintain the level of safety, hire diligently and oversee the people who work for us. I'm sure many of the board members here themselves who have their own business or their family or friends have a business. We cannot watch them 100% of the time. Ms. Wang was charged with prostitution. The business was not charged with operating a brothel. There was no evidence whatsoever that the business was involved in any criminal activity. You have a report from Oakland County Sheriffs that conducted a special investigation unit of this business. More than 4 deputies were assigned to this matter. Multiple times they came to the location. There were stakeouts, they were following the license plates, the report was 50 pages. Don't take my word or the city attorney's word. Please read the report. In all those incidences there has been no indication that the management of Vital Massage participated in any way whatsoever into the illegalities of the situation.

This is a small family business, there is no history of violations for Vital Massage since its inception. They are hardworking people. Immigrants from China who opened up their own business and try to make a good living in this community. The owners had no knowledge whatsoever of Ms. Wang's illegal activity. What she did was on her own without our authorization. We did not condone it and we find this disgusting. The fact that she will be prosecuted we will not say one word on her behalf. In fact, if called, we will be the one who is most upset; it is our business's reputation. My client now has to deal with this stigma of what's going on with Vital Massage and that disgusts them. I urge the board to consider they are dealing with real lives and real people. This is one of your own who live and work here. They have put remedial measures in place so this does not happen again. Employees will have proper training, background check and supervision to assure this will never happen in this store again. The way the city attorney makes it sound is the revocation is the only option. Revocation is a very harsh penalty. I hope the Board takes the time to think about the impact that has.

The police reports speak for itself. I believe that the city attorney might have embellished some of the points to his argument. All reported bad acts were from Miss Wang. The contractor who was arrested, properly so, the one whose being prosecuted and the one who did the acts. All other individuals, regardless of the context, never provided any services, in fact they refused. It was only a professional massage that was given. No one, management included, have performed any acts whatsoever in that 53-page report. This came from an anonymous tip. We don't know who this person was. This Jenny Xu, we don't have a Jenny Xu, we never had a Jenny Xu, that person does not exist. What the city attorney failed to mention was that person also had a name of Jenny Brzozowski aka Jenny Xu. Wang is the bad girl who is doing bad things. Xu, Miss Xu, is my client. She's the owner of the massage. And then Jenny Xu doesn't exist. That was the name on the arraignment tip that no one knows who that is. So there's really only one bad actor and that is Miss Wang. That is what happened. So who is Miss Wang and how did she get involved in Vital Massage, you're probably thinking?

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Well, this is who Miss Wang is. Miss Wang was known to my client in the Chinese community as an English teacher. Do you believe that? An English teacher. So what she did was she tried but it was too difficult to teach people, instead let me learn some massage therapy. She started learning Asian Bodywork, especially acupuncture but she could not pass the massage licensing, although she started the process. Now, how is she involved with my client? What the practice is among massage businesses is there is a group that we call substitute masseuses that everyone knows they have bodywork therapy qualifications. They run the circuit. When someone comes in for a massage and the owner is working on someone, they don't have anyone so they said look can we get someone to perform bodywork therapy? That person comes in and is paid \$35 which is half of the hourly rate at the store and they get a tip. And that person is supposed to tell the client No. 1 what are your ailments? Please tell us what they are and please note that I am only trained in Asian Bodywork Therapy and that means acupuncture and ancient techniques. But I can't rub oil on you and I can't give you deep tissue because I'm not licensed. The procedure at the store is if that happens that person will say I'm sorry I'm not licensed, please make an appointment, come back. Instead what happened with Miss Wang is she did it anyways. Is that surprising given the fact that she's doing illegal acts? No, but how do we know that? We don't. I mean as the owner we can only take reasonable steps to follow up. And we had no idea because we figured that she's in this group of substitutes that's running the circuit. So that's how Miss Wang was affiliated with Vital Massage. She was engaged approximately only 2 weeks to be on call if there was a booking and during those 2 weeks is when they had the sting from the Oakland County Sheriff's, probably so and we don't begrudge law enforcement at all. We're glad they brought this to our attention because it could have been much worse and it could have been pretty disgusting. We're glad that we know about it so we can take steps to alleviate that in the future. The next thing I would like to speak about is basically the allegations of the charges in the letter that the city attorney brought up. There are 3 charges. The first charge that he cited is 26-3 and as to charge 1 and charge 3 it's more like a lawyer's argument that I'm discussing with you. I provided as part of my exhibits part of public health code which says and shows that Asian Bodywork therapy does not need a license. I mean that is specific. Your ordinance encompasses Section 179 a. and by definition and I provide the statute that bodywork therapy is not covered by the necessity to be licensed for those acts. Is it illegal to give a massage? Absolutely. They're not supposed to give massages. They're only supposed to give Asian Bodywork therapy and they are supposed to tell the client that. As a legal matter, we're saying that charge 1 is not applicable due to the fact that there was no necessity to show you the license because people who are licensed, at the time of licensing, provide their license. We have two licensed masseuses and that's all we have and that was provided. The 2nd violation talks about the bad acts of Miss Wang and as I explained she is not a full time employee. You can't even really say she is a known contractor. She was part of this rotating base that is supposed to fill demands and the acts are her own. Our business does not condone prostitution. It does not condone any sexual acts. It does not condone anything that soils the reputation of the business or the city of which the business is located. That is never the intention, this

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was the acts of a bad actor. And everyone on this Board has heard the stories. It's not just small businesses, its Uber, right? I mean guys remember that. Uber has people who sexually attacked riders and what does Uber do? They can only do what the reasonable steps are and we took similar steps, things like background checks. We will get to the remedial measures but we can only do as a business what we can to try to protect the public, give good service and to make sure that we look at who are these people that we are hiring. And if there was any error on our part, we apologize that we should have done it sooner. They should have thought of this a little earlier and should have consulted someone like me or another professional to come up with standard operating procedures. Now I don't care how small a business you are if you have a checklist you won't make mistakes. And that is what we have designed when we get to some of the recommendations to show this won't happen again. So charge 2 was the bad act and again we are very confident to say these are the bad acts of Miss Wang. She should be prosecuted to the fullest extent of the law. There was no condoning it from our management, I can say that very honestly and forthright and it's nothing to do with our business. The 3rd charge, as I said, that we have allowed massages to happen when people got a license and again the massage that was made here without a license was from Miss Wang. She wasn't supposed to do that but she wasn't supposed to perform illegal acts either. Again, our reasoning is one bad actor does not mean the business itself is bad. It just doesn't. It means that we didn't do good and we had a bad egg and we terminated her immediately upon this. When the detective called and she called up and said Hey the cops want to talk to me. My question was for what? What did we do? When she said it, she was furious. As far as Vital Massage goes she was terminated at that time and she is blacklisted forever and anyone who asks will know about this and we will report her because I know that she just got her massage license. How disgusting is that. We are not going to be participants in this and we are here to do our duty and protect the public from these bad actors. So let's talk a little bit about remedial measures that we keep talking about. How do we stop this from happening again? What can we show this board that it won't happen in our city? What we tried to do is we tried to list our procedures and remedies to deal with. No. 1 we have talked with Jane Doe Investigations, who is a local and public private investigator. I spoke with Jane Boudreau who was a former Sheriff Deputy. She is going to be running background checks on all individuals who apply at our massage services. We will be doing yearly checks on every employee that we hire or contract with; not only for their criminal aspect but financial. When I had this talk with Jane, you might ask why do you care about people's finances or their bankruptcy? She said that you would be surprised that when people are desperate for money they might break the law. And we need to know that. We want people who are hungry and work hard but we don't want people who will take shortcuts or be enticed to engage in criminal activity. So No. 1, we have engaged a person who will conduct a background check for us. No. 2 as a policy, we are only going to be hiring licensed massage therapists, period. Regardless of what the statues say or what the exceptions are we don't want to make anything but fully licensed therapists. If they don't have it then we are going to say we're sorry, can you please come back. We would love your business but we can't take you right now. So

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that is a business decision and that is also a procedure that my clients have put into play. Secondly, we have designed standard operating procedures that are a checklist for what a small business on what they should do. No. 1 when they do the application we make sure people that are applying have legal status to be in the United States. No. 2 we obtain their driver's license and proof of valid work status, a copy of their massage license, run a background check, tell them what the house rules are, the house rules are: No. 1 all apparel will be scrubs, nothing sexy about this, they are wearing scrubs. No. 2 we are going to make sure that every client who comes in prepares a questionnaire talking about your ailments and we will, when appropriate, say that you should see a doctor and not a massage therapist for their ailments. No. 3 we will make it crystal clear that minors are not welcome by themselves or without their parents because we don't want any confusion about what we stand for or what this community is about because kids under 18 should not be getting massages by themselves. I'm sorry were not going to do that. Also, we will make sure of the cleanliness is vitally important. We want to make sure we have a clean and safe environment for all of our customers. And No. 4 we agree to a code of conduct. I have attached a copy of our exhibits and these are our promises of every employee that comes in on what they have to do. And it's crystal clear, don't misrepresent what your qualifications are and we have a list of item by item of these are the things that we expect from our employees or contractors. And that is going to be a part of their pledge to us, of what they need to do. After that happens we will submit the application to the township as required and then there will be a very heavy probationary period where we will be monitoring specifically all the therapists who work for us. We've already made physical changes as well to our store. No. 1 we replaced all the doors with curtains. There's not going to be anything that is hiding behind closed doors. Obviously we will protect the privacy of our individuals but we will not be having any doors to the massage rooms. No. 2 We are improving signage and visibility. A copy is inside where we say look we are a fully licensed facility we will not engage in any type of sexual acts and if there is any solicitation you will be asked to leave because we don't want your business, thank you. That is going to be hung up when you come in and will be in bold print in every room. No. 3 from the outside there will be no posters or tint on the windows. You will be able to see everything in the inside of the store. We are a family massage store. We have nothing to hide and you're going to be able to look right in and see what's going on and that's how were going to do it. So that's already been changed. Finally, we are going to change our business practices. So all this has been said and now it's my last pitch and closing about what I want this board to think about before they decide on revocation or not. The business has been closed for 22 days. When we got the suspension it' already hurt massively. The owner is a single female who has a daughter that she lives with. She's in the audience now and she has a granddaughter. Three young women live in Commerce; they live here they work here. Her story is...she came from China as an asylum for political persecution because she fled a place that was ruled by a dictatorship. She came to a place where she built her dream. She landed in Chicago. Just like every other immigrant story, she worked at a Chinese restaurant cutting vegetables and making next to nothing. Then in 2017 she made a better life for herself

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by being introduced to massage therapy. She went to school, worked for different places and she scrapped every single penny for \$30,000 to open up her own massage and that was her first business. From that she was very successful. She has two employees and herself. She is able to take care of herself, her daughter and granddaughter who live with her. As I said, you know it was a difficult time to find people. Everyone knows about COVID shutdown. They were closed from March 20, 2020 until July 1, 2020. They couldn't do anything. It was devastating. And when they opened up people wanted to come out and they were looking for people because they can't get workers. So yeah they made a mistake of tapping into the substitution work. That was maybe something they shouldn't have done. But with the procedures they put in place they know that now. We are dealing with the livelihood of actual people. Please listen to that. I mean, these are people and it's not just a business. Secondly, look at what they have done in the past and look at the measures they have taken to do everything to show that they are compliant and want a good business in Commerce. Finally, we just want to say that please think about how tough it is right now. The city attorney makes it sound like you only have two choices, I would argue that for 21 days they couldn't open the business, they couldn't do anything, they lost all that money, customers are calling in. We have 9 recommendation letters. We could have got 900 but I said let's just get 9 and show people that you're a vital part of this community. The statute itself provides that it was a presumption under 26-22 that any violation should be deemed a municipal civil infraction. I think if you want to give them a fine, I get it, you don't have to, they know, this is never going to happen again but revocation is harsh, it really is. We ask the mercy of this Board, understanding as I explained to you the circumstances and the fact they had a bad actor and they have done everything possible to show this won't happen again and restore their license. Thank you.

John Kummer, Township Attorney: I just want to follow up on the closing point of Mr. Hom and just clarify it. The board likely does not require it but he does reference Section 26-22 Presumption of civil infraction Violation of this chapter shall be deemed to be a municipal civil infraction. He is correct, that being said the procedure set forth in Section 26-18 Revocation and suspension of permit. Those two subsections are not usually exclusive so while a violation under Section 26-12 for Unlawful activities. [inaudible] issue for that. It also states in both of those subsections (a) Any violation of this provision shall be deemed grounds for the revocation of the permit granted hereunder. I would point to that language being contained within that subsection to be more specific and applicable to any violation of that part of the chapter as opposed to the catch all provision under the civil infraction aspect. In addition, the same is provided in subsection (c) which is shall immediately have the permit suspended and subject to revocation pursuant to section 26-18 of this chapter. A violation of that section specifically contemplates revocation as well. Whereas if you look to specifically 26-2 it simply states that no person shall practice massage for compensation without obtaining... and then section 26-3 shall have first obtained a valid massage license pursuant to Part 179A and to provide a copy of the license to the township clerk on or

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before the date the person is employed, skipping forward to - and who fails to provide a copy of the

employee's license to the township clerk shall be in violation of this chapter. So comparing this section 26-12 with 26-3 you see no reference of revocation in 26-3 but you see it contemplated in 26-12 of subsections (a) and (c). I just wanted to make that point of distinction that Mr. Hom based at the end.

Supervisor Gray: Said he was there when the suspension was delivered to Vital Massage. When we walked into the building there were two employees there. One lady was working behind the counter. One was giving a massage. We were there to let them know what was going on. The lady giving the massage came out and said she was the manager. The lady working the front desk walked out the back door. The manager called Miss Xu and Miss Xu and her daughter showed up. Upon them showing up she left the building. While talking with Ms. Xu about Miss Wang, she stated that she only worked one day. The police report states she worked more than one day. You mentioned that this is one bad actor with multiple times but it also states in the police report that Lily the manager stated that if somebody wanted something else they would have to see someone else. Evidently the manager of the staff knew what Miss Wang was doing. That's one thing I'm going to ask so I don't know if you want to respond to those before I ask my next question.

Mr. Hom: Said he was not present the day he was there so I can't specifically answer that. I can say that Lily the manager is Miss Xu; her name is WenLi Xu. She goes by the name of Lily. She is obviously there every day. I don't know if there was a problem with her understanding about the question. I don't believe it was a deliberate act by any means. As to your specific reference of what she did know, I had a conversation with Miss Xu about that and she obviously... there's always two sides to the story. This is not a court of law. Obviously there is a police report. My client told me she never said that. She said come back when we're not as busy. That's what she told me. I wasn't there. I wish I had a lie detector test. I did ask her about that phrase and she said that's not what I said. I can't give any more insight to that.

Supervisor Gray: You also mentioned that there were two licensed masseuses there at that location, correct?

Mr. Hom: Said at the time of the re-upping there were two licensed masseuses. I believe one of them has since been terminated or quit on their own doing. They are still in the area but are not performing any services, just Miss Xu is right now.

Supervisor Gray: Ms. Creech do we have two licenses on record or just one?

Clerk Creech: At the time of renewal there were two licenses.

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Supervisor Gray: You stated that you have policies in place. Are these policies going to reflect in the other stores that she owns?

Mr. Hom: Absolutely. They will institute these policies in all of their stores. These policies were designed in conjunction with other people in my office. We are not criminal defense attorneys we are civil attorneys. I have a business background and I am also a CPA. We have quite a bit of extensive knowledge on labor practices. Signs postings and such. They will be implemented these policies in all their stores. I can only tell them what to do and of course if they do not I will just resign my employ with them. But I told them exactly what they need to do. There are no excuses now. And I will make that representation to the board.

Supervisor Gray: OK that's all I have right now.

Trustee Weber: Mr. Hom, the other licensee was a Miss Zhang.

Mr. Hom: The truth is they change names all the time. I can't say what name they go by. I can tell you it's not Jenny Xu, there was never a Jenny Xu.

Trustee Weber: Looking at your Exhibit G, one of the letters from customers stated that he has received massages from Sunny, Helen, and Lily. It's not Miss Wang. Obviously he mentions Lily but there's at least two other people that he was receiving massages from and obviously at least one of those, if not two, are licensed.

Mr. Hom: Thank you Mr. Weber. You're absolutely correct. But I think that Miss Creech can say that too. We had two, I believe, this year or two the time before. If I'm not mistaken, so. I don't know under what time period but it could have been over a period of time as customers are longtime customers. We have been open since 2017.

Trustee Weber: I also do place some credence in the police report where it's quoted "She asked me if I liked the massage. I said yes. She then said I know what you want but I don't want to get in trouble. She then said I should come back and get another massage and see one of the other girls." and that was Miss Xu.

Mr. Hom: That's what [*inaudible*] you're right.

Clerk Creech: I just have a couple comments, I'm glad I'm not a judge or attorney. A couple things I wrote down. It was mentioned that the owner didn't know she was doing massages. If a client walks in and asks for a massage, how do they end up with Miss Wang? Is she greeting them at the door and taking them? Is she just there to perform Asian Bodywork?

Mr. Hom: Correct, when she is there, the first response should be I can't give you a massage, I'm only skilled at acupressure and Asian Bodywork. If you want a massage,

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we can't do it. That's what every practitioner is instructed to say because they are not licensed. Now, when they get in there, obviously from Miss Wang she's doing it anyway and that's wrong. We don't let them do that. When people come in and say they want a massage we say we have a therapist, she's only there, if its Lily she says I'm the person I can do it, if not we have a substitute person she can only perform Asian Bodywork but she can't do massage.

Clerk Creech: Another comment you made that there are remedies in place now. We have remedies in our ordinance that were not held to. You also said that they are going to be wearing scrubs now and not sexy apparel. Our ordinance states that according to Section 24-14 it states what type of wearing apparel they should have. And that obviously was not being followed.

Mr. Hom: They were not wearing sexy apparel. I don't know what the report says. I was kind of shocked and I'm not one to judge people by appearances but the therapists are my age. They are 50-year-old people. This is not what you see on TV so they did not expect an English teacher to be providing services so they weren't wearing sexy outfits. We don't have sexy outfits.

Clerk Creech: I'm just repeating your words.

Mr. Hom: I didn't say sexy, I said the word scrubs. But we never wear sexy outfits in there, they were wearing normal clothes.

Trustee Sovel: Does Miss Wang still have a license?

Mr. Hom: As far as I know she just got her license. We provided that and during the time we said she can only do Asian body therapy. She indicated that she was involved in securing her license. I believe that in the packet you will see that she got her license two weeks afterwards. If the board asks our opinion, we will tell them the truth about what happened. We will not support it in any way whatsoever. But we have no power in taking away her license. I believe that she is currently in criminal proceedings and they should handle it appropriately.

Trustee Sovel: Asked if you or your client reported her to LARA?

Mr. Hom: I think that we are going to let the criminal part play out first. I think that if she's convicted obviously the answer is yes. I think we have an obligation to. But, as of right now she's in a criminal process she's under the presumption of innocence, I believe and I really don't want to hurt someone else's livelihood and we would expect the same unless there is an adjudication.

Trustee Sovel: Is it your position that the information provided by the Sheriff's Department does not mean she broken our ordinance unless she's convicted?

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Mr. Hom, I can't speak to that. I only speak to Vital Massage. I don't speak to Miss Wang. I don't know what she's doing. Miss Wang is the one who provided the activity.

Trustee Sovel: Your client is an English teacher, correct?

Mr. Hom: Yes, she told me she was, correct.

Trustee Sovel: So she can read, write and understand the English language?

Mr. Hom: Yes, absolutely.... presumed.

Interim Chairperson Sovel closed the Public Hearing.

Supervisor Gray: At the July 7th visit by the detective there was some concern about seeing a bed in the establishment, so possible trafficking. Can you expand on why a massage parlor would need to have a bed and clothes hanging around? Are people living in this business, or what's that for?

Mr. Hom: That's a great question and I'm glad you asked Supervisor. That is the rest room for the therapists. So what happens is just like the doctor is on 24-hour duty. We don't have customers coming in every hour of the day so their procedures are if there's no customers you clean the place up, if not, instead of a couch, they lay on the bed, they play with their phone or the internet. It's a resting place for the therapists only. That's the purpose of it. It is not open to the public. It will never be open for the public. That is just where therapists spend their down time when they don't have any clients.

Supervisor Gray: Are you saying this is a 24-hour business?

Mr. Hom: Absolutely not. You can come and check. We have normal business hours. No one is living there. Absolutely not. That is 100% sure. We don't have anyone living in there. There is no trafficking going on. It's owned by Lily and her daughter. They live in Commerce about 3 blocks away.

Trustee Berkheiser: I guess I'll say thoughts that I'm struggling with. I'm a pharmacist. When I look at a bad actor in a pharmacy, if something happens the State makes accusations, they don't necessarily pull their license away from people and now the pharmacy is closed and nobody can get their stuff. When we have restaurants that have done things and we have them here in front of us and yet we don't turn around and necessarily pull their license and not be able to practice. On the other hand, I struggle with those things. That if it comes down to this, if it really is just one person, that's what I struggle with. It's more of a comment more than anything else.

Trustee Sovel: Asked John if he can review for us what our options are at this point.

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John Kummer, Township Attorney: Based upon the Notice of Suspension and the Notice of Hearing on the revocation, the Board must address first the suspension that's the current status of the license. That would give them 2 options. You, as the Board, if you make a Motion you could reinstate the permit as the permit's current status is suspended. But they also have had a notice of pending revocation. There's a determination that can be made for purposes of revocation if the Board simply makes a Motion to address the revocation then any Motion with respect to reinstating the permit as it's currently suspended would be moved.

Trustee Berkheiser: What happens to that business, what happens to that license?

John Kummer, Township Attorney: The township board's decision would be final with respect to that permit and they hypothetically, I suppose, could reapply. But all the information is contained within the application as well as the Ordinance could provide information to both the clerk who issues the permit or township board should she refer the decision on the application by the township board including past business practices, whether or not they previously had a license revoked. Those would all be factors or information that could be considered at the time of future application.

Trustee Weber: So, John, you have given us two ends of the spectrum. Reinstatement or permanent withdrawal of the permit. Is there something after a period of time where we could consider reinstatement after we've seen some level of proof of these processes and procedures that have been implemented and including maybe leaning on Lt. Reyes to have conversations with her counterparts and municipalities where other Vital Massage are taking place to see if, even without a conviction, if there have been any parts of improper activities for improper licensing.

John Kummer, Township Attorney: I'll answer the best that I understand your question. Based upon council providing that there be in records and reviewing our ordinance there is no specific ordinance provision to [inaudible] enforcement or to require enforcement with their proposed remedies. With respect to renewal, it simply states that they provide an affidavit that the application information is the same and shall be renewed within X (15 days) amount of time. There is no specific enforcement mechanism except for, that's contained to violations for suspension and revocation. But there's no stick unless it's delineated within that ordinance. There's specific inspection and parameters as far as the conditions of the room, signage, cleanliness, sanitary measures, things like that... uniformed. But as far as everything above and beyond, Mr. Hom has proposed such as having only licensed massage therapists operating within this business. There's acupunctures throughout the county and in the metro Detroit area. You cannot create an enforcement mechanism within the ordinance based upon how it's currently written, just based upon the proposed measures by Mr. Hom to be completely augmentary if they exceed what's contained in the ordinance.

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Mr. Hom: I think Mr. Weber and Mr. Berkheiser raise a good point. I think that my discussion with city council outside when he said what do you want to propose. He says two ends of the spectrum. I think there's more middle ground there. I understand your concern that you want to see these things are done. I would propose is you can keep the license suspended and let us show you some proof. Let us adjourn this. Let us bring something forward because we have two extreme spectrums and I get it that you want to see some things done. Maybe we can do the improvements inside the store. Show you the physical differences. We can show the signs that you're going to see. And you can see that we're putting words to action. So I'm just saying that as another alternative maybe we Table this as another matter and then during that time I'll come and show this board and maybe you will have a better perspective to see if you want to reinstate or revoke. So that gives us some time to show that the actions that we want to do are there because I think that there's more than revoke or reinstate. I don't read it that way at all. I think that's what the city's position is. This is not a tribunal. This council has a lot of executive authority to deal with matters at it pertains to your own township.

Trustee Weber: Is there is a reason Miss Xu is not here to speak on her own behalf.

Mr. Hom: She is really stressed out to the max. You know she doesn't speak English, it's not her first language. So she's -

Trustee Weber: She's an English Teacher.

Mr. Hom: No, no, no, no.

Treasurer Phillips: That's [*crosstalk*]

Trustee Weber: I'm sorry, yes.

Mr. Hom: Her daughter's here. Even then she's an immigrant from China. Miss Xu, as I said, she came here as an asylum for political oppression. So her English is very very poor. She can take daily information but she would not be able to provide an articulate answer to this Board.

Supervisor Gray: Is Lt. Reyes in the audience? Can I ask her to come to the podium? I personally received two letters in reference to things going on at Vital Massage. I'm going to ask Lt. Reyes have you received more than one complaint on this establishment or is this just a one-time thing?

Lt. Reyes: Yes, I received more than two complaints. The one that began this investigation was a written complaint. I sent it to SIU. One of the reasons I involved SIU is that is our investigation unit out of the downtown area. I am in charge of Commerce Township. If this case was just reported that it was a Commerce Township case, then myself and my detectives could have done the investigation but one of the other

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complaints, the one that I received and turned over. Another complaint that I received I got a call from the FBI and they told me Hey we're not going to look into this but you guys need to do something. It was not only one location but it was the other location that we're having complaints on. Because it's outside of Commerce Township I called in SIU to come in and do the complete investigation. Also, I did receive a complaint that there were people living inside the location and on one occasion they came out early in the morning of the business and went to McDonalds with children. That was a concern for us.

Trustee Weber: What was the timeframe of the complaints, a ballpark?

Lt. Reyes: A couple months probably.

Trustee Weber: Oh, so not within a week of each other, they were spread out. So it's not the same bad actor that was at the one unless she was traveling to the other Vital Massages. And what was the other location? Was that from the FBI?

Lt. Reyes: He just said that it was recorded that it was multiple locations that this is happening in. We can't really go into Farmington Hills or Wixom but our SIU would. They would call up the other agency and let them know they are doing an investigation. My concern is when we do these investigations, I don't want to get into a lot of detail but, officers can only do certain things by law. It makes it difficult for us to infiltrate something like this because when officers, as I said in the report, wave them off, like make them stop basically. That's what they have to do. That's a way to know if a client is a law enforcement officer or a general client. So, for you to say Oh just give them another chance, well what will happen is and is happening in other investigations I was involved with, they just get better in doing what they do. I'm not buying it's a one person show. The fact that the one person said come back and see one of the other ladies, she didn't say this person by name, it was plural. That means there's more than one. Because she's never seen him in their place before, she didn't know him as a regular client and it made her nervous. Of course it made her nervous, because she didn't know him and she didn't want to get into trouble, is what she said. That's my opinion and those are the facts that were coming in. That we were getting calls on this place. People were concerned that there was human trafficking. We don't believe that was the case. Generally, when we do investigations on massage parlors when it's reported that this kind of behavior is happening, we do look at it as a possible victim of crime. But in many cases it's not, it's prostitution.

Trustee Berkheiser: Hans let me ask a question. When we get liquor stores that sell to underage children or gas stations are selling vaping or whatever their selling to underage folks, what's the general procedure of that. Do they get fined? We don't revoke their liquor license at least that I'm aware of.

Hans Rentrop, Township Attorney: This is regulated by the Liquor Control Commission

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and they would issue a citation violation and we would be hearing from them at which point they have the opportunity to revoke their license.

Trustee Berkheiser: We have had many of them in Commerce Township. How many have lost their license?

Hans Rentrop, Township Attorney: I don't know that answer.

Trustee Berkheiser: I'm not trying to equate those as being equal acts. But I just think that *[inaudible]*

Trustee Sovel: We have closed down bars for various *[inaudible]*

Trustee Berkheiser: Have we permanently revoked their license and they can open again?

Hans Rentrop, Township Attorney: Yes, we have. *[crosstalk]*

Trustee Berkheiser: Do they come back and reapply?

Trustee Sovel: We have to sell the license.

Trustee Berkheiser: Or do they change their name and come back and redo it.

Trustee Sovel: No, because it can't be the same owner.

Trustee Magner: How many locations does your client own? Is it just the one location in Commerce or are there other locations?

Mr. Hom: We have a second location in Commerce it is Terra Massage as well. That is the one that we're trying to model after. I don't know if you've been to that one. That one is much more modern. It is what you expect to be a very relaxing spa.

John Kummer, Township Attorney: There is also a third location just outside of Commerce in Wixom that your client is a part owner and operator of.

Mr. Hom: I don't know that. I'm not aware of that.

John Kummer, Township Attorney: Traditional Massage at 4776 Pontiac Trail.

Mr. Hom: I'm not aware of that.

Trustee Magner: So your client owns Vital Massage and another massage company.

Mr. Hom: Both in Commerce.

ITEM 3:9-14 PUBLIC HEARINGS (Vital Massage Permit/License Suspension continued)

Trustee Magner: Both in Commerce but it's not called Vital Massage.

John Kummer, Township Attorney: And for the record I believe that's located at 4847 Carrol Lake Road.

Trustee Sovel: If we were to terminate this what happens to them?

John Kummer, Township Attorney: The permits have been issued separately by the Township Clerk's office. This is specific to the 4820 Richardson Road location. It's based upon the violations under that permit by the employee who operated under that permit. There is no pending matter in respect to the permit before the Board on the other Terra Massage location office.

Trustee Sovel: So if we did terminate this one she could continue to operate the other one.

John Kummer, Township Attorney: That is correct she can still make, I suppose a representation to the Board and community that they can operate [*inaudible*]

Trustee Magner: Do you have any other massage therapists that work at Vital Massage that work at the other location?

Mr. Hom: They currently are not because they are closed right now. I know there's one full time person who is at Terra Massage right now besides WenLi. I was only representing Vital Massage. I don't know the extent of the businesses.

Trustee Magner: Did you say that Lily works at the other location?

Mr. Hom: She's the owner, WenLi Xu.

Trustee Sovel: Did you say the other one is closed?

Mr. Hom: No, it's open.

Trustee Weber: So do we have licenses on file for the other location?

Clerk Creech: Yes

Trustee Weber: Same names?

Clerk Creech: No, they are different names. I don't know them offhand. I did not bring the file because we weren't speaking about that file tonight.

Trustee Berkheiser: So someone was working in one place and actually let's say

ITEM 3:9-14 PUBLIC HEARINGS (Vital Massage Permit/License Suspension continued)

working in both places. Would they have to turn a license in for each place?

Clerk Creech: Yes, the names of the licensees are on the actual application and there is a certified copy of the license as well. So each application is different. It lists separate therapists.

Trustee Magner: Vital Massage is franchised then. There's other Vital Massage's that she doesn't own?

Mr. Hom: We are unaware of any more Vital Massage. There is just one on Richardson and the other on Carrol Lake Road.

Trustee Weber: Lt. Reyes, you said there were multiple complaints that you had received regarding this same owner, which would mean if she only owned one other store in Commerce that there must be more complaints of that location then.

Lt. Reyes: The complaints didn't specify the actual owners of the businesses, they just indicated it was multiple businesses that were included in this.

Trustee Weber: Does that count all businesses with different owners or is it this particular applicant that were talking about.

Trustee Magner: Or is it multiple Vital Massages.

Lt. Reyes: Multiple massage parlors.

Trustee Magner: In general, it wasn't specific.

Trustee Weber: But you're not sure that the other complaints you received are regarding the people we're talking about; it could be completely different people or are they the same?

Lt. Reyes: Well they could be different people but as he alluded to a lot of times in these cases workers go from one to another to another to another. It's not only necessarily workers from Vital Massage that go back and forth. They can go from these two to one in White Lake to one in Novi. It's kind of the thing that happens.

Trustee Sovel: Mr. Hom, you mentioned in your comments that this was your client's livelihood. But now with this new information to me that there's two locations which means she would still be able to operate the other one so therefore she would still continue to have her livelihood. We can send a very strong message by turning in this location for violating our ordinance.

ITEM 3:9-14 PUBLIC HEARINGS (Vital Massage Permit/License Suspension continued)

Mr. Hom: Well, I don't think that you're wrong in saying that she doesn't have another business. But this was her first store. This was an investment of a lot of money to her. Maybe not to you, but there was 4 years in a restaurant coming here to open that store. That was her first store. She bought Terra Massage. That was something she did by her own self. Besides the income, that is actually a higher volume store. People know about it and it's been open longer. I think Terra Massage had a different name before it was bought. It changed names a few times already. Yes, it's going to affect her livelihood. It is a profitable store. There's no doubt about that.

John Kummer, Township Attorney: I am not privy to any reports involving the FBI, which is why it wasn't made part of the record before the board. But based upon the statements made by Lt. Reyes and the context provided by Mr. Hom it won't contemplate that the circuit of therapists that he referenced revolving within the business community based on how they implicated and may have out on specific locations within the Township that were involved in a multi-jurisdictional complaint.

Trustee Magner: Do they have to submit a list of employees annually?

Clerk Creech: Yes, every year they submit a new application and massage therapist's licenses.

Interim Chairperson Sovel: Is there anyone interested in Tabling to see if these new practices could be put in place?

Trustee Magner: I just don't see, unless the business is open, how they're going to do this. You can put lights on, you can open up the windows. I don't think that's our main concern. The [inaudible] is our main concern. And we wouldn't know. We can't stay there to watch and see.

Mr. Hom: I disagree. At this point it really depends on whether or not people do what they say they are going to do and that's the bottom line. I can just say that the circuit thing is out. They have procedures; how do you show these things. You're absolutely right. I can't make any guarantees either. People are people.

Treasurer Phillips: Well, if we want to see that they are going to put the protocols in place and actually use them, would it be possible to remove the suspension through the end of the year because it's only good through December 31st of this year and then they have to reapply. We would have 3 ½ months to look at this.

Clerk Creech: I was going to suggest something similar. Is there anything that we could put in place where we have weekly checks and surprise inspections? I don't want to put them out of business, but I don't want illegal activity going on either.

ITEM 3:9-14 PUBLIC HEARINGS (Vital Massage Permit/License Suspension continued)

Hans Rentrop, Township Attorney: As I see it you have two options here. No. 1 Reinstate the permit and they do business as usual. No. 2 you revoke the permit and put it out of business and put an end to it. If they want a new business they have to make a new application and you can make a background check, which is required for the license. The argument in favor of that would be you already have an existing business, the Terra Massage. [inaudible] But if you want to keep Vital Massage open, you could suspend the revocation of the license and enter into an agreement with Vital Massage where they agree to have regular inspections, weekly or whatever else. I think at this point you have sufficient evidence to revoke the permit in full, I don't necessarily think you need to exercise on that but it does become a bit more complicated too. There are costs associated with that and [inaudible]

Trustee Weber: First of all, I don't believe that Miss Xu was caught off guard by what was going on. That's my personal belief, that as the owner/operator and with the police reports. Now that I have said that, I don't know if I want it to be a death penalty to the business. But this type of activity is disgusting, we don't want it in Commerce. There's no place for it. Trust isn't given, trust is earned. That's what I'm struggling with. How does she earn the trust of this community? I am not in support of personally saying that we will lift the suspension but I'm also open to another alternative that takes place well into the future so that there is some level of credence to the activities and how she's running the business.

Mr. Hom: I appreciate the concern and I do thank the city attorney for providing, I think my solution is it's up to us to show you we can do it. I get that. They get that. If there are any costs for hurdles to jump over, as the city attorney mentioned, we're going to take it, please give us a chance. Give us a chance in whatever those might be and you can have the city attorney work with me and we will come up and show our resolution. This is our agreement with the township.

Trustee Weber: Hans, you are saying, if we revoke the license, the applicant can come back to us at the end of the year to reapply?

Hans Rentrop, Township Attorney: Correct. The ordinance contemplates revocation but it doesn't contemplate the application. Now I think the idea behind it is if the same person or entity is back and it looks suspicious you say I'm not granting the permit. And I would like to add if you do choose to do some sort of probationary period, for lack of a better term, I would ask that you find that there has been sufficient evidence to justify revocation of the permit.

Trustee Weber: How do we suspend it?

Hans Rentrop, Township Attorney: What you do is revoke it and suspend the revocation. It's not the preferred option. I'm trying to give you an option.

ITEM 3:9-14 PUBLIC HEARINGS (Vital Massage Permit/License Suspension continued)

Trustee Weber: So we revoke it, let the applicant continue to operate Terra Massage and based on that we would have a track record to see if we want to entertain more or if the client wants to talk to us at the end of the year or the beginning of next year about getting a new permit for Vital Massage.

Hans Rentrop, Township Attorney: That's an option.

John Kummer, Township Attorney: I would just add the ordinance specifically contemplates the township board's future involvement in a decision that could be discussed at this time. Specifically, Section 26-6 under Permit procedures states that the township clerk may recommend to the township board that an individual business establishment shall be subject to a public hearing and township board approval, when in the township clerk's judgment any such business establishment will have an adverse effect upon the public health, safety or welfare of the community based upon the standards contained in this chapter. In sub-section (d) it states that also, the Township Board may elect on its own motion to review any determination of the township clerk granting or denying a permit. So the ordinance does contemplate a township board being involved in the issuance of a permit in the future should Vital Massage have the permit revoked and reapply at a future date.

Trustee Berkheiser: What's the process for renewing? Do we just automatically renew? They send stuff in and that's it?

Hans Rentrop, Township Attorney: I don't know off the top of my head. John?

John Kummer, Township Attorney: Under the ordinance in Section 26-10 Renewal, page 48, at the top of the exhibit packet provided, I'll read verbatim. The permit to operate a massage parlor, massage school or similar business shall be renewed at least 15 days prior to the date of expiration. The permit shall be renewed provided the applicant submits a sworn affidavit that the matters contained in the original application are correct and upon payment of an annual permit fee as established in the township fee ordinance. In addition to the affidavit, copies of all licenses issued by the state to massage therapists working for the massage parlor, massage school or similar business shall be provided in the renewal application.

Trustee Berkheiser: So, in the renewal process, I guess based on the ordinance, it does not give the township really any say so in that process. We don't have the ability that if we thought we had an issue we could [comment ended]

John Kummer, Township Attorney: Not in the same sense as the permit procedures for reapplication or in the revocation sub-section. You would have one drawn up in new application.

ITEM 3:9-14 PUBLIC HEARINGS (Vital Massage Permit/License Suspension continued)

Treasurer Phillips: It's automatic if they provide everything but if we were to revoke it and then suspend the revocation you would be revoked at the end of the year and they would still have to reapply or it wouldn't be an automatic. Is that right?

John Kummer, Township Attorney: Rather than suspending the revocation, the Board can simply revoke it and then advise Mr. Hom he could reapply and that decision would be subject to the township clerk's decision as well as the township board's decision upon approval.

Treasurer Phillips: I was just thinking that if we wanted them to be able to show us what they got between now and the end of the year.

Trustee Sovel: Could they reapply and be back in operation in November?

John Kummer, Township Attorney: There is no specific language within the ordinance that contemplates a length of time that must pass prior to reapplication.

Trustee Sovel: So if they reapply they don't have to wait until 2022 to start?

John Kummer, Township Attorney: That's correct, they can actually reapply the next day, technically, but it would be subject to a variety of the information contained in the ordinance such as their past practices of having massage businesses and what the status of those were when they were revoked and the reasons for business conduct that resulted in that revocation. That's all the information contained within the ordinance required for an applicant.

Trustee Sovel: Is there anything in our ordinance that allows for multiple massage parlors in Commerce Township for us to tie the two together in terms of conditions, probation, revocation?

John Kummer, Township Attorney: Whether or not an application is submitted under the same assumed corporate like dba and corporation I suppose it's possible if they submitted a [inaudible] application but the business before the board was submitted I believe are separate LLC and separate components. They are [crosstalk] [inaudible]

Trustee Sovel: [inaudible]

John Kummer, Township Attorney: They are being treated separately. There were separate applications for components and [inaudible].

Mr. Hom: I do want to address a point. I think Miss Phillips hit on it. So by way of analogy I view that as kind of like a suspended sentence for maybe a drunk driver. What I think she was asking about is and I think what the city attorney talked about is the punishment now for revocation, suspended revocation. Think about it as a drunk driver,

ITEM 3:9-14 PUBLIC HEARINGS (Vital Massage Permit/License Suspension continued)

Judge says 93 days in jail, no days now if you don't screw up. So, I think even the city attorney would agree with me, that gives us much more control and oversight to see what remedial measures have been acted on. So instead of just stopping and reapplying, which sounds like there's lot less control. Which it sounds like the board wants to execute more control to see what's going on. I think that would be more consideration. I'm not going to ask for revocation. I know it just sounds strange but with revocation and suspension at least my client is able work and stay open and show you what they are doing. I mean that's the point.

Trustee Sovel: So if you are inclined to revoke and suspend revocation, is that two separate Motions?

Hans Rentrop, Township Attorney: It depends on what you want to accomplish. What you want to accomplish is to allow them to continue to operate and prove to you at that Vital Massage location, prove to you that they are [inaudible] as a business. I mean you can make a declaration finding that the permits are violated as permitted, that you are suspending revocation [inaudible] and allow the massage to continue with conditions you want, etc. for a period of x number of days at which point the Township will revisit it and determine whether to continue the revocation. This is a little bit outside the boundaries, but we have never done this before.

Trustee Sovel: Can it be done in two separate Motions?

Hans Rentrop, Township Attorney: No. You want a Motion to revoke Vital Massage's permit with the action being held in abeyance by an agreement reached between the

Township and Vital Massage for certain conditions. And you state what those conditions are in the Motion.

Trustee Sovel: If I make a Motion to revoke, our other option is to not suspend and let them reapply.

Hans Rentrop, Township Attorney: No. You can either revoke, done. Then reapply whenever or you can revoke and hold the limitation revocation in abeyance.

Trustee Berkheiser: How long will it take for the prostitution issue to be settled?

John Kummer, Township Attorney: John Kummer, Township Attorney: Right now with trials, they are being set for cases that happened 6 months to a year ago and are being set for December 9, 2021.

Trustee Berkheiser: What's the likelihood that you will get a conviction out of this?

ITEM 3:9-14 PUBLIC HEARINGS (Vital Massage Permit/License Suspension continued)

John Kummer, Township Attorney: said he cannot speak for 6 people that are on the jury.

Hans Rentrop, Township Attorney: Answered, typically 90% of the cases are settled.

Trustee Berkheiser: My point is, if there is not a conviction. We would be holding this if there was someone who was doing massage without a license. Do we have a right to revoke it because of this or would we be doing it because of that? At a future time, if this is settled and there's no conviction that's what we've done.

Hans Rentrop, Township Attorney: In my opinion your mixing apples with oranges. Because in one hand we have a criminal case going on with its own set of standards and criteria. One is a company and one is an individual.

John Kummer, Township Attorney: I've seen a number of reports. This report was very thorough. It was repeated. There were multiple detectives involved to check the scope in the whole business. So it wasn't a haphazard conducted investigation we're talking about with marked bills. Procedural delineation surveillance before and after so when you ask a question like what's the chance of getting a conviction? I can't give an answer to that because I'm not a juror for this case. But what I can say is this was a clean operation and based upon the number of reports I've seen involving this type of conduct.

Trustee Weber: Asked Larry, based on discussion, do you have any views?

Supervisor Gray: I do not.

MOTION by Sovel, supported by Weber, after having the Public Hearing held tonight, September 14, 2021, I find sufficient evidence that is in violation of our Ordinance, based on the Finding of Fact:

Charge I

Violation of Section 26-3 of the Township Code of Ordinances.

Charge II

Violation of Section 26-12(a) of the Township Code of Ordinances.

Charge III

Violation of Section 26-12(c) of the Township Code of Ordinances.

Therefore, Commerce Township shall revoke the permit license of Vital Massage located at 8420 Richardson Road, Commerce Township, Michigan.

**ITEM 3:9-14 PUBLIC HEARINGS (Vital Massage Permit/License Suspension
Motion continued)**

Discussion:

Trustee Sovel: Is a requirement of only one violation necessary for revocation?

John Kummer, Township Attorney: Under the Ordinance, the Board must find just cause for revocation but specifically charges II and III do contemplate those being grounds for revocation and based upon the language in those sub-sections.

Trustee Weber: If Miss Xu chooses 1. She has a business in operation and 2. If she chooses to reapply for this location, it would come back to the Board for approval.

Trustee Sovel: Anticipating that you will relay to your client these steps that you've outlined to this board and the revocation also.

ROLL CALL VOTE

AYES: Sovel, Weber, Creech, Magner, Gray

NAYS: Phillips, Berkheiser

MOTION CARRIED

ITEM 4:9-14 BOARD APPOINTMENTS

**A. Joseph Loskill, III - Appointment to the Planning Commission for a 3-Year
Term ending September 30, 2024.**

Joseph Loskill, III was present.

MOTION by Gray, supported by Berkheiser, to Appoint Joseph Loskill, III to the Planning Commission for a 3-Year Term to expire September 30, 2024.

ROLL CALL VOTE

AYES: Gray, Berkheiser, Phillips, Weber, Magner, Creech, Sovel

NAYS:

MOTION CARRIED UNANIMOUSLY

**B. Donald Petersen – Appointment to the Library Advisory Board for a Partial
Term Ending May 31, 2023.**

MOTION by Gray, supported by Magner, to Appoint Donald Petersen to the Library Advisory Board for a Partial Term to expire May 31, 2023.

MOTION by Berkheiser, supported by Weber, to Table Donald Petersen – Appointment to the Library Advisory Board for a Partial Term Ending May 31, 2023.

ROLL CALL VOTE

AYES: Berkheiser, Weber, Phillips, Creech, Sovel

NAYS: Magner, Gray

MOTION CARRIED

Break: 10:22 pm
Returned: 10:29 pm

ITEM 5:9-14 CONTRACTS AWARDS AND AGREEMENTS

A. Intergovernmental Agreement for Easement Acquisition Between The Charter Township of Commerce and the Village of Wolverine Lake – Benstein Water Main Project.

Hans Rentrop, Township Attorney, recommends approval.

MOTION by Weber, supported by Berkheiser, to approve the Intergovernmental Agreement for Easement Acquisition Between the Charter Township of Commerce and the Village of Wolverine Lake and authorize the appropriate signatures.

ROLL CALL VOTE

AYES: Weber, Berkheiser, Magner, Creech, Phillips, Sovel, Gray

NAYS:

MOTION CARRIED UNANIMOUSLY

ITEM 6:9-14 INTRODUCTIONS

A. An Ordinance to Amend the Code of Ordinances to be Known as Code Amendment Ordinance No. 1.055 – To Clarify and make Consistent with State Law the Types of Lawful Gaming and Gambling.

Hans Rentrop, Township Attorney, explained the ordinance.

MOTION by Magner, supported by Creech, to Introduce an Ordinance to Amend the Code of Ordinances, Charter Township of Commerce, Oakland County, Michigan to Be Known as Code Amendment Ordinance No. 1.055, post and publish according to Law.

ROLL CALL VOTE

AYES: Magner, Creech, Phillips, Berkheiser, Sovel, Weber, Gray

NAYS:

MOTION CARRIED UNANIMOUSLY

ITEM 7:9-14 ADOPTIONS

A. An Ordinance to Amend the Code of Ordinances to be Known as Code Amendment Ordinance No. 1.054 – Clarifying Restrictions of Fireworks, Prohibiting Removal of Wildlife from Parks, Clarifying Regulation of Unmanned Remote Aircraft

Hans Rentrop, Township Attorney, explained the ordinance.

MOTION by Magner, 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. 1.054, post and publish according to law.

ITEM 7:9-14 ADOPTIONS (An Ordinance to Amend the Code of Ordinances to be Known as Code Amendment Ordinance No. 1.054 – Clarifying Restrictions of Fireworks, Prohibiting Removal of Wildlife from Parks, Clarifying Regulation of Unmanned Remote Aircraft motion continued)

ROLL CALL VOTE

AYES: Magner, Creech, Phillips, Sovel, Berkheiser, Weber, Gray

NAYS:

MOTION CARRIED UNANIMOUSLY

B. An Ordinance to Amend the Zoning Map to be Known as Zoning Amendment Ordinance No. 3.052 – Reversion of Zoning Classification – Country Hills Development, LLC.

David Campbell, Planning Director, explained the Ordinance. The Planning Commission recommends Adoption.

MOTION by Phillips, supported by Berkheiser, to Adopt an Ordinance to Amend the Zoning Map of the Charter Township of Commerce, Oakland County, Michigan as Adopted by Zoning Ordinance 3.000, to be Known as Zoning Amendment Ordinance No. 3.052, post and publish according to law.

ROLL CALL VOTE

AYES: Phillips, Berkheiser, Magner, Sovel, Creech, Weber, Gray

NAYS:

MOTION CARRIED UNANIMOUSLY

C. An Ordinance to Amend Article 6, Section 6.06 of Zoning Ordinance 3.000 to be Known as Zoning Amendments Ordinance No. 3.051– Permitted Yard Encroachment

David Campbell, Planning Director, explained the ordinance. The Planning Commission recommends Adoption.

MOTION by Weber, supported by Berkheiser, to Adopt an Ordinance to Amend Article 6, Section 6.06, of Zoning Ordinance 3.000, Charter Township of Commerce, Oakland County, Michigan to be Known as Zoning Amendment Ordinance No. 3.051, post and publish according to law.

ROLL CALL VOTE

AYES: Weber, Berkheiser, Magner, Creech, Sovel, Phillips, Gray

NAYS:

MOTION CARRIED UNANIMOUSLY

ITEM 8:9-14 SITE CONDOMINIUMS AND PLATS

A. Caden’s Corner

David Campbell, Planning Director, said the Planning Commission recommends the board deny Caden’s Corner.

ITEM 8:9-14 SITE CONDOMINIUMS AND PLATS (Caden's Corner continued)

Allan W. Pruss, President of Monument Engineering Group & Associates, 298 Veterans Drive, Fowlerville, Michigan, gave a presentation of his proposed development. He said they are willing to widen the driveways. They have been working on this project for quite some time. In March, the initial concept was the extension of Lee Wood Ridge Drive for a 14-unit site condo. We received some informal feedback from the Planning Commission at that time and they had negative feedback on the rezoning, which was fine with them because they were looking at where the Planning Commission stood on the concept plan. That's why we decided to go with 10 lots, platted subdivision. There was nothing in the ordinance to prevent what we wanted to do. Again, on July 12, 2021 the Planning Commission indicated that traffic was the main concern. We were reaching out to the Road Commission for Oakland County the entire time for their feedback. I received an email from Simon Yousif, Road Commission for Oakland County on July 20, 2021 that road improvements are not required. Our initial conversation with the Road Commission indicated they do not have a problem with 6 curb cuts. In our presentation we provided some traffic counts; on Benstein Road 78 AADT which is an increase of .068% and Loon Lake 41 AADT which is an increase of 1.33%. Traffic in the morning and evening was a part of the study.

Trustee Weber: Just to be clear, this wasn't a traffic study, it was a traffic volume report that was done in 2017, so it is 4 or 5 years old now. On Benstein Road it showed that there were 13,000 trips on the south side. The other side was 11,500 trips.

Mr. Pruss: That comes from SEMCOG.

Mr. Pruss: On Benstein AM peak hour there are 9 trips and the PM peak hour there are 7 trips. That's based on Institute of Transportation Engineers (ITE).

Trustee Weber: 8-10 trips per house per day.

David Campbell, Planning Director: 10 trips per day 5 in and 5 out is the national average.

Mr. Pruss: I get my information from the Institute of Transportation Engineers.

Trustee Berkheiser: But, when you're doing that, if it's in the morning folks coming out, you're going to have a back to backup issue. I guess the big traffic issue is probably southbound more than northbound. Then folks will be trying to get out of their driveway to cut across or join that traffic, right? Obviously, then the reverse when they are coming in they are going to be stopped at that traffic to turn in those 3 cutouts. They are not turning off Benstein. Most of them have cutouts and most of them have streets into their neighborhoods. I mean there are passing lanes in the development that's directly across so it wouldn't necessarily back track a cut that much. You go down to the next one and its Pine Forest or Sierra. Again, passing lanes there so when someone is turning you can easily get around them. Currently with your plan there's not enough way for them to get around those driveways, correct?

ITEM 8:9-14 SITE CONDOMINIUMS AND PLATS (Caden's Corner continued)

Mr. Pruss: Correct. That's all I have.

Interim Chairperson Sovel: We're going to not take any action at this time. What we're going to do is near the end of the agenda we will be going into Closed Session to discuss the plat requirements and the attorney's letter, client privilege information. You're welcome to stay until the end. And then after Closed Session we will come back and take action. You can wait until the end or find out tomorrow. Anything else? This is your chance now.

Mr. Pruss: We are willing to do a traffic study on the condition you abide by the results of the study. If they do want the site improvements, we will abide by that.

Trustee Berkheiser: You made comment that you're willing to widen the driveways. You are talking about doing a traffic study which I'm not sure about. Then the next would be the potential having to extend the northbound passing lane. Is that something you thought about?

Mr. Pruss: No, not at this time. This is new and we have not considered that. Just to be clear, if we got conditional approval based on the traffic study we would be happy to adhere to that.

Trustee Berkheiser: With the traffic study, what's that going to tell us? My understanding is a traffic study just tells us how many cars go up and down the road.

David Campbell, Planning Director: We do have a scope for a traffic study from the Township's Traffic Engineer. Part of any traffic study is recommendations for any improvements that need to be made to mitigate any potential traffic impacts. If the Traffic Engineer were to recommend certain road improvements that would be included in the traffic impact study.

Mr. Pruss: The traffic study in my own take would look at traffic volumes which would be a requirement of the Road Commission.

David Campbell, Planning Director: The recommendations of the traffic study would be consistent with the standard requirements of the Road Commission for Oakland County. Just to be clear, the Road Commission for Oakland County has not conducted a traffic study, at least as we define it. They looked at these driveways versus their own standards as Mr. Pruss has stated. They have not offered any objections with the potential exception of the email received today and then again it was just received this afternoon, which was that if the Township is to require extension of the northbound passing lane, the Road Commission would support that.

Trustee Weber: Dave did you say you might have some other comments earlier?

ITEM 8:9-14 SITE CONDOMINIUMS AND PLATS (Caden's Corner continued)

Dave Campbell, Planning Director: Mr. Pruss has referenced some emails from my office from me personally that are included in your packet. I think it's important to note the date of those emails. They are from April of this year and I think it's important to note the formal submittal from the petitioner was in June of this year. Those emails were not meant to be a formal review in any way. Things that were stated in an email in April, before formal submittal was made in June, I don't think should be taken as a formal recommendation from my department. It was a good faith effort to work with the developer to try to find solutions to what we knew were going to be challenging issues. In particular, traffic safety issues along Benstein and Loon Lake roads. I want to point that out. Things that were stated in the emails were not meant to be formal statements from my office.

Mr. Pruss: I would like to acknowledge I do agree with Dave but we do have a July 7 formal letter that wouldn't indicate any issues with us [*inaudible*].

ITEM 9:9-14 PURCHASES

A. Cot for Medic 30 – Fire Department

Jim Dundas, Fire Chief, is asking for approval to purchase a cot (stretcher) and stair chair for patient handling and transporting from Stryker Medical Equipment for a cost of \$13,572.41.

MOTION by Weber, supported by Phillips, to approve the purchase of a manual cot (stretcher) and performance load and stair chair for the new ambulance from Stryker Medical Equipment at a cost of \$13,600.00. This is budgeted in the Fire Department's 2021 Budget.

ROLL CALL VOTE

AYES: Weber, Phillips, Creech, Berkheiser, Magner, Sovel, Gray

NAYS:

MOTION CARRIED UNANIMOUSLY

ITEM 10:9-14 OLD BUSINESS

A. Township Property Management and Strategy Sub-Committee – Tabled 8-10-2021

This will remain on the Table.

B. Township Property Management and Strategy Sub-Committee – Purchase Offer

Supervisor Gray said we offered to sell parcel numbers E-17-15-153-008, 009, 010 and 011 to Richard Goranson for \$3,200 per parcel. His offer came back for parcel numbers ending in 8, 9 and 10 for \$2.00 a parcel.

ITEM 10:9-14 OLD BUSINESS (Township Property Management and Strategy Sub-Committee – Purchase Offer)

MOTION by Weber, supported by Berkheiser, to deny the offer to purchase made by Richard Goranson for Township property parcel numbers E-17-15-153-008, 009, 010 and 011 for \$2.00 per parcel.

ROLL CALL VOTE

AYES: Weber, Berkheiser, Phillips, Creech, Magner, Sovel, Gray

NAYS:

MOTION CARRIED UNANIMOUSLY

This item was moved here from NEW BUSINESS

ITEM 11:9-14 NEW BUSINESS

A. On The Dunes Updated Plan of Operation

Adam Zimmerman, 2055 Haggerty Road, Commerce, Michigan, is seeking to amend its Plan of Operation for On The Dunes to allow it to host charitable gaming events.

MOTION by Weber, supported by Creech, to approve the Charter Township of Commerce On the Dunes Amended Plan of Operation.

ROLL CALL VOTE

AYES: Weber, Creech, Phillips, Berkheiser, Magner, Sovel, Gray

NAYS:

MOTION CARRIED UNANIMOUSLY

ITEM 10:9-14 OLD BUSINESS (continued)

C. Support Emergency Operations Plan

Hans Rentrop, Township Attorney, said this is a revised and updated Support Emergency Operations Plan.

MOTION by Berkheiser, supported by Creech, to approve the Resolution of the Township Board of the Charter Township of Commerce to Adopt the Charter Township of Commerce Emergency Operations Support Plan.

ROLL CALL VOTE

AYES: Berkheiser, Creech, Weber, Phillips, Sovel, Magner, Gray

NAYS:

MOTION CARRIED UNANIMOUSLY

D. Byers House Restoration

Emily England, Senior/Parks and Recreation Director, said the Dailey Company submitted insurance requirement quotes: Mandatory Insurance Requirement items approximately \$20,680 and builders' risk \$1,815.

ITEM 10:9-14 OLD BUSINESS (Byers House Restoration continued)

MOTION by Berkheiser, supported by Magner, to approve the Charter Township of Commerce Mandatory Insurance and Indemnification Rider by the Dailey Company for Byers house restoration, not to exceed \$160,000

ROLL CALL VOTE

AYES: Berkheiser, Magner, Creech, Phillips, Weber, Sovel, Gray

NAYS:

MOTION CARRIED UNANIMOUSLY

E. Richardson Center Catering RFP

Emily England, Senior/Parks and Recreation Director, presented the RFP for Bartending Service only at the Richardson Center.

MOTION by Berkheiser, supported by Gray, to approve the RFP for Bartending Service only at the Richardson Center.

ROLL CALL VOTE

AYES: Berkheiser, Gray, Sovel, Creech, Magner, Phillips, Weber

NAYS:

MOTION CARRIED UNANIMOUSLY

ITEM 11:9-14 NEW BUSINESS

A. On The Dunes Updated Plan of Operation

This was moved after **ITEM 10:9-14 OLD BUSINESS B. Township Property Management and Strategy Sub-Committee – Purchase Offer**

B. 2021 DDA Budget Amendment

Deb Watson, DDA Director, reviewed the 2021 DDA Budget Amendment with the Board.

MOTION by Magner, supported by Berkheiser, to approve the 2021 DDA Budget Amendment.

ROLL CALL VOTE

AYES: Magner, Berkheiser, Weber, Phillips, Creech, Sovel, Gray

NAYS:

MOTION CARRIED UNANIMOUSLY

C. 2021 DDA Cash Advance

Deb Watson, DDA Director, is requesting a cash advance of \$2,750,000.

MOTION by Magner, supported by Phillips, to approve the 2021 DDA Cash Advance of \$2,750,000.

ITEM 11:9-14 NEW BUSINESS (2021 DDA Cash Advance motion continued)

ROLL CALL VOTE

AYES: Wagner, Phillips, Creech, Weber, Berkheiser, Sovel, Gray

NAYS:

MOTION CARRIED UNANIMOUSLY

D. 2022 DDA Budget

Deb Watson, DDA Director, reviewed the 2022 DDA Budget with the Board.

MOTION by Berkheiser, supported by Magner, to approve the 2022 DDA Budget.

ROLL CALL VOTE

AYES: Berkheiser, Magner, Creech, Weber, Phillips, Sovel, Gray

NAYS:

MOTION CARRIED UNANIMOUSLY

E. 2022 Re-Establishment of Single-Year Special Assessment Districts

Jay James, Building Official, explained the Assessment.

MOTION by Weber, supported by Gray, to circulate petitions for all weed control for Fox Lake, Reed Lake, Lower Straits Lake and Chickory Lane.

Trustee Berkheiser would like letters sent to everyone telling them the SAD's are expiring in October 2022.

ROLL CALL VOTE

AYES: Weber, Gray, Creech, Phillips, Berkheiser, Magner, Sovel

NAYS:

MOTION CARRIED UNANIMOUSLY

F. Federal Procurement Conflict of Interest Policy

Hans Rentrop, Township Attorney, this will allow the Township to receive American Rescue Plan funds.

MOTION by Weber, supported by Creech, to approve the Charter Township of Commerce Federal Procurement Conflict of Interest Policy. (Nominal value \$50)

ROLL CALL VOTE

AYES: Weber, Creech, Phillips, Berkheiser, Magner, Sovel, Gray

NAYS:

MOTION CARRIED UNANIMOUSLY

ITEM 12:9-14 ORDERS

MOTION by Phillips, supported by Berkheiser, to approve the Orders and Add Ons.

ROLL CALL VOTE

AYES: Phillips, Berkheiser, Creech, Weber, Magner, Sovel, Gray

NAYS:

MOTION CARRIED UNANIMOUSLY

ITEM 13:9-14 OTHER MATTERS

MOTION by Weber, to appoint Insight Realty as the Realtor of record specifically for the Rose Button property.

Trustee Weber withdrew his Motion

Trustee Weber – We need to mail letters via certified mail to encroachers that are on Township property. Without certification we have no proof that we sent the letters or the person received it. He will request this be placed on the September 28, 2021 meeting agenda.

Trustee Berkheiser – He received an email advising him that there is a social media dare going around to steal items from high schools. He will forward the email to Lt. Reyes.

Trustee Phillips – Will not be refunding some capital improvements bonds. FYI only

Supervisor Gray –

- Budget meetings will be held on Tuesdays.
- Oakland County will spray for phragmites.
- Taste of the Lakes will be held on September 21, 2021
- Road Commission for Oakland County will be updating the traffic lights at Carrol Lake and Union Lake Roads in April of 2022.

ITEM 14:9-14 CLOSED SESSION

A. Discuss Attorney-Client Privileged Information

MOTION by Berkheiser, supported by Magner, to enter into Closed Session for the purpose of discussing Attorney-Client Privileged Information.

ROLL CALL VOTE

AYES: Berkheiser, Magner, Sovel, Creech, Phillips, Weber, Gray

NAYS:

MOTION CARRIED UNANIMOUSLY

Entered into Closed Session: 12:40 pm
Returned from Closed Session: 1:20 a.m.

ITEM 14:9-14 CLOSED SESSION (Discuss Attorney-Client Privileged Information continued)

MOTION by Sovel, supported by Creech, to adjourn from Closed Session at 1:20 a.m. and approve the minutes.

ROLL CALL VOTE

AYES: Sovel, Creech, Phillips, Weber, Berkheiser, Magner, Gray

NAYS:

MOTION CARRIED UNANIMOUSLY

MOTION by Sovel, supported by Magner, to deny tentative preliminary plat approval of Caden's Corner because the tentative preliminary plat:

1. Does not provide for a street approximately parallel to, and one lot depth distant from Benstein Road, a major traffic artery, as required by Section 22-113(c) of the Township Code;
2. Is contrary to Section 22-115(b) of the Code of Ordinances which states that cul-de-sac and "U" streets are to have a maximum length and exceptions are not permitted to avoid connection to adjoining platted parcels, in this case Twin Suns;
3. Is contrary to the Township's Master Plan which states that it is an objective of the Township to minimize the number and frequency of automobile access driveways along road corridors. Compliance with the Township's Master Plan is a condition required by Section 22-112 of the Code;
4. Does not provide satisfactory connections as required by Section 22-116 for each lot to existing public streets, namely Benstein and Loon Lake Roads, because the shared driveway access results in a traffic hazard; and
5. Contemplates shared driveways which are prohibited pursuant to Section 34-19 of the Township Code.

ROLL CALL VOTE

AYES: Sovel, Magner, Creech, Phillips, Gray

NAYS: Weber, Berkheiser

MOTION CARRIED

ITEM 15:9-14 ADJOURNMENT

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

MOTION by Sovel, supported by Berkheiser, to adjourn at 1:25 a.m.

ROLL CALL VOTE

AYES: Sovel, Berkheiser, Creech, Phillips, Weber, Magner, Gray

NAYS:

MOTION CARRIED UNANIMOUSLY



Melissa Creech

Melissa Creech, Clerk
Charter Township of Commerce