

**CHARTER TOWNSHIP OF COMMERCE
TOWNSHIP BOARD OF TRUSTEES QUARTERLY MEETING
2009 Township Drive
Commerce Township, MI 48390
Tuesday, April 28, 2026, 7:00 p.m.**

CALL TO ORDER: Clerk Creech called the Township Board of Trustees Quarterly Meeting to order at 7:00 p.m.

Clerk Creech said Supervisor Gray is absent from tonight's meeting, and she would like the Board to appoint Rick Sovel as Interim Chairperson.

MOTION by Creech, supported by Berkheiser, to appoint Rick Sovel as Interim Chairperson for tonight's meeting. **MOTION CARRIED UNANIMOUSLY**

ROLL CALL: Present: Melissa Creech, Clerk
Molly Phillips, Treasurer
Bob Berkheiser, Trustee
Robert Long, Trustee
Rick Sovel, Trustee
George Weber, Trustee

Absent: Larry Gray, Supervisor (excused)

Also Present: Hans Rentrop, Township Attorney
Jason Mayer, Giffels Webster
Dave Campbell, Planning Director
Emily England, Director of Senior Services/Parks & Recreation

ITEM 1: Public Comments

Interim Chairperson Sovel opened Public Comments. Seeing none, Interim Chairperson Sovel closed Public Comments.

ITEM 2: 5 & Main Library Parcel Update and Consideration of 10th Amendment to Library Parcel Option Agreement

Township Attorney Hans Rentrop said as you recall the Township entered into an Option Agreement for the old library parcel with Aikens to extend the deadline, to purchase the property, until April 30, 2026. They are now requesting to extend the Option Agreement an additional 6-12 months. If the Board approves the Tenth Amendment, they should include the term of the option or the closing date.

ITEM 2: 5 & Main Library Parcel Update and Consideration of 10th Amendment to Library Parcel Option Agreement (continued)

Trustee Berkheiser –

How many extensions have been granted. Hans said, if approved, this will be the 10th extension requested by the developer. Berkheiser asked what will stop the 11th extension? He is getting frustrated with the number of extensions to the Option Agreement.

Randy Thomas, Insite Commercial –

When he last updated the Township Board, they had a particular market (referred to as the Market Man) that they were negotiating a lease deal with. The deal was taking a little bit of time because of some development issues. We had a meeting with The Market Man in October/November 2025 and he said they wanted to buy their own parcel and a couple of the adjacent parcels (retail boxes next door). So that shifted gears sometime in late November 2025. We sent the purchase agreement over to him but we did not hear anything back from him. I did talk to him around the end of January 2026 or beginning of February 2026. He said he had some issues going on and they sold the store recently in the market. He also said there was a health issue with a family member and he asked me to send over the letter of intent so he could review it. I have not heard from him since that time.

At that point, approximately 30 days later, I talked to the developer and told him I have not heard back from the Market Man and advised him to try contacting him. The developer also did not hear anything from the Market Man. Everything shifted gears again at that point and other national users have come into town. They have been on site multiple times. This changes things a little bit, the complexion of going from a purchase agreement back to a lease agreement, which I think is a positive note because the market user that we had originally was local. From a financial standpoint, a national user is more apt to obtain financing than a local market. You would definitely recognize the names of the national users. Proposals are in hand with the developer. They have a letter of intent and are working through that, not only with the economics and are somewhat on par with each other, but also the work letter (expenses). One user is a little bigger box than the other.

Randy Thomas said these events are not the fault of the developer. The developer is asking for time to get through these deals.

There is progress going on at the site. The 12,500 sq ft referred to as the shoppettes, has been approved and are going out for bids and permits should be obtained within a month. The out lots fronting Pontiac Trail and Martin Parkway are being marketed, along with the DDA parcels. We are talking to users right now.

ITEM 2: 5 & Main Library Parcel Update and Consideration of 10th Amendment to Library Parcel Option Agreement (continued)

Trustee Berkheiser –

He does not know what “national” users mean. When will the tenants names be announced? Randy said tenant names will be announced after financing and deals are in place.

Interim Chairperson Sovel –

National companies, financially, can write a check with no issues.

Trustee Berkheiser –

That’s great, but at this time I think knowing who is going in there is more important than writing a check and no issues.

Interim Chairperson Sovel –

Without announcing the names, he can say it is a higher end market.

James Fielder, Director of Operations at Robert B. Aikens & Associates –

Leases are out for signature but are not signed yet. He can give categories of tenants but not names at this time.

Trustee Weber –

The one on the west is a café. The one on the east is a national coffee chain. There is a spa in one of the locations and a bakery. What is the fifth one?

James Fielder, Director of Operations at Robert B. Aikens & Associates –

There is also a dog groomer and a dry cleaner pick up company.

Trustee Weber –

I voted no at the 9th amendment request because of frustration and felt it was within Aikens control to move along faster at that time; it was well past the COVID pandemic. I was in the meeting with the previous gourmet market owner and he looked us straight in the eye and said this is the deal, I don’t want to lease, I’m planning on buying it, these are the other stores I am going to put in next to me and I have sorted out all the ownership issues within the company - we are moving forward. Now he has gone dark, for whatever reason.

Interim Chairperson Sovel –

He also sold an existing business in order to have money to purchase this one.

Trustee Weber –

Right, there was a high degree of confidence that it was all happening, going from concept to actually working a plan. It is disappointing that he removed himself from the

ITEM 2: 5 & Main Library Parcel Update and Consideration of 10th Amendment to Library Parcel Option Agreement (continued)

table. I think the two high end markets that are now vying for the property will work fine. Personally, I would support this extension but it is my last one. There is no reason this cannot be done in 6 months. From everything that we have been told, it is within Aikens control to make this happen. Trustee Weber feels it is in the best interest of the residents to get the market up and running because there are other dominos that can't fall until this location is settled upon. Specifically, the square footage of it and where it's going to be on that specific pad, etc. I understand that there are other decisions that are contingent upon this.

Trustee Berkheiser –

Does moving to a lease change anything from the purchase?

James Fielder, Director of Operations at Robert B. Aikens & Associates –

Timing to process a lease because being a national company, they have several people (real estate, attorneys) that will be involved in the lease. Other than paperwork, it should move fairly quick because they are strong enough financially to be a good tenant. It is hard to predict if 6 months is enough time to seal the deal, but it should be.

Trustee Weber –

The request is for a 6-month extension. What if we do a 6-month extension and then another 6-month option at the Township Board's discretion.

Township Attorney Hans Rentrop –

It could happen but I don't know why you would want that because they would have to come back to the Township Board requesting it like they are tonight.

Interim Chairperson Sovel –

We can choose whatever time limit we want for the extension. I would rather do a one-year extension so they do not have to come back. We are not in the same place we were 2-3 years ago. Fast forward today, we have the credit union, apartments, shoppettes. There is progress. We need to get this done for the residents. It is not costing the Township anything by extending the Option Agreement to 12 months.

Trustee Long –

Mr. Fielder you said you have been with the company for 50 years so you were involved in the original onset of the purchase. I was not here at that time. Do you know what year Aikens purchased the property? (Mr. Fielder did not know). Clerk Creech said it was the year 2014. In 12 years, there will be 10 amendments, plus the original. Do you know what the purchase price or option price was? (Mr. Fielder did not know).

Randy Thomas, Insite Commercial –

ITEM 2: 5 & Main Library Parcel Update and Consideration of 10th Amendment to Library Parcel Option Agreement (continued)

The original acquisition price was 2.2 million dollars. \$200,000 in extension payments have been made. Those are applicable dollars, not refundable. As a condition, Aikens was responsible for the demolition of the library building.

Trustee Long –

Mr. Fielder, how much money are they offering for this extension. (Mr. Fielder said there is no offer). What do you think the market price of the property is worth today?

Randy Thomas, Insite Commercial –

This is an isolated piece of property. It has value when every single parcel around it is developed in cohesion, so that is when the value is going to come up. That value will go up in Phase II of the development, which the DDA has retained one piece. We are seeing the value go up on the piece that the DDA retained that is fronting Pontiac Trail in a significant way because of the transaction they have done and some of the other ones done out there. It has gone up in value.

Trustee Long -

What is the downside of putting it back on the market?

Randy Thomas, Insite Commercial –

There is momentum that is happening right now. This piece of property will have value in the future and it will sell. Even if Bruce Aikens does not close on the property, it will have value in the future when the property gets developed.

Trustee Long –

A promise was made to the voters of Commerce Township that we were going to repay the DDA debt and that needs to have value added in order to do that. Right now, the Township is still subsidizing the DDA. What I hear from the constituents is they want to see something move in there so the Township does not have to keep subsidizing the DDA and they can finally pay down the debt. He asked James Fielder, Director of Operations at Robert B. Aikens & Associates, if Aikens would be willing to put up additional money for this extension?

James Fielder, Director of Operations at Robert B. Aikens & Associates –

I cannot speak for Bruce Aikens. He is out of town until tomorrow. This is something we are committed to and are in the process of spending thousands of dollars doing site work. We are looking at over 8 million dollars that we are going to spend on building G. We are spending a lot of money.

Treasurer Phillips –

By having Bruce Aikens build on the property to lease it out (using his own pre-approved by the Township standards) is easier and faster than having an outside player

ITEM 2: 5 & Main Library Parcel Update and Consideration of 10th Amendment to Library Parcel Option Agreement (continued)

buy the piece and have to go through the entire planning approval process, and potentially losing continuity with the whole development. The parcel they are speaking of is the gateway to Main Street in 5 & Main and needs to really be something special.

Randy Thomas, Insite Commercial –

That was part of the frustration we all had when we were working on the initial deal. We were working off of our purchase agreement initially with the previous market. Because of nuances there are things the developer is going to want to control. They want to guarantee they will be operating for a period of time. And what if, in the doomsday scenario, they fail. The developer is going to want to get control of the box and want to get control of as much equipment as possible so they can bring another user in so that they don't have those big gaps of empty boxes or whatnot. That puts strain on the buyer to have all those covenants. In the case of local credit, it's just compounding some of the difficulties in getting the financing fast. So, if you take the other approach, now you have national credit. The underwriting is far easier. It's a different story because the developer will only control that box. There will be covenants between the tenant and the owner, but the owner is in much more control because he owns the real estate at that point. On a financing standpoint, it is a lot easier if you're developing and controlling the entire thing versus having a bunch of pieces with one group that owns this chunk and another owns a different chunk and managing all of that. This generally happens in out lots. That is why he is selling the out lots. But on the core portion of the development, where the market would be, it's much more difficult to accomplish and do all those things and separate the boxes out.

James Fielder, Director of Operations at Robert B. Aikens & Associates –

We also have, at this time, the criteria for the development in place, that was approved by the Township that was not in place sooner. If we control that, then the library parcel, then it all falls under one umbrella, so to speak. The development of it is to some great degree already approved. If it sells off to someone else, you start all over with criteria and site plan approval. I don't know, timing wise, if you would be speeding things up by a different approach.

Trustee Long –

Mr. Fielder, regarding your comment about speeding things up, what I am hearing here is the Township Board are the ones helping you speed things up, with nine amendments, plus the original agreement.

MOTION by Sovel, supported by Phillips, to approve the Tenth Amendment to Option Agreement, by The Charter Township of Commerce, and Commerce Downtown II, LLC to expire April 30th 2027.

ITEM 2: 5 & Main Library Parcel Update and Consideration of 10th Amendment to Library Parcel Option Agreement (motion continued)

ROLL CALL VOTE:

AYES: Sovel, Phillips, Creech, Weber
NAYS: Berkheiser, Long
ABSENT: Gray

MOTION CARRIED

ITEM 3: SAD Criteria

Trustee Weber –

Asked for this to be on the agenda to discuss the criteria for SAD's. Specifically, the criteria for which they would approve and then pay for the SAD. The criteria for voting are based upon parcels and the criteria for payment is based upon frontage of the road, at least in this paving example; I do not remember if it was for Mount Royal or Peninsula Park. The discussion, and I think there was some resident discussion in open comments, was that somebody with two small lots gets two votes, where somebody with greater frontage, who is going to wind up paying a significant amount only had one opportunity to vote, but was going to pay a lot more money. I wanted to have the discussion to understand the rationale for having this difference? I can see pros and cons, but shouldn't there be some equity in what you have to pay based upon your ability to vote yes or no?

Interim Chairperson Sovel –

Asked the Township Attorney to explain which ones are by state statute versus which ones are not.

Township Attorney Hans Rentrop –

There are two issues to look at. One is getting the project approved, the other is assessing the project. One occurs at the initial petition intention resolution stage and one occurs at the roll resolution stage. The Township Board can pass an SAD on its own or by petition. If the Township Board passes an SAD on its own, then the residents can challenge it. Depending on the type of residents' challenge, it is by 20% of the frontage or 20% of the land.

Frontage only applies to public and private roads, bike paths, sidewalks, and pathways. Everything else is based on land area. If there is a challenge and they meet that 20% threshold, then you would need to have a petition circulated and if more than 50% of people within the SAD (based on land area or frontage) then it passes. If you have less than 50% then it does not pass. So that petition is whether it's challenged initially or if the Township requests the petition. Once the project is approved, (51%), then the law does not give specifics on how it's supposed to be charged to residents. It simply says that the total amount to be assessed against each parcel of land, which amount shall be the relative portion of the whole sum to be levied against all parcels of land in the

ITEM 3: SAD Criteria (continued)

special assessment district as the benefit to the parcel of land bears to the total benefit to all parcels of land in the special assessment district. The courts have held that it does not have to be in a dollar-for-dollar balance. It just has to be substantial and not unreasonable disproportion. So, bottom line is you do have statute requirements for getting the SAD passed, but there is much more leniency as to how the costs are assigned, as long as there is some proportionality or rationality for it, that is fine. In fact, one case had a sewer SAD, in which case they did it on front footage, which is not a requirement, but the court found that it was a reasonable proportion. So, there is some

freedom in that. I do know that assessing based on frontage can be difficult to do because of measuring areas.

Interim Chairperson Sovel –

I like the fact we have some flexibility. One project I believe we did a good job in using that flexibility was Lower Straits Lake aquatic weed. We broke it down into small, medium, large, from an assessing standpoint.

Township Attorney Hans Rentrop –

As far as approval goes, you're bound by the statute. To approve an SAD to move forward, it has to be by road, bike path or sidewalk (front footage).

Trustee Berkheiser –

If I have a corner lot, I get twice the vote as George does.

Township Attorney Hans Rentrop –

That is correct, if the lot goes down the other side of the road. If it stops at the intersection, then no.

Trustee Weber –

If Bob has a 100' lot and I have a 50' lot, he gets twice the saying in the approval process.

Township Attorney Hans Rentrop –

Commerce Township has always required a petition. That petition was circulated to the property owners and the petition states what the numbers are. What the statute says is that we have to go back and measure the road frontages for each of those bike paths or sidewalks and determined how much it is going to be.

Trustee Weber –

So, we could have 60% of the residents vote yes. But because they all had small lots, they did not meet the threshold of 51% of the road frontage and it would fail.

ITEM 3: SAD Criteria (continued)

Trustee Long –

That is where the creativity of the staff comes in, the way they would draft and draw with Jason's assistance, on how to draw up the SAD for circulation.

Trustee Weber –

My point is that I was always under the impression that when we were counting the votes, when we asked the question how many residents said yes, when we asked what percentage said yes; it was a percentage of parcels. Actually, we're really not getting how many residents said yes. We're getting how many lineal feet said yes.

Trustee Long –

Because that is the way it is assessed.

Township Attorney Hans Rentrop –

There is a caveat. The majority of your SAD's are not roads, pathways, or bypasses. When it comes to roads, you are correct, you are getting a percentage of the lineal footage.

Treasurer Phillips –

The last paving SAD we had, everyone in it was charged the same dollar amount. (Hans said you can do that) I believe that Sherwood Acres and Lake Sherwood Paving, every parcel in both of those were charged the same amount regardless of whether they lived on a corner lot or had 150' of frontage or 80' of frontage.

Trustee Long –

If I may, the Township decided years ago that was a fair way to view that type of use because one house is going to have about the same number of cars and the same amount of use on the street. Just because you have a lot that is 300' compared to someone else with a 50' lot, you're not going to be driving more cars and more automobiles. The Township chose to do that, in fairness, decades ago.

Trustee Berkheiser –

For the most part, you're getting same value.

Trustee Long –

This is one of those things where I don't know if it's still possible for the Board to be interested or if he would even do it, but when these kinds of things came up, Phil Adkison used to come in and hold a joint meeting with all the Board and Commissions to tell us the history and background of how we got to this point. It would be great if he was still able or willing to do that. The Township was willing to pay for that, to have a professional videographer and have that in an archive forever, the background and where these statutes came from. When the SAD came in was so awesome because it gave the residents the ability to, at their expense, without being in a Township wide

ITEM 3: SAD Criteria (continued)

issue, take up issues for improvements. The very first one was a neighborhood for garbage pickup because there used to be 6-8 garbage trucks that went down every street on different days of the week. My dad was supervisor of Commerce Township and when this statute came along, he went to one of the subdivision's association meetings and they ran him out of the meeting. This is the beauty of an SAD; the residents are able to do it rather than in some areas they will issue everyone an assessment on sewer or streets or something that won't get the benefit for 70 years. Commerce has always written the book on being fair on this. It would be very enlightening if Phil would attend one of our joint meetings.

Interim Chairperson Sovel –

George, I think what you're looking for is consistency in a system that is inconsistent.

Trustee Weber –

I am looking for consistency in what we do and maybe a greater understanding. For example, I did not know that when we were asking questions on what was the percentage of people that voted yes on a paving project that we really were not getting parcel percentages but were getting frontage percentage.

Interim Chairperson Sovel –

That is why we try to avoid using the word "vote" because people think in terms of one person's own vote and it doesn't work that way. It doesn't mean that 51% of the residents said yes, it's based on lineal footage area. Rarely is it one vote and assessed equally.

Trustee Weber –

That is the case with water and sewer, correct?

Township Attorney Hans Rentrop –

Water and sewer are based on land area, as per the statute.

Discussion ensued on past SAD's in the Township.

Trustee Weber –

For clarification, when we say 20% land area that is when we are counting the petitions by parcel. (Hans answered yes).

The Township Attorney will provide the Board members with a copy of SAD categories, guidelines, and criteria.

ITEM 4: Pathways Bond and Millage Ballot Language

Township Attorney Hans Rentrop presented the final proposed ballot language for the Pathway Construction Bond and Millage for inclusion on the November 2026 ballot. In addition is documentation provided by Municipal Advisor Andy Campbell, which includes some alternative maximum collection amounts and interest rates. The Board needs to know how much money it wants to have in its coffers because that is what the bond will be for. The millage rate is flexible. It will be adjusted in order to reach the bond payment amount. You cannot exceed the amount of the bond. You can terminate the millage earlier if you pay it off in advance.

Jason Mayer, Giffels Webster –
We have a 20% contingency on the construction estimates.

MOTION by Berkheiser, supported by Weber, to approve the Commerce Township Pathway Bond & Millage for 18.6 million dollars, the first year not to exceed .6 mills.

ROLL CALL VOTE:

AYES: Berkheiser, Weber, Creech, Long, Sovel

NAYS: Phillips

ABSENT: Gray

MOTION CARRIED

ITEM 5: Potential Zoning Ordinance Amendments

Planning Director Dave Campbell spoke of a potential series of Zoning Ordinance amendments to create standards and procedures for modern data centers. A data center is a physical facility that houses information technology (IT) infrastructure for developing, operating, and delivering digital applications and services, that also stores and manages the data associated with those applications and services. The Commerce Township Zoning Ordinance currently does not have standards for the location, design, and/or operation of modern data centers.

In February 2026, the Commerce Township Board adopted a six-month moratorium on the acceptance of any petitions to develop a data center in Commerce Township.

He asked for the Board's input on this subject. He will present this to the Planning Commission for discussion before drafting zoning amendments.

Trustee Berkheiser –

Planning Director Dave Campbell and his staff did a great job on the report. I agree with the idea of small and larger tiers. I think this should be in our light manufacturing and industrial areas. I think the larger tiers should be in an industrial area and the smaller tiers should be in the TLM industry. I do not want to see it abut residential areas unless there is a way to create a buffer. I like the idea of requiring it to be hooked up to city water and the overall usage does not affect residential usage. Is this type of building

ITEM 5: Potential Zoning Ordinance Amendments' (continued)

including in the dark store law that reduces property taxes if the building becomes empty?

Township Attorney Hans Rentrop –

I believe it could be included in the dark store law but it has not been challenged yet. He does not think data centers will be a windfall for taxes.

Jason Mayer, Giffels Webster –

Data centers would contract with Great Lakes Water Authority.

Planning Director Dave Campbell –

One way to look at it is energy usage. Another way to do it is to look at size or maybe a combination of the two. If you are to create tiers, and it sounds like that is something we want to do, then what could define those tiers is energy usage, size, acreage, and other ways.

Interim Chairperson Sovel –

How will you know, in advance, what the energy usage will be? I'm not comfortable with energy usage being a criterion.

Planning Director Dave Campbell –

We would default to the size (sq ft) of the facility. A site plan would be submitted.

Trustee Weber –

Interesting note on the State Tax Abatement. In order to qualify they have to achieve 90% of their power consumption from renewable energy sources within 6 years or they will not qualify.

Interim Chairperson Sovel –

His request is that once Planning Director Dave Campbell defines what the criteria are, he would like each Board member to have a map of where these data centers could qualify in the Township.

Trustee Weber –

It's important to identify what the threshold is for kilowatt usage that moves you from a small to a large data center. The report submitted by Planning Director Dave Campbell is well-written. I think tiering is the way to go. I had considered tiering based on kilowatt size as something that maybe would be limited to the industrial zoning only, and something less than whatever that criteria is determined to be would be acceptable in TLM and others, primarily because they are already there. The water and the cooling are a concern. If it is a closed system, I think it is a lot easier, even if they are on a city water system. One of the webinars I attended talked about the byproduct including a very high concentrate of nitrates, and the local wastewater treatment plant was not able

ITEM 5: Potential Zoning Ordinance Amendments (continued)

to filter all of those nitrates out. I think we need to understand more about that if we're saying you cannot use well water and it has to be city water, then we need to understand its byproduct. If it is for anything above a certain Kw size, it has to be a closed system. If they are going to use antifreeze or freon or something like that, then they have to spend more on energy because it costs a lot more to run an a/c system rather than just a water-cooled system. We also need to be cognizant of the noise level; example would be the constant hum coming from an a/c system.

Trustee Long –

Freon is becoming a thing of the past in refrigeration. If these generate the amount of heat that the reputation dictates, if you're not going to allow a well, then it's unlikely you're going to get any proposed. The high cost of water in Commerce versus somewhere else where land is cheaper and it doesn't have the water restriction, it's pretty unlikely you're going to shepherd them away.

Planning Director Dave Campbell –

Hans, do you know of any legal challenges to say you must connect to municipal water?

Township Attorney Hans Rentrop –

I would not anticipate any as long as it's reasonable.

Trustee Weber –

We are giving them options; you can use city water or have a closed system.

Trustee Long –

This will go to the Planning Commission on Monday.

Interim Chairperson Sovel –

If the Planning Commission goes in a different direction than what was discussed tonight, we should set a joint meeting with the Planning Commission.

We will create a new definition of modern data centers distinct from data processing centers.

ITEM 6: Other Matters

Trustee Berkheiser –

- Parks and Recreation Committee update:
 - The camera bids came in at \$20,000 higher than budgeted. You will see a budget amendment soon.
 - Bids will go out for brush clearing at Dodge Park.
 - People are taking their golf equipment to the soccer fields and are destroying the fields creating holes in the ground by hitting golf balls at the field. We will forward pictures of the license plate to our Township Attorney

ITEM 6: Other Matters (Trustee Berkheiser continued)

so he can work with Emily England on someone violating our ordinance that states you cannot destroy Township property.

Trustee Long-

- Treasurer Phillips is planning on retiring soon, should we begin the process to interview for her position? Treasurer Phillips said this will be on the agenda for the May Township Board of Trustees meeting.

Adjournment

MOTION by Sovel, supported by Berkheiser, to adjourn the meeting at 8:51 p.m.

MOTION CARRIED UNANIMOUSLY



Melissa Creech, Clerk
Charter Township of Commerce