

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

June 11, 2019

2009 Township Drive
Commerce Township, Michigan 48390

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

PLEDGE OF ALLEGIANCE TO FLAG

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

Also Present: Jay James, P.E. Building Official
Jason Mayer, Giffels Webster Engineers
Phillip Adkison, Township Attorney
Hans Rentrop, Township Attorney

APPROVAL OF MINUTES

MOTION by Sovel, supported by Berkheiser, to approve the May 13, 2019 Special Township Board Meeting minutes and the May 14, 2019 Regular Township Board of Trustees Meeting minutes, as submitted. **MOTION CARRIED UNANIMOUSLY**

PRESENTATIONS:

A. Plante Moran – Audited Financial Statements

Joe Kowalski, Partner, Nicolette Acho, Associate, and Keith Szymanski, Associate, were present and gave a Charter Township of Commerce Audit Presentation for year ended December 31, 2018.

ITEM 1:6-11 APPROVAL OF AGENDA

MOTION by Sovel, supported by Magner, to approve the June 11, 2019 Agenda with the addition of G. Master Agreement for Municipal Street Lighting under ITEM 6:6-11 NEW BUSINESS and C. Outrun Hunger under ITEM 7:6-11 OLD BUSINESS.

MOTION CARRIED UNANIMOUSLY

ITEM 2:6-11 PUBLIC COMMENTS

No one present had any questions or comments.

ITEM 3:6-11 BOARD APPOINTMENTS

- A. William McKeever – Reappointment to the ZBA for a 3-Year Term to Expire July 31, 2022**

MOTION by Sovel, supported by Creech, to reappoint William McKeever to the ZBA for a 3-Year Term to Expire July 31, 2022.

MOTION CARRIED UNANIMOUSLY

ITEM 4:6-11 CONSENT AGENDA

- A. Banner Permit – St. Patrick’s Summer’s End Fair**
- B. Banner Permit – Hospitality House 4th Annual Golf Outing**
- C. Application for Alcoholic Liquors Special Permit by Multi-Lakes Conservation Association – Lakes Area Chamber of Commerce Rocking Under the Stars**
- D. Application for Alcoholic Liquors Special Permit by Multi-Lakes Conservation Association – Annual Good Old Days**

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

ROLL CALL VOTE

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

NAYS: None

MOTION CARRIED UNANIMOUSLY

ITEM 5:6-11 OLD BUSINESS

- A. Lease Amendment – Long Park Cell Tower Site**

Jay James, Building Official, and Phillip Adkison, Township Attorney, explained the Amendment.

MOTION by Weber supported by Berkheiser, to approve the lease Amendment for Long Park Cell Tower Site as identified in the Township Attorney’s letter dated June 5, 2019.

MOTION CARRIED UNANIMOUSLY

ITEM 5:6-11 OLD BUSINESS (continued)

B. Fire Station 3 – Plante Moran CRESA Agreement for Owner’s Representative Services

Hans Rentrop, Township Attorney, advised the Board that Plante Moran CRESA (PMC) has requested changes to the Agreement for Owner’s Representative Services” (“Agreement”) and the “Charter Township of Commerce Mandatory Insurance and Indemnification Rider”. It is his opinion that the changes requested by PMC are not specifically deal breakers. However, they are contrary to (a) the documents set forth in the RFP, and (b) the Township’s standard insurance Rider requirements. The changes also increase liability risks to the Township. The specific provisions of concern are:

1. PMC has requested that both parties waive incidental and consequential damages for claims that arise out of the Agreement. The waiver will apply to all consequential damages including those due to either party’s termination of the Agreement.
2. The Township’s standard Rider, which was approved as part of the Township’s policy on contractor’s insurance requirements, includes a provision that requires any certificate of insurance to contain a provision requiring notice be provided to the Township if insurance is cancelled for any reason. PMC’s insurance carrier will not provide such a condition. The carrier will notify PMC if termination will be made for some types of insurance provided that the termination is not the result of PMC’s failure to pay premiums.
3. The Township’s Rider includes an “Agreement to Defend, Indemnify and Hold Harmless” the Township for work performed by the contractor. PMC has requested that this be limited to negligent and willful misconduct of its actions, that of its employees and anyone else for whom PMC may be liable. We have no objection to this change, especially since PMC will not likely be performing any construction work.

Trustee Weber has issues with the changes in the Agreement because it absolves PMC from any accountability. The changes in the Agreement was not presented to the Township Board as part of the RFP. He would like the Board to discuss this in depth with PMC.

Trustee Sovel is in agreement with Trustee Weber.

Kevin Donnelly, Vice President Plante Moran, was present and stated he is not the person that can address this issue but he will inform the responsible party so they can address the issues. He is willing to engage in further discussion.

Supervisor Scott stated PMC needs to honor the RFP and recommends we send this back to the Township Attorney and request they report their findings to the Township Board.

Jay James, Building Official, said the Board could approve this subject to terms that PMC will honor the RFP so we do not have to wait another month for approval.

Trustee Weber questioned if the Board would consider authorizing the sub-committee to make and sign changes to the agreement.

ITEM 5:6-11 OLD BUSINESS Fire Station 3 – Plante Moran CRESA Agreement for Owner’s Representative Services (continued)

MOTION by Scott, supported by Magner, to approve the Charter Township of Commerce Mandatory Insurance and Indemnification Rider subject to Plante Moran CRESA honoring the RFP in accordance with changes made by the Township Attorney to the Agreement. In addition, the sub-committee made up of George Weber, Robert Berkheiser and Supervisor Scott will have the authority to review and finalize the Agreement.

Berkheiser opposed

MOTION CARRIED

C. Outrun Hunger

A representative of Outreach Hunger requests the fee for use of Township property be rounded off to \$1,000.00.

Trustee Berkheiser said they will use the facility for 2 hours on Friday and approximately 5 hours on Saturday. He has no problem charging them a fee for half a day instead of a full day.

Treasurer Phillips feels we should adhere to the Township Policy.

MOTION by Berkheiser, supported by Weber, to retain security deposit of \$500.00 and charge a use fee of \$800 for the Outrun Hunger event on November 9, 2019.

Scott opposed

MOTION CARRIED

ITEM 6:6-11 NEW BUSINESS

A. Application for Transfer of Class C Liquor License from State Road Commerce, LLC to Bar Verona M12, LLC, DBA Bar Verona, located at 500 Loop Road

Joe Caradonna and Christopher Kouza were present requesting the transfer of a Class C Liquor license.

Trustee Sovel would like a commitment from the petitioners to use Commerce Township as the address for the business. The petitioners both said all of their marketing shows Commerce Township as the address. He will continue to do so as long as it is under his control. He said sometimes when someone googles the restaurant he will come up as Walled Lake which he has no control over.

MOTION by Berkheiser, supported by Creech, to approve the application for transfer of Class C Liquor License from State Road Commerce, LLC to Bar Verona M12, LLC, DBA Bar Verona, located at 500 Loop Road, Commerce Township, Michigan 48390.

MOTION CARRIED UNANIMOUSLY

ITEM 6:6-11 NEW BUSINESS (continued)

B. Acuity Optics and Medical Eye Care 5K at Dodge Park

Emily England, Senior Director, advised the Board that Acuity Optics and Medical Eye Care are requesting to hold a 5K Run at Dodge Park on August 18, 2019. They would like to reserve the pavilion area starting at 7:00 a.m. The race starts at 8:00 a.m. and will end around 10:00 – 10:30 a.m. The Parks and Recreation Committee recommended approval to the Township Board at their meeting on May 20, 2019. The run will be moved to the north section of the park.

Edwin Gay, O.D. Acuity Optics and Medical Eye Care, was present.

Trustee Berkheiser would like some type of confirmation of who will receive the proceeds from the 5K run.

Hans Rentrop, Township Attorney, said the Township does not have an Ordinance at this time requiring submission of Trustee Berkheiser's request.

Edwin Gay said he will have a separate bank account for the funds received from the 5K run and they will go directly to the charity. He can provide a statement, as requested by Trustee Berkheiser, to the Township Board.

MOTION by Weber, supported by Berkheiser, to approve the 5K Run requested by Acuity Optics and Medical Eye Care at Dodge Park on August 18, 2019 subject to proof of insurance and a statement showing the funds were received by the charity chosen by Acuity Optics and Medical Eye Care.

Discussion – The Parks and Recreation Committee should work on a policy for charity events held at/on Township property.

MOTION CARRIED UNANIMOUSLY

C. Resolution Accepting Michigan Natural Resources Trust Fund Development Project Agreement

Hans Rentrop, Township Attorney, advised the Board to carefully administer the project, the agreement comes with many stipulations on the timeline for projects.

MOTION by Scott, supported by Berkheiser, to approve the Resolution of the Township Board of the Charter Township of Commerce Accepting Michigan Natural Resources Trust Fund Development Project Agreement Tf18-0136.

MOTION CARRIED UNANIMOUSLY

D. Benstein Road Water Main Extension- Phase One

Jason Mayer, PE Giffels Webster, is requesting approval to move forward with the Design Engineering portion of this project at a cost not to exceed \$173,800. He will present a contractor award recommendation and final project costs for approval at a future Board meeting with a planned 2020 construction.

ITEM 6:6-11 NEW BUSINESS (Benstein Road Water Main Extension- Phase One continued)

MOTION by Sovel, supported by Weber, to move forward with the Design Engineering portion of the Benstein Road Water Main Extension – Phase One at a cost not to exceed \$173,800. Funds to come from the Water fund. **MOTION CARRIED UNANIMOUSLY**

E. Resolution Vacating Part of Public Alley in Luneta Court Subdivision

Dave Campbell, gave an explanation of the Resolution.

MOTION by Weber, supported by Phillips, to approve the Resolution of the Township Board of the Charter Township of Commerce Vacating Part of Public Alley in Luneta Court Subdivision. **MOTION CARRIED UNANIMOUSLY**

F. 2020 Township Budget

Supervisor Scott is requesting meeting dates to discuss the Township Budget. It was agreed upon by Board members to set the first meeting on August 27, 2019 and tentatively all Tuesdays in September.

G. Master Agreement for Municipal Street Lighting

Hans Rentrop, Township Attorney, explained the agreement between DTE Electric Company and the Charter Township of Commerce.

MOTION by Berkheiser, supported by Weber, to approve the Master Agreement for Municipal Street Lighting between DTE Electric Company and the Charter Township of Commerce along with a \$575 annual estimated cost for annual lamp charges and authorize the appropriate signatures. **MOTION CARRIED UNANIMOUSLY**

ITEM 7:6-14 ORDERS

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

ITEM 8:6-11 OTHER MATTERS

Trustee Magner questioned what will be constructed at the Glenlore Golf Course which was sold. Supervisor Scott said one house will be built on the site.

Trustee Sovel asked for an update on the M5 Bridge. Dave Campbell, Planning Director, answered mid-July there will be lane closures to complete the wave panels.

ITEM 8:6-11 OTHER MATTERS (continued)

Clerk Creech advised the Board:

- Walled Lake Schools reimbursed Commerce Township for the election costs.
- A new clerical administrator was hired and she will start work on June 24, 2019.

Trustee Berkheiser questioned why incidents at the High School were higher than last year.

Lieutenant Schroeder said there were more problems this year at Walled Lake Western High School and the new "Vape Ordinance" increased the numbers.

Trustee Weber questioned if the Township should create some type of transition team to help with the change to a new waste management company (GFL).

Supervisor Scott is interviewing for a new maintenance employee.

ITEM 9:6-11 CLOSED SESSION

- A. Consideration of Confidential Information Pursuant to MCL 15.243 (f) and MCL 15.268 (h)**
- B. Discussion of Materials Subject to Attorney-Client Privilege**
- C. Real Estate Acquisition**

MOTION by Magner, supported by Berkheiser, to enter into Closed Session for the purpose of discussing Consideration of Confidential Information Pursuant to MCL 15.243 (f) and MCL 15.268 (h), Discussion of Materials Subject to Attorney-Client Privilege and Real Estate Acquisition.

ROLL CALL VOTE

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

NAYS: None

MOTION CARRIED UNANIMOUSLY

Entered into Closed Session: 8:49 p.m.

Returned from Closed Session: 10:10 p.m.

MOTION by Magner, supported by Creech, to adjourn from Closed Session and approve the Closed Session minutes.

MOTION CARRIED UNANIMOUSLY

MOTION by Scott, supported by Berkheiser, to approve the concept as discussed in Closed Session.

MOTION CARRIED UNANIMOUSLY

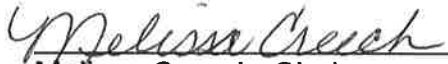
MOTION by Sovel, supported by Berkheiser, to authorize entering into an agreement for the purchase of property as discussed in Closed Session. **MOTION CARRIED UNANIMOUSLY**

ITEM 10:6-11 ADJOURNMENT

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

MOTION by Sovel, supported by Weber, to adjourn the meeting at 10:22 p.m.

MOTION CARRIED UNANIMOUSLY



Melissa Creech, Clerk
Charter Township of Commerce