

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

January 14, 2020

2009 Township Drive
Commerce Township, Michigan 48390

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

PLEDGE OF ALLEGIANCE TO FLAG LED BY BOY SCOUT TROOP 308

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

Also Present: Jason Mayer, Giffels Webster Engineers
Phillip Adkison, Township Attorney
Hans Rentrop, Township Attorney
Fire Chief Jim Dundas
Lt. Wendy Reyes, Oakland County Sheriff's Office
Dave Campbell, AICP - Planning Director
Emily England, Senior Director
Jay James, P.E. Building Official

APPROVAL OF MINUTES

MOTION by Sovel, supported by Magner, to approve the December 10, 2019 Regular Township Board of Trustees Meeting Minutes and the December 17, 2019 Special Township Board of Trustees Meeting Minutes, as submitted. **MOTION CARRIED UNANIMOUSLY**

ITEM 1: APPROVAL OF AGENDA

MOTION by Sovel, supported by Berkheiser, to amend the January 14, 2020 Regular Township Board of Trustees Meeting Agenda as follows: add HB 5229 and the RTA Proposal to Item 8 New Business, C., Plante Moran CRESA under Presentations and Parks Trash Containers under Item 8 New Business, D. **MOTION CARRIED UNANIMOUSLY**

ITEM 2: PUBLIC COMMENTS

Supervisor Scott asked if anyone present had any public comments.

Linda Stephenson, 1461 Oakshade Street, said she is contemplating moving into Commerce Township if she is allowed to keep her emotional support animal, which is a squirrel monkey. Supervisor Scott explained the Township does not allow exotic animals but if she would like to send him a letter he will review it.

Craig Mierzwa, Attorney, 37000 Woodward Ave. Birmingham, Michigan, spoke on behalf of Annie's Party Shoppe and Commerce Wine & Liquor. They are asking the Board to vote against the amendment to Article 26, Section 26.316 of Zoning Ordinance 3.000 that will allow alcohol to be sold without Board approval. The Planning Commission voted twice to deny the amendment.

The following were present and stated they are against approval of the amendment, Article 26, Section 26.3216 of Zoning Ordinance 3.000:

Susan Light, 5640 Huron Hills Drive, questioned how the Marathon gas station was allowed to receive a license to sell alcohol.

Sara Henderson 3076 Ridgemont, said the Planning Commission and residents do not want this to be approved.

John Rabban, Annie's Party Shop, 535 Commerce Road.

Sylvia Rabban, 535 Commerce Road, questioned why we need another liquor store in the Township.

Mr. Yousif, Commerce Wine & Liquor, does not want another liquor store in the area.

Mark Abbott, 4369 Achilla Street, said this would not be good for the community.

Cindy Rabban, owner of Annie's Party Shoppe and Commerce Wine & Liquor, asked why the Township is in favor of the amendment now when they were not in favor of it in 2019.

Jason Henderson, 3076 Ridgemont, asked if K & S fuels is already in violation, what will Commerce do about it?

Supervisor Scott closed public comments.

Supervisor Scott announced that the Township is seeking election workers for the 2020 election. Please contact the Clerk's office if you are interested.

PRESENTATIONS

Mr. Kevin Donnelly, Plante Moran CRESA, gave a design and project update on fire station #3 at Welch Road.

ITEM 3: PUBLIC HEARINGS

A. Roll Resolution Confirming Special Projects No. 44 SAD

Supervisor Scott opened public hearing.

No one had any comments.

Supervisor Scott closed the public hearing.

MOTION by Sovel, supported by Phillips, to approve the Resolution Confirming Special Assessment Roll for the Special Assessment District Designated Special Projects No. 44, post and publish according to law.

ROLL CALL VOTE:

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

NAYS: None

MOTION CARRIED UNANIMOUSLY

ITEM 4: BOARD APPOINTMENTS

A. Rachel Kast – Reappointment to the Parks and Recreation Committee for a 4-year term to expire February 29, 2024.

Rachel Kast was present.

MOTION by Scott, supported by Sovel, to reappoint Rachel Kast to the Parks and Recreation Committee for a 4-year term to expire February 29, 2024.

MOTION CARRIED UNANIMOUSLY

ITEM 5: CONTRACT AWARDS AND AGREEMENTS

A. Newton Road Force Main Contract

Jason Mayer, PE Giffels Webster, said seven (7) bids were received. The low bid was submitted by D.V.M. Utilities, Inc. at \$2,499,905.75. The project budget was originally estimated at \$3,500,000.00. As of this date, the project budget will not exceed \$3,100,000.00 including contingency and engineering costs.

MOTION by Weber, supported by Berkheiser, to award the Newton Road Force Main Contract to the low bidder, D.V.M. Utilities, Inc. in the amount of \$2,499,905.75 and approve the project budget at an amount not to exceed \$3,100,000.00.

MOTION CARRIED UNANIMOUSLY

Trustee Weber thanked Jason Mayer for coming in \$400,000.00 less than expected on the project budget.

ITEM 5: CONTRACT AWARDS AND AGREEMENTS (continued)

B. FAOM Contract

Fire Chief Jim Dundas said this is a 5 year contract agreement. He thanked everyone that helped with negotiations. He recommends the Board approve the agreement.

MOTION by Berkheiser, supported by Magner, to approve the Tentative Agreement between Commerce Township, the "Employer", and the Firefighters Association of Michigan (FAOM), the "Union", representing the Commerce Township Paid On-Call Firefighters Association and authorize the appropriate signatures.

MOTION CARRIED UNANIMOUSLY

ITEM 6: ADOPTIONS

A. An Ordinance to Amend Article 26, Section 26.316 of Zoning Ordinance 3.000 to be Known as Zoning Amendment Ordinance No. 3.042 – Off-Premises Alcohol Sales Outlets.

MOTION by Scott, supported by Weber, to deny Zoning Ordinance Amendment No. 3.042, as the amendment is contrary to the original intent of the Township Planning Commission and Township Board when it adopted Section 26.316 of the Township Zoning Ordinance, which protects the health, safety, and general welfare of persons and property by limiting off-premise alcohol sales outlets in concentration, operation, and to those areas that are most compatible with such uses. Upon further review and consideration by the Planning Commission and this Board, and following a public hearing on the revised language, it is determined that the existing ordinance, without the amendment, furthers the Township's interest of protecting the community from the negative secondary effects associated with allowing an increase in the amount and type of alcohol that can be sold within the community.

Discussion –

Bruce Rosenthal and Robert Ficano, 4301 Orchard Lake Road, were present to request approval of the amendment on behalf of his clients (the respective owners of the Shell station at 2500 Union Lake Rd. and the Marathon station at 519 W. Commerce Rd.) who have been granted by the State an SDD resort license. Mr. Ficano said the law does recognize the difference between a resort license and a SDD license. It would be appropriate to give it to the two establishments (Shell station at 2500 Union Lake Rd. and the Marathon station at 519 W. Commerce Rd.). Mr. Rosenthal said the language in the proposed amendment gives enough restrictions that it will not "open the floodgates" to sell alcohol. There is also a restriction on buildings and drive thru operations.

Trustee Berkheiser has never had anyone come to him and say we need more liquor stores. He is not in favor of approving the amendment.

Trustee Magner asked if this will affect the DDA. Supervisor Scott said this does not affect the DDA.

ITEM 6: ADOPTIONS (An Ordinance to Amend Article 26, Section 26.316 of Zoning Ordinance 3.000 to be Known as Zoning Amendment Ordinance No. 3.042 – Off-Premises Alcohol Sales Outlets Motion continued)

Trustee Weber applauded Mr. Rosenthal and Mr. Ficano for their professionalism and patience while working with the Township on the amendment. He asked what the ramification will be if the two businesses ignore the Ordinance and sell liquor since the State of Michigan gave them that license. Hans Rentrop, Township Attorney, said if that happens then the Township will take enforcement action. An infraction will be written and they will be subject to court action.

ROLL CALL VOTE:

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

NAYS: None

**MOTION CARRIED UNANIMOUSLY TO
DENY APPROVAL OF THE ORDINANCE.**

ITEM 7: OLD BUSINESS

A. Resolution Authorizing Michigan Search and Rescue to Train in Township Owned Parks

Hans Rentrop, Township Attorney, recommends an addendum specific to this use and an insurance rider naming Commerce Township as additional insured.

Ted Rockwell, Michigan Search and Rescue, was present.

A lengthy discussion took place on several issues, such as naming the Township as additional insured on K9 Rescue's insurance policy, liability if one of the dogs injures someone, the Township ordinance says all dogs on Township property must be on a leash and the dogs in training will not be leashed at some point in the training process, will this set a precedence for anyone else that wishes to use Township property similar to this request. Mr. Rockwell does not want to name the Township as additional insured because he does not have to do that with other municipalities. He said they are non-profit and cannot afford the \$50 increase to their insurance requirements.

The Township Board was in the process of making a Motion to approve the request subject to naming Commerce Township as additional insured but then Mr. Rockwell thanked the Board for their time, apologized for wasting their time and withdrew his request.

No action taken.

ITEM 8: NEW BUSINESS

A. Lakes Athletics Association Charitable Gaming Application

Clerk Creech said Lakes Athletics Association met all requirements requested by the Township. They are a non-profit organization.

MOTION by Scott, supported by Creech, to approve the Lakes Athletics Association Charitable Gaming Application.
MOTION CARRIED UNANIMOUSLY

B. UFS Rate Studies for Water and Sewer

Jason Mayer, Giffels Webster Engineers, asked Dawn Lund, Utility Financial Solutions, LLC, to provide the Township with a rate study proposal for the Board's review. He is requesting direction by the Board if they want to move forward on a rate study (financial projection) for the Water and Wastewater Departments.

Trustee Weber asked if we should we do the study now or wait until next year. Jay James, P.E. Building Official recommended we wait until April when an additional quarter's data will be available. He said we should begin late spring so we have all the information needed by August/September in order to make a decision on the study and have time to understand any 2021 budget implications.

MOTION by Weber, supported by Berkheiser, to authorize Utility Financial Solutions, LLC (UFS) to begin a rate study for the Water and Wastewater Departments in April 2020.
MOTION CARRIED UNANIMOUSLY

C. HB 5229 and the RTA Proposal

Supervisor Scott explained House Bill 5229 and the RTA Proposal. If this is approved, it will take away a large sum of money from Oakland County.

Trustee Sovel would like to add Commerce Township to the last paragraph on the first page of the Resolution.

MOTION by Scott, supported by Weber, to approve the Resolution of the Township Board of the Charter Township of Commerce in Opposition to House Bill 5229 and the RTA Proposal and add Commerce Township to the last paragraph on the first page of the Resolution.
MOTION CARRIED UNANIMOUSLY

D. Parks Trash Containers

Supervisor Scott said we are holding off on putting several containers in Township parks. Right now we are placing one trash can in the parks and emptying the cans daily. He recommends placing a locking dumpster at the larger parks that have a concession stand. He asks that the Board consider placing the same type of containers as West Bloomfield has done at Marsh Bank Park.

Trustee Weber feels the Parks and Recreation Committee should make a recommendation to the Township Board.

ITEM 9: ORDERS

MOTION by Phillips, supported by Magner, to approve the orders and add-ons.

MOTION CARRIED UNANIMOUSLY

ITEM 10: OTHER MATTERS

Trustee Magner asked how service is coming along with GFL. Supervisor Scott said it is going very well.

Trustee Magner asked if we are holding the January discussion session.

Trustee Weber asked for an update on the information EctoHR was to provide the township related to personnel appraisals. Supervisor Scott answered that Janet Bushey has received information and we should have something to review at the next meeting.

ITEM 11: ADJOURNMENT

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

MOTION by Scott, supported by Creech, to adjourn the meeting at 9:10 p.m.

MOTION CARRIED UNANIMOUSLY



Melissa Creech, Clerk
Charter Township of Commerce