

**CHARTER TOWNSHIP OF COMMERCE
TOWNSHIP BOARD OF TRUSTEES MEETING
March 8, 2022
2009 Township Drive
Commerce Township, Michigan 48390**

CALL TO ORDER: Supervisor Larry Gray called the meeting to order at 7:00 p.m. and introduced the members of the Board.

PLEDGE OF ALLEGIANCE

ROLL CALL: Present: Larry Gray, Supervisor
Melissa Creech, Clerk
Molly Phillips, Treasurer
Vanessa Magner, Trustee
George Weber, Trustee
Rick Sovel, Trustee

Absent: Robert Berkheiser, Trustee (excused)

Also Present: Hans Rentrop, Township Attorney
Dave Campbell, Planning Director
Emily England, Senior/Parks and Recreation Director
Jay James, Building Official
Jason Mayer, Giffels Webster Engineers
Mark Schoder, Maintenance Director

APPROVAL OF MINUTES

MOTION by Magner, supported by Creech, to approve the February 8, 2022 Regular Township Board Meeting minutes and the February 24, 2022 Special Township Board Meeting minutes, as submitted. **MOTION CARRIED UNANIMOUSLY**

ITEM 1:3-8 APPROVAL OF AGENDA

MOTION by Magner, supported by Sovel, to approve the March 8, 2022 agenda with the following changes: move ITEM 10:3-8 CLOSED SESSION after ITEM 4:3-8 BOARD APPOINTMENTS. **MOTION CARRIED UNANIMOUSLY**

ITEM 2:3-8 PUBLIC COMMENTS

Supervisor Gray opened Public Comments

In response to Windmill Farm located at 2552 Wixom Road:

Lisa Oberg, 27014 Meadowbrook Drive, Apt. 104, Wixom, Michigan, offers hunter jumper lessons and training lessons at Windmill Farm and is offering a 10% discount to residents of Commerce Township. She is in support of Carrie Hancock and Windmill Farm.

Barry Rabotnick, 4910 Carroll Lake Road, stated he could not find any notes from the Township Subcommittee for Windmill Farm. He would like to have access to the information from the Subcommittee.

Carrie Hancock, 2552 Wixom Road, operator of Windmill Farm. She advised the Board of upcoming programs. She does not understand why the Township wants an RFP for a Concessionaire Agreement when everything is running strong at the farm. She said she has followed the contract that she has with the Township. She read a letter that she sent to the Township stating that under the terms of her contract she is requesting a meeting to clarify mutual obligations and possible discrepancies and interpretation of contract requirements. Also to address concerns of misinformation as discussed at the Commerce Township Board Meeting dated February 8, 2020 regarding their view of notice of unsatisfactory conditions dated October 27, 2021 as well as the review of the Windmill Farm prioritize action plan dated December 18, 2020. She said the contract requires her to participate with the Township. She is asking for this meeting and would like to know when it will take place.

Frank Vecchio, retired attorney, 1673 Trading Post Lane, Bloomfield Hills, Michigan, said he has ridden Carrie's horses for approximately 30 years. He said she runs a fantastic operation and her focus is on safety. He supports Carrie Hancock and Windmill Farm.

In response to Goose Nest Harvesting on Lower Straits Lake:

Chris Hill, 8497 Edgewood, said there is no light on the east side of the sign for the library. The speed limit at the library is 5 miles per hour and 85% of people do not adhere to the speed limit. Newton's ditch that goes between the dam and the lake needs a good clean out. The rear yards of homes on Listeria Road are flooded because the water is not running into the ditch. He would like the Board to approve goose nest harvesting on Lower Straits Lake.

John Levinson, 8770 Oak Beach Drive, on behalf of the Lower Straits Lake Preservation Committee (LSLPC). There are 6 of 8 members in attendance at tonight's meeting. The LSLPC is asking for exception or modification of the policy to allow goose nest harvesting on Lower Straits Lake. This is done by volunteers and there is no cost to the Township or to lakefront owners. They have done this for the past 16 years and he said members of this Township Board have approved Resolutions permits in the past.

ITEM 2:3-8 PUBLIC COMMENTS (continued)

William Stockdale, 3147 Adele Terrace, he has been the coordinator/administrator of the goose nest program for Lower Straits Lake for the past 16 years. We have never had a problem on the lake. All of the goose nests are located on the island.

Annie Van Gelderen, 3795 Loch Bend Drive, President of Homestead Shores Association Board and a member of the Lower Straits Lake Preservation Committee. She is surprised the policy change made that in essence denied their ability to continue goose nest harvesting which they have done for the past 16 years under the guidelines of the DNR along with participant certification. She requests the Board approve a Resolution reinstating the goose nest harvesting program.

Michael Dickmeyer, 8801 Edgewood Drive, said there are too many geese and he is in support of goose nest harvesting.

Carl Klein, 9030 Marilyn Terrace, in support of goose nest harvesting.

Larry Liotino, 3165 Adele Terrace, in support of goose nest harvesting.

In response to the Valvoline Instant Oil Change:

Sam Hamady, owner of Top Lube Center at 2205 N. Pontiac Trail, is in opposition of the conditional rezoning of the property at 600 Loop Road from B-2 to B-3 for a Valvoline Oil Change facility. He said for the last 13 years they have been in business, there has been 6 or 7 different lube centers within a one mile radius. There will be new dealerships developed in the area in the near future. Walmart and Belle Tire are less than one mile away. Within a five mile radius there are 8 locations of oil change facilities and within an eight mile radius there are over 15 locations. Valvoline has 3 locations within a five mile radius. As a small business owner he would like the Board to take into consideration the economic factors that are out there today such as instability where Valvoline may not survive for the next 5 or 10 years.

Klint Kesto, representing Top Lube Center, said there were two Planning Commission hearings. During the first hearing, it was evident that many Planning Commission members were not in favor of Valvoline's request. During the second hearing, the Planning Commission reviewed the criteria and determined Valvoline had met the requirements since it was just for rezoning and not for Special Land Use. One of the requirements was consistency of the Master Plan. The property is currently zoned B-2 in the Master Plan. There are restrictions on the property, many having to do with automobiles, car washes, gas stations, drive thru facilities. The property owner is aware of the restrictions and yet they come before you to ask for a rezoning. The property is surrounded by wetlands (environmental issues). This will decrease the value of every other oil change facility in the area. There is no immediate need for a conditional rezoning. He is asking the Board to deny the request.

ITEM 2:3-8 PUBLIC COMMENTS (continued)

Supervisor Gray stated there were many letters regarding the Lower Straits Lake goose permit that have been received via email and will be added to the minute record.

Supervisor Gray closed Public Comments

ITEM 3:3-8 PUBLIC HEARINGS

A. Roll Resolution – Special Projects No. 48 SAD

Hans Rentrop, Township Attorney, explained the Resolution.

Supervisor Gray opened the Public Hearing.

There were no public comments.

Supervisor Gray 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. 48, post and publish according to law.

ROLL CALL VOTE:

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

NAYS: None

ABSENT: Berkheiser

MOTION CARRIED UNANIMOUSLY

ITEM 4:3-8 BOARD APPOINTMENTS

A. Ron Krueger - Appointment to the Parks and Recreation Committee for a Partial Term Ending May 31, 2024

Ron Kruegar was present.

MOTION by Gray, supported by Sovel, to appoint Ron Krueger to the Parks and Recreation Committee for a partial term ending May 31, 2024.

MOTION CARRIED UNANIMOUSLY

ITEM 10:3-8 CLOSED SESSION

A. To Discuss Confidential Commercial Information Pursuant to MCL 15.268 and MCL 15.243(1)(f)

B. To Discuss Pending Litigation Pursuant to MCL 15.268: Wesley Fog v. Commerce Township, Case No. 2022-191955-CH

C. To Discuss the Purchase of Property Pursuant to MCL 15.268

MOTION by Creech, supported by Sovel, to enter into Closed Session for the purpose of discussing:

- Confidential Commercial Information Pursuant to MCL 15.268 and MCL 15.243(1)(f)

ITEM 10:3-8 CLOSED SESSION (motion continued)

- Pending Litigation Pursuant to MCL 15.268: Wesley Fog v. Commerce Township, Case No. 2022-191955-CH
- Purchase of Property Pursuant to MCL 15.268

ROLL CALL VOTE:

AYES: Creech, Sovel, Phillips, Weber, Magner, Gray
NAYS: None
ABSENT: Berkheiser

MOTION CARRIED UNANIMOUSLY

Entered into Closed Session at 7:32 p.m.
Returned from Closed Session at 8:23 p.m.

MOTION by Phillips, supported by Creech, to return from Closed Session.

MOTION CARRIED UNANIMOUSLY

MOTION by Creech, supported by Sovel, to approve the Closed Session minutes and direct the Township Attorney to proceed as discussed in Closed Session.

MOTION CARRIED UNANIMOUSLY

ITEM 5:3-8 ADOPTIONS

A. An Ordinance to Amend the Code of Ordinances to be Known as Code Amendment Ordinance No. 1.059 – Encroachments on Township Land.

Hans Rentrop, Township Attorney, explained the Ordinance and said there were no changes made to the Resolution since it was Introduced in February 2022.

MOTION by Sovel, supported by Creech, to Adopt an Ordinance to Amend the Code of Ordinances, Charter Township of Commerce, Oakland County, Michigan to be Known as Code Amendment Ordinance No. 1.059, post and publish according to law.

MOTION CARRIED UNANIMOUSLY

B. An Ordinance to Amend Article 27, Sections 27.02 and 27.03 of Zoning Ordinance 3.000 to Prohibit Vinyl Siding in New Developments Consisting of Eleven or More Homes.

Hans Rentrop, Township Attorney, said this was introduced at the February 7, 2022 Planning Commission Meeting and they made a Motion to recommend approval to the Township Board.

Trustee Weber said the Planning Commission discussed two primary materials (EIFS and vinyl siding) to be used on homes in large developments.

MOTION by Weber, supported by Magner, to Adopt an Ordinance to Amend Article 27, Sections 27.02 and 27.03, of Zoning Ordinance 3.000, Charter Township of Commerce,

ITEM 5:3-8 ADOPTIONS (B. An Ordinance to Amend Article 27, Sections 27.02 and 27.03 of Zoning Ordinance 3.000 to Prohibit Vinyl Siding in New Developments Consisting of Eleven or More Homes motion continued)

Oakland County, Michigan to be Known as Zoning Amendment Ordinance No. 3.054, post and Publish According to Law.

Trustee Sovel voted no

MOTION CARRIED

ITEM 6:3-8 OLD BUSINESS

A. Oakland County Sheriff's Office Construction Timeline

Supervisor Gray gave an update. Final blueprints and design set up will be in April 2022. This will go out for bids around May or June 2022. Bid overviews will be July or August 2022 and the contractor should be selected by September 2022. Construction should begin around September or October 2022.

B. Township Emergency Notification System

Ben Sebrowski, Director of Technology, said he received two bids, one from Everbridge Nixle and one from CivicPlus CivicReady. Everbridge Nixle offers a system for broadcasting emergency text messages to our residents that choose to receive them. He recommends entering into an agreement with Everbridge Nixle for 1 year at the cost \$3947.40, with the option to renew after one year.

MOTION by Sovel, supported by Phillips, to award the Township's Emergency Notification System to Everbridge Nixle for one year at a cost not to exceed \$4,000 with the option to renew after one year. Funds to come from the General Fund.

MOTION CARRIED UNANIMOUSLY

C. Fire Station 4 Repairs

Supervisor Gray received a proposal from MDB Management & Consulting for repair of trusses and installation of new plywood, gusset plates and LDL bottom chords at Fire Station #4.

MOTION by Weber, supported by Sovel, authorize the Supervisor to contract with MD Management & Consulting for repairs to Fire Station #4 in an amount not to exceed \$79,000.

MOTION CARRIED UNANIMOUSLY

ITEM 7:3-8 NEW BUSINESS

A. DDA Cash Advance

Treasurer Phillips said the DDA is requesting a cash advance of \$1,500,000 to meet debt requirements that are due April 1, 2022.

MOTION by Sovel, supported by Creech, to approve a cash advance of \$1,500,000 for the DDA to meet debt requirements that are due April 1, 2022. Funds to come from the Debt Service Fund.

MOTION CARRIED UNANIMOUSLY

ITEM 7:3-8 NEW BUSINESS (continued)

B. Victory Park Improvements Resolution of Authorization – Land and Water Conservation Fund Application

Emily England, Senior/Parks and Recreation Director, introduced Leah Groya who gave a presentation on Victory Park Outdoor Recreation Development Projects. The LWCF Grant Application is due April 1, 2022.

It was the consensus of the Board to go with asphalt for the roadway instead of aggregate and not install restrooms at this time.

MOTION by Sovel, supported by Weber, to approve the Land and Water Conservation Fund Application Resolution of Authorization Charter Township of Commerce Victory Park Improvements striking the word “**restroom**” in the first paragraph, in the last “Whereas” paragraph - an additional “**\$390,000**” to cover the total project cost and the last paragraph **\$390,000** for a total of **\$1,390,000**”.

MOTION CARRIED UNANIMOUSLY

C. Valvoline Instant Oil Change Conditional Rezoning Petition – 600 Loop Road

David Campbell, Planning Director, stated the request is to conditionally rezone the property at 600 Loop Road from B-2 to B-3 for the purpose of developing a Valvoline Instant Oil Change facility. If approved, the project would still need to go back to the Planning Commission for Special Land Use and the site plan.

Robin Peck, Valvoline LLC, 100 Valvoline Way Lexington, KY was present and gave a presentation of the project and requests approval of the conditional rezoning from B-2 to B-3.

Jared Gell, Mid-America, 4682 Rolling Ridge, West Bloomfield, the deed restriction on the property that is in place by Costco and Lifetime restricts a number of uses including automotive uses except for quick oil change. From a use perspective, no we did not have to get approval by Costco or Lifetime. Costco has approval rights for where the building can sit.

Trustee Weber said the Planning Commission attempted to bundle the conditional rezoning with Special Land Use in discussion. Our view was, we did not want the applicant to spend a lot of time and money regarding conditional rezoning if we were not going to approve Special Land Use. Valvoline's attorney objected to this course, stating the process must only consider Conditional Re-Zoning at this time, without consideration for the Special Land Use criteria. The Township attorney agreed with this position. The Planning Commission did not have complete consensus but did approve moving forward with only the Conditional Re-Zoning because the narrow criteria for this was met. One of the most important considerations for Conditional Re-Zoning, that Mr. Kesto has commented on, is that the Master Plan does contemplate moving from B-2 to B-3 specifically for this parcel. The other 8 criteria were also met as part of this very

ITEM 7:3-8 NEW BUSINESS (Valvoline Instant Oil Change Conditional Rezoning Petition – 600 Loop Road continued)

narrow singular decision for conditional rezoning. The Planning Commission recommended approval of the conditional rezoning from B-2 to B-3 because criteria was met. The eight additional requirements for Special Land Use will require significant analysis by the Planning Commission to determine if the project qualifies for approval, specifically as it relates to “Documented and Immediate Need”.

David Campbell, Planning Director, advised the Board that in the Planning Commission’s Motion to recommend approval for conditional rezoning, they specifically said that the recommendation did not intend to imply or constitute approval of Special Land Use.

Trustee Sovel strongly believes gas stations and/or oil changes are a dying business and he does not see them as a viable and long term use. He would rather have a vacant piece of property instead of a vacant building, whether it is this project or another location that ultimately goes out of business. For these reasons, he is against rezoning this parcel to B-3.

Supervisor Gray is in agreement with Trustee Sovel.

Tyler D. Tennant, Attorney from Dawda Mann, 39533 Woodward Avenue, Ste 200 Bloomfield Hills, MI was present.

MOTION by Sovel, supported by Magner, to deny the Conditional Rezoning Agreement between the Charter Township of Commerce, GW Commerce Michigan LLC, and Valvoline LLC.

Trustee Weber voted no

MOTION CARRIED

D. 2022 Wastewater Treatment Plant Project Summary

Jason Mayer, Giffels Webster Engineers, the Water Resources Commissioner’s Office provided the 2022 budget for the wastewater treatment plant. The Water Resource Commission is seeking approval of the \$396,663 Maintenance and Operations Budget for the wastewater treatment plant for 2022.

MOTION by Phillips, supported by Creech, to approve the Commerce Wastewater Treatment Plant FY2022 Project Summary and Budget.

MOTION CARRIED UNANIMOUSLY

E. Lystek System Update

Jason Mayer, Giffels Webster Engineers, gave an update on the Lystek system project at the Commerce WWTP. Permit plans were submitted to EGLE in December 2021 and

ITEM 7:3-8 NEW BUSINESS (E. Lystek System Update continued)

are currently being reviewed by EGLE. He just received comments back from EGLE and he is making final revisions to the plans.

- Contract Award (approval of Lystek Contract) – May Board Meeting resolution
- EGLE Final approval of SRF Loan – June 27, 2022
- Loan Closing – July 18, 2022
- Start of Construction – July 19, 2022
- Complete Construction - Approximately July 19, 2023 (12 months)

Trustee Weber asked for a review of the funding, specifically related to the ARPA monies the Township will receive, and the previous discussions on using these funds for the Lystek System costs. While the Township is still moving forward with the SRF Loan for this, the ARPA monies should be used to lessen the loan amount.

F. CGI Communications

Supervisor Gray – CGI will produce a total of four video chapters with subject matter that includes but is not limited to: video tour on the Township's website, provide social media, email/text, showcase our parks, showcase businesses in the Township, future developments, etc. He recommends the Board look at the website that Highland

Township has to get a better idea of what CGI can provide to the Township and its residents.

Trustee Sovel said we looked at doing something similar to this years ago and decided we would have to put criteria in place on who can advertise i.e. do we want to advertise tobacco, liquor or intimate apparel businesses?

CGI told Supervisor Gray that we can chose who we want to include.

Hans Rentrop, Township Attorney, would like to review this further because as a government agency there are First Amendments Rights that need to be considered. He will look into this and report his findings back to the Board.

G. Intention Resolution – Boyer Street Paving SAD

Hans Rentrop, Township Attorney, explained the resolution.

Supervisor Gray received a phone call from Mary Filipen, 3570 Shirley Street, against the SAD.

MOTION by Magner, supported by Creech, to approve the Resolution of The Township Board of The Charter Township of Commerce, Tentatively Declaring its Intention to Establish a Special Assessment District to be Known as Boyer Street Paving Special Assessment District.

MOTION CARRIED UNANIMOUSLY

ITEM 7:3-8 NEW BUSINESS (continued)

H. Intention Resolution – Dickert Street Water Main SAD

Hans Rentrop, Township Attorney, explained the Resolution.

MOTION by Magner, supported by Sovel, to approve the Resolution of The Township Board of The Charter Township of Commerce, Tentatively Declaring its Intention to Establish a Special Assessment District to be Known as Dickert Street Water Main Special Assessment District.

MOTION CARRIED UNANIMOUSLY

I. Commerce Township Document Scanning – Building Department

Jay James, KER Engineering, Inc., discussed scanning existing hard copy documents into PDF files. He received 3 bids for scanning, indexing and prep time: Applied Imaging- \$229,240, BluePoint International- \$396,000 and Corrigan Record Storage- \$492,280.

Items to be concerned with by hiring an outside company are:

- The final data provided is not the end of the process for the Building Department. Each parcel's data file will have to be opened, split apart and renamed to the document which was scanned (i.e., site plan, construction plan, permit, etc.). These renamed files will then need to be uploaded into the corresponding BS&A address. It is estimated that this process will take up to an hour per parcel to complete.
- There will be a time period (up to 60 days) in which the Township will not have access to those files since they are taken off site. This means any FOIA or other document request could be affected.
- Does any of the HIPPA information on these documents become an issue?

Jay James has been working on this project for a couple years by utilizing part time employees to scan in the documents, name them and load into BS&A. Currently, the documents are scanned at a rate of approximately 27 parcels per day, therefore it would take approximately 593 working days to complete. At the current rate, this would cost approximately \$240,000 to have KER Engineering complete the scanning project. Trustee Weber noted the spread sheet KER Engineering presented to the Board detailed the analysis of their costs to be \$213,498 for KER to complete the project. Jay James stated he would investigate the discrepancy between the \$240,000 and \$213,498 figures presented.

After discussion, it was decided to have Jay James continue with the project and see if he can hire additional people to scan the documents. He will provide the Board with a monthly report.

J. Oakland County Moth Suppression Grant Program

Supervisor Gray gave an update on the 2022 Application Guide Oakland County Moth Suppression Grant Program. The cost to spray is \$170 per acre. Participating communities are required to provide a 1 to 1 match of their awarded grant amount.

ITEM 8:3-8 ORDERS

MOTION by Magner, supported by Creech, to approve the Orders and Add Ons.

MOTION CARRIED UNANIMOUSLY

ITEM 9:3-8 OTHER MATTERS

Supervisor Gray –

MOTION by Gray, supported by Weber, to extend the Lower Straits Lake goose permit for one year.

MOTION CARRIED UNANIMOUSLY

Discussion: Treasurer Phillips asked if we know how many other 5 year Resolution Permits for goose nest harvesting will expire soon. They should be advised that they will need at least 70% of lakefront owners signatures in order to receive another permit after their existing one expires.

- A 12' holiday fir tree will be purchased and placed on the east side of the Richardson Center for the 2022 winter holiday season.
- The LED rope light system under the right fascia on the northbound face of the M5 bridge is not working and is currently shut off until we can get them repaired. The lights flicker causing a distraction to southbound traffic. There is no warranty on the lighting system.
- Trustee Weber said it has been 2 years since we noticed the wave panels on the M5 bridge were not up to spec. It does not appear there is any type of resolution to getting this corrected. Should we enact any type of litigation to get this resolved?

Hans Rentrop, Township Attorney, recommends allowing Dave Campbell to continue working with MDOT. MDOT says they are working on it and if at any time MDOT says they are not working on it anymore, then the Township Attorney should be notified. MDOT is not the entity to have caused the problem. They contracted with the parties that built the wave panels.

- He would like to find out how much the 2 ½ acre parcel, west of the cemetery on Commerce Rd. is worth in case the Township is interested in purchasing it.

Trustee Weber -

- Property Subcommittee – he would like to make sure we correctly memorialize what the Subcommittee did with the 166 properties owned by the Township. We need to have a binder and designate each category with a tab for easy retrieval of Township owned properties along with the Subcommittee's findings of each. Treasurer Phillips said she will work on this after the tax season is over.
- Asked for an update on the RFP for the 7 or 8 properties that we were going to send to a realtor. Dave Campbell, Planning Director, said we are going to bundle the properties together and determine which ones were viable to build a single family home. We still need to work on the log cabin property by adjusting the boundary line on the north end of the property. This will require cooperation from

ITEM 9:3-8 OTHER MATTERS (Trustee Weber continued)

the adjacent homeowner. We need to create a legal description for that boundary and then split the log cabin property into 2 parcels. After the log cabin property is complete, then we can combine them with the other properties and finalize the RFP to realtors.

- A potential developer of Bay Pointe contacted the Township today and said they are pulling out of the development of Bay Pointe. The property is back on the market. Emily England is working with West Bloomfield on potentially moving forward on an acquisition grant where the two entities would acquire the property and keep it as green space. Is the Board interested in moving forward and approve a 25% match for the grant? Typically, grants need to be submitted by April 1, 2022 but she will contact West Bloomfield tomorrow to find out the exact date. Treasurer Phillips recommends contacting Oakland County to see if they would be interested in purchasing Bay Pointe to use as an Oakland County Metro Golf Course Park. Supervisor Gray will reach out to Oakland County.

Clerk Creech –

- The library millage language was sent to Oakland County today.

Trustee Sovel –

- Union Lake Road is going to be shut down at Wise Road next week to replace a culvert. Two culverts will be repaired at Cooley Lake Road between Union Lake Road, just east of the double roundabout. Can someone contact the Road Commission to make sure they do not do both projects at the same time? Supervisor Gray said the projects will not be done at the same time.

ITEM 11:3-8 ADJOURNMENT

MOTION by Phillips, supported by Weber, to adjourn the meeting at 10:59 p.m.

MOTION CARRIED UNANIMOUSLY



Melissa Creech, Clerk
Charter Township of Commerce