

FINAL
CHARTER TOWNSHIP OF COMMERCE
REGULAR BOARD OF TRUSTEES MEETING
September 13, 2016
2009 Township Drive
Commerce Township, Michigan 48390

CALL TO ORDER: Thomas K. Zoner, 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: Thomas K. Zoner, Supervisor
Melissa Creech, Clerk
Molly Phillips, Treasurer
Robert Berkheiser, Trustee
John Hindo, Trustee
Robert Long, Trustee
Rick Sovel, Trustee

Also Present: Phillip Adkison, Township Attorney
Jason Mayer, Giffels Webster Engineers
Hans Rentrop, Township Attorney

Students from Lakeland High School were in attendance.

APPROVAL OF MINUTES

MOTION by Sovel, supported by Hindo, to approve the August 9, 2016 Regular Township Board of Trustees Meeting minutes and the August 30, 2016 Special Township Board Meeting minutes, as submitted.

MOTION CARRIED UNANIMOUSLY

PRESENTATIONS:

A. MERS Retiree Health Trust

Tara Tyler, Representative MERS presented information on the Retiree Health Benefits program they operate.

Phillips, Treasurer stated there were audit reporting discrepancies for our Retiree Health Benefits, due in part to us referring to it as a "trust" but not actually having a "trust" in place. The benefit reserves we had set aside could be at risk in a lawsuit against the Township, or re-purposed by a future board. We decided at the June 14 meeting that

PRESENTATIONS (continued)

the intent was to have the funds safeguarded, and establish a trust with a third party administrator.

B. DDA Overview with Randy Thomas

Mark Stacey, President DDA and Randall Thomas, President/CEO Insite Commercial gave a brief overview of the recent activity on the Commerce Downtown Development project with current deals in due diligence, and proposals for deals that have not yet been signed.

PETITIONS:

None

ITEM 1:9-13 APPROVAL OF AGENDA

MOTION by Phillips, supported by Hindo, to approve the September 13, 2016 agenda with the addition of B. MERS under Item 11:9-13 Old Business.

MOTION CARRIED UNANIMOUSLY

ITEM 2:9-13 PUBLIC COMMENTS

Regina Roth 4080 Lake Pointe asked if any gas stations will be constructed in the DDA area. Supervisor Zoner answered there were no plans for gas stations in the DDA area.

John Randle Sr., resident of Farmington Hills, Michigan introduced himself and advised the Board and public that he will be running for Oakland Community College – Board of Trustees at the November 8, 2016 General Election.

ITEM 3:9-13 PUBLIC HEARINGS

A. Establishment Resolution of Old Sherwood Road Paving Control SAD

Hans Rentrop, Township Attorney recommends the Board take no action because bids have not gone out for the paving project.

Supervisor Zoner opened the Public Hearing.
No one present had any questions or comments.
Supervisor Zoner closed the Public Hearing.

No action taken

ITEM 4:9-13 BOARD APPOINTMENTS

None

ITEM 5:9-13 CONTRACT AWARDS AND AGREEMENTS

None

ITEM 6:9-13 INTRODUCTIONS

None

ITEM 7:9-13 ADOPTIONS

None

ITEM 8:9-13 SITE CONDOMINIUMS AND PLATS

None

ITEM 9:9-13 CONSENT AGENDA

- A. Banner Permit – St. Patrick’s Parish
- B. Banner Permit – Fire Department Open House

MOTION by Sovel, supported by Berkheiser, to approve the Consent Agenda.

ROLL CALL VOTE:

AYES: Sovel, Berkheiser, Creech, Phillips, Hindo, Long, Zoner

NAYS:

MOTION CARRIED UNANIMOUSLY

ITEM 10:9-13 PURCHASES

None

ITEM 11:9-13 OLD BUSINESS

A. Maintenance Director Job Description

No action taken. Salary information will be provided to the Board.

B. MERS

Phillips, Treasurer recommends the Township go with the MERS system.

MOTION by Berkheiser, supported by Creech, to enter the MERS system and join their trust for the administration of the Township’s Retiree Health Benefits. Additionally, the Township funds the Trust account to \$300,000 and makes the budgeted contribution for the year of \$75,000.

Discussion: who will oversee the MERS system and should the amount funded be changed to include the 2016 year?

ITEM 11:9-13 OLD BUSINESS (MERS Motion continued)

MOTION by Berkhesier, supported by Creech, to amend the Motion to fund the Trust Account to \$325,000 (2016 year included) with continuing contributions starting for the year 2017.

ROLL CALL VOTE:

AYES: Berkheiser, Creech, Phillips, Hindo, Long, Zoner

NAYS: Sovel

MOTION CARRIED

MOTION by Berkheiser, supported by Phillips to approve the MERS Retiree Healthcare Funding Resolution contingent upon Township Attorney's approval.

MOTION CARRIED UNANIMOUSLY

ITEM 12:9-13 NEW BUSINESS

A. Property Transfer Penalty Waiver – McGill

Jerome McGill was present.

Treasurer Phillips received a request from Jerome McGill to waive the property transfer penalty of \$1,000 charged on his summer tax bill. He was charged the penalty for failure to file a PTA for the transfer between the bank and himself, which could have been seen to be the responsibility of the bank. He did file the one from himself to the LLC timely.

MOTION by Phillips, supported by Zoner, to waive the property transfer penalty charge of \$1,000 for parcel ID EW-17-23-352-011, 2375 S. Commerce Road.

ROLL CALL VOTE:

AYES: Phillips, Zoner, Creech Berkheiser, Sovel

NAYS: Hindo, Long

MOTION CARRIED

Hindo excused himself from the meeting at approximately 8:20 p.m.

B. MDOT Pedestrian Bridge Construction Consideration

Supervisor Zoner gave an update on the project and advised the Board that an architect needs to be chosen for the design of the bridge.

Sovel stated the Township Board should agree on a budget amount before choosing an architect.

Long asked members of the Bridge Committee what the qualifications are of the three architects the Township has to choose from and what their impression was on each architect.

ITEM 12:9-13 NEW BUSINESS (MDOT Pedestrian Bridge continued)

MOTION by Phillips, supported by Creech, to set the budget at \$500,000 for the design of the MDOT Pedestrian Bridge. Funds to come from the General Fund Balance.

MOTION CARRIED UNANIMOUSLY

Phillip Adkison, Township Attorney was impressed with architects #2 and #3. He believes they would be more hands on in their relationship with MDOT.

MOTION by Sovel, supported by Zoner, to contract with Touchstone Architecture for architectural services for the design of the MDOT Pedestrian Bridge contingent on acceptance by MDOT without additional costs incurred. If the contingency is not met, then the Township chooses to contract with Prein and Newhof.

MOTION CARRIED UNANIMOUSLY

MOTION by Sovel, supported by Phillips, to direct the Township Attorney to prepare a contract to forward to MDOT for architectural design of the pedestrian bridge and authorize the Township Supervisor's signature.

MOTION CARRIED UNANIMOUSLY

The Bridge Committee shall consist of David Campbell, Mark Stacey, Bob Berkheiser, Rob Long, Tom Zoner, Larry Haber, Emily England and an alternate for Tom Zoner will be Rick Sovel.

C. DDA Budget

Mark Stacey, President DDA presented the DDA budget to the Township Board.

MOTION by Sovel, supported by Berkheiser, to approve the DDA Budget for 2017 as proposed.

MOTION CARRIED UNANIMOUSLY

D. Intention Resolution for Chickory Lane Maintenance SAD

Hans Rentrop, Township Attorney said 65.58% of homeowners signed the petition.

MOTION by Sovel, supported by Berkheiser, to approve the Intention 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 Chickory Lane Maintenance Special Assessment District.

MOTION CARRIED UNANIMOUSLY

MOTION by Berkheiser, supported by Sovel, to contribute 35% towards the cost of Chickory Lane road maintenance.

MOTION CARRIED UNANIMOUSLY

E. MDOT Resolution for Trailway

Phillip Adkison, Township Attorney said the trailway is considered a park by MDOT.

ITEM 12:9-13 NEW BUSINESS (MDOT Trailway continued)

MOTION by Berkheiser, supported by Creech, to approve the Resolution of the Township Board of the Charter Township of Commerce in support of use of public park land for M-5 pedestrian bridge and approaches.

MOTION CARRIED UNANIMOUSLY

F. Hickory Glen Park Improvements – Lakes Athletics

Emily England advised the Board of the Parks and Recreation Committee's recommendation for improvements to Hickory Glen Park.

MOTION by Berkheiser, supported by Long, to approve the Lakes Athletics park improvement plans at Hickory Glen Park for removal of brush and shrubbery to open up the park and improve vision and traffic flow and the installation of batting cages at Hickory Glen Park by Lakes Athletics between fields 2 and 3.

MOTION CARRIED UNANIMOUSLY

G. Township Budget

No action taken.

The Bridge Committee will consist of David Campbell, Mark Stacey, Rick Sovel, Rob Long, and Tom Zoner.

ITEM 13:9-13 ORDERS AND ADD-ONS

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

MOTION CARRIED UNANIMOUSLY

ITEM 14:9-13 OTHER MATTERS

Phillips, Treasurer – There are Series 2010A Capital Improvement Bonds (sewer construction) that are currently outstanding. There is an opportunity to refund these bonds with a new issue that will not go out any farther for debt service, will save the Township approximately \$1.7 million in interest and principal. The Board requested that Tom Traciak (from Umbaugh) and Mike Gormely (from HSE) attend the October Board meeting to discuss their calculations and recommendations.

Berkheiser – Review of the audit summary by Layton & Richardson, PC and the response by Treasurer Phillips should be accepted into the minutes.

MOTION by Berkheiser, supported by Sovel, to accept Layton & Richardson, PC audit summary and Treasurer Molly Phillips recommendation.

MOTION CARRIED UNANIMOUSLY

ITEM 14:9-13 OTHER MATTERS continued

Berkheiser – would like resort liquor permits be placed on the work meeting agenda set for October 25, 2016.

Sovel – Asked Chief Schornack what the agility testing was for on his monthly report. Chief Schornack said there were two new applicants who were put through an agility test. There were 3 on call firefighters who left the department.

Creech – Taste of the Lakes will be held on Tuesday, September 20, 2016.

ITEM 15:9-13 CLOSED SESSION

A. Discuss Pending Litigation

MOTION by Zoner, supported by Phillips, to enter in Executive Session for the purpose of discussing Pending Litigation.

ROLL CALL VOTE:

AYES: Zoner, Phillips, Berkheiser, Long, Sovel, Creech

NAYS:

ABSENT: Hindo

MOTION CARRIED UNANIMOUSLY

Entered into Closed Session at 9:57 p.m.
Returned from Closed Session at 10:21 p.m.

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

MOTION CARRIED UNANIMOUSLY

MOTION by Phillips, supported by Berkheiser, to direct the Township Attorney to proceed as discussed in Closed Session.

MOTION CARRIED UNANIMOUSLY

ITEM 16:9-13 ADJOURNMENT

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

MOTION by Phillips, supported by Creech, to adjourn the meeting at 10:23 p.m.

MOTION CARRIED UNANIMOUSLY



Melissa Creech, Clerk
Charter Township of Commerce

**RESOLUTION OF THE TOWNSHIP BOARD
OF THE CHARTER TOWNSHIP OF COMMERCE**

At a regular meeting of the Township Board of the Charter Township of Commerce, County of Oakland, Michigan, held on the 13th day of September, 2016, in the Township Hall at 7:00 p.m.

PRESENT: Thomas Zoner, Molly Phillips, Melissa Creech, Robert Long, Rick Sovel, Robert Berkheiser

ABSENT: John Hindo

The following preamble and resolution were offered by Molly Phillips and supported by Thomas Zoner.

WHEREAS, Jerome McGill requested the Charter Township of Commerce waive a \$1,000 penalty for failure to file a property transfer affidavit for certain property identified as Parcel No. 17-23-352-011 for a transfer that occurred on June 24, 2015, and;

WHEREAS, the Township Board has been informed of the circumstances surrounding the transfer for which the property transfer affidavit was not filed.

NOW, THEREFORE, BE IT RESOLVED THAT:

The \$1,000 penalty for failure to file a property transfer affidavit is waived.

AYES: Thomas Zoner, Molly Phillips, Melissa Creech, Robert Long


NAYS: Rick Sovel, Robert Berkheiser

ABSENT: John Hindo

RESOLUTION DECLARED ADOPTED.

STATE OF MICHIGAN)
)ss.
COUNTY OF OAKLAND)

I, the undersigned duly qualified Township Clerk of the Charter Township of Commerce, Oakland County, Michigan, do hereby certify the foregoing is a true and complete copy of the proceedings taken by the Township Board of the Charter Township of Commerce at a meeting held on the 13th day of September, 2016.


MELISSA CREECH, Clerk
Charter Township of Commerce
Dated: September 21, 2016

**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**

CHICKORY LANE MAINTENANCE SPECIAL ASSESSMENT DISTRICT

At the regular meeting of the Township Board of the Charter Township of Commerce, County of Oakland, Michigan, held on the 13th day of September, 2016 in the Township Hall at 7:00 p.m.

PRESENT: Thomas Zoner, Molly Phillips, Melissa Creech, Robert Long, Rick Sovel, Robert Berkheiser

ABSENT: John Hindo

The following preamble and resolution were offered by Rick Sovel and supported by Robert Berkheiser.

WHEREAS, the Charter Township of Commerce, Oakland County, Michigan, has received a petition requesting the establishment of a special assessment district to finance the payment of expenses, fees and charges related to application of dust control measures, grading, and snow removal services for Chickory Lane, and;

WHEREAS, the Charter Township of Commerce has caused to be prepared plans showing the improvement, the location thereof and an estimate of the cost thereof, and;

WHEREAS, the Charter Township of Commerce is in receipt of such plans and estimates of costs, the same having been filed with the Township Clerk, and;

WHEREAS, the costs associated with this Special Assessment District are of such a nature that periodic redeterminations of the costs will be made from time to time without further notice to the record owners or parties with an interest in property located within this Special Assessment District.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. In accordance with Public Act 188 of 1954, as amended, the Township Board of the Charter Township of Commerce, Oakland County, Michigan, hereby tentatively declares its intention to finance the payment of expenses, fees and charges related to application of dust control measures, grading, and snow removal services for that portion of the Township described in attached Exhibit A. The Township Board tentatively designates the Special Assessment District against which the cost of the improvement is to be assessed as being

that portion of the Charter Township of Commerce described in "Exhibit A" attached hereto and made a part hereof.

2. The Township Board of the Charter Township of Commerce, Oakland County, Michigan, will meet on the 11th day of October, 2016, at 7:00 p.m. in the Township Hall, located at 2009 Township Drive, Commerce Township, Michigan, 48390, to receive public comments regarding the project, the petitions filed, and the creation of a Special Assessment District to pay costs associated with this improvement project.
3. The Township Board of the Charter Township of Commerce tentatively designates this proposed Special Assessment District as: Chickory Lane Maintenance Special Assessment District.
4. In order to appeal the amount of any special assessment, affected owners or parties with an interest must protest the proposed assessment. This may be done by appearing in person at the hearing, having an agent appear at the hearing on behalf of an owner or party in interest or by filing a protest by the hearing date, by letter addressed to the Township Clerk at 2009 Township Drive, Commerce Township, Michigan, 48390. An owner or party having an interest in the real property affected by the special assessment may file a written appeal of the special assessment with the Michigan Tax Tribunal within 30 days after the confirmation of the special assessment roll if that special assessment is protested at the hearing held for the purpose of confirming the special assessment roll.

AYES: Thomas Zoner, Molly Phillips, Melissa Creech, Robert Long, Rick Sovel, Robert Berkheiser

NAYS: None


ABSENT: John Hindo

RESOLUTION DECLARED ADOPTED.

Intention Resolution
Chickory Lane Maintenance SAD
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STATE OF MICHIGAN)
)ss.
COUNTY OF OAKLAND)

I, the undersigned duly qualified Township Clerk of the Charter Township of Commerce, Oakland County, Michigan, do hereby certify the foregoing is a true and complete copy of the proceedings taken by the Township Board of the Charter Township of Commerce at a meeting held on the 13th day of September, 2016.



MELISSA CREECH, Clerk
Charter Township of Commerce

Dated: September 15, 2016

EXHIBIT A

Parcel Nos.

17-19-100-016
17-19-100-038
17-19-100-053

17-19-100-054
17-19-100-055
17-19-100-067

17-19-100-068
17-19-100-069
17-19-100-070

17-19-100-071

The following map depicts the boundary of the Special Assessment District:



**RESOLUTION OF THE TOWNSHIP BOARD
OF THE CHARTER TOWNSHIP OF COMMERCE
APPROVING CONSENT AGENDA**

At the regular Meeting of the Township Board of the Charter Township of Commerce, County of Oakland, Michigan, held on the 13th day of September, 2016, in the Township Hall at 7:00p.m.

PRESENT: Tom Zoner, Melissa Creech, Molly Phillips, Bob Berkheiser, John Hindo, Robert Long, Rick Sovel

ABSENT: None

The following resolution approving the Consent Agenda of September 13, 2016, Board of Trustees Meeting of the Charter Township of Commerce was offered by Sovel and supported by Berkheiser.

NOW, THEREFORE, BE IT RESOLVED THAT THE TOWNSHIP BOARD OF THE CHARTER TOWNSHIP OF COMMERCE:

- A. Banner Permit – St. Patrick’s Parish
- B. Banner Permit – Fire Department Open House

AYES: Sovel, Berkheiser, Creech, Phillips, Hindo, Long, Zoner

NAYS: None

ABSENT: None

**RESOLUTION DECLARED
ADOPTED STATE OF MICHIGAN**

)
)s.
COUNTY OF OAKLAND)

I, the undersigned duly qualified Township Clerk of the Charter Township of Commerce, Oakland County, Michigan, do hereby certify the foregoing is a true and complete copy of the proceedings taken by the Township Board of the Charter Township of Commerce at a Meeting held on the 13th day of September, 2016.



**Melissa Creech, CMMC
Clerk, Charter Township of Commerce**

Dated: 9-13-2016

**RESOLUTION OF THE TOWNSHIP BOARD
OF THE CHARTER TOWNSHIP OF COMMERCE
IN SUPPORT OF USE OF PUBLIC PARK LAND FOR
M-5 PEDESTRIAN BRIDGE AND APPROACHES**

At the regular meeting of the Township Board of the Charter Township of Commerce, County of Oakland, Michigan, held on the 13th day of September 2016, in the Township Hall at 7:00 p.m.

PRESENT: Thomas Zoner, Molly Phillips, Melissa Creech, Robert Long, Rick Sovel, Robert Berkheiser

ABSENT: John Hindo,

The following preamble and resolution were offered by Berkheiser and supported by Creech.

WHEREAS, the Charter Township of Commerce (Township) is a member of the Commerce, Walled Lake, and Wixom Trailway Management Council (Trailway Council) formed pursuant to authority of Public Act 451 of Michigan Public Acts of 1994, as amended, to acquire, improve, maintain, and manage an abandoned railroad right of way located in the Cities of Walled Lake and Wixom and the Charter Township of Commerce, as a public multi-use pathway to be known as the Michigan Air Line Trail, and

WHEREAS, the Trailway Council has entered into an agreement to purchase the right of way of the Michigan Airline Railway, and has applied for grants from the Michigan Department of Transportation (MDOT) and Michigan Department of Natural Resources (MDNR) to fund the purchase, and

WHEREAS, at the request of the Trailway Council and its constituent communities, MDOT has committed to construct a pedestrian bridge over State Highway M-5 to permit trailway users to safely cross its 6 traveled lanes of traffic, and

WHEREAS, construction of the pedestrian bridge will require bridge approaches, ramps, and other improvements to be constructed in the multi-use pathway property owing to inadequate space for these improvements in the M-5 highway right of way, and

WHEREAS, the Township has concluded that there is no feasible and prudent alternative that will permit the bridge to be constructed for necessary and safe crossing of the M-5 highway without utilizing the proposed pathway property for approaches, ramps, and other necessary improvements, and

WHEREAS, the Township has determined that the use of the pathway for permanent placement of bridge ramps, approaches, embankments, or other improvements necessary to construct a pedestrian bridge over highway M-5 and any related temporary construction activities is both necessary and appropriate and promote the use of the pathway for its intended purpose and will not adversely affect the activities, features, and attributes of the pathway, but rather, will enhance same, and

NOW, THEREFORE, BE IT RESOLVED THAT: the Charter Township of Commerce hereby supports MDOT's construction of a pedestrian bridge over State Highway M-5 in alignment with the proposed Michigan Air Line Trail and commits to cooperating with the Trailway Council and MDOT in the grant of all easements, licenses, or other approvals and consents necessary to use the proposed Trailway property in the vicinity of the proposed pedestrian bridge for the purpose of constructing bridge ramps, approaches, embankments, or other bridge related improvements for the proposed pedestrian bridge.

AYES : Thomas Zoner, Molly Phillips, Melissa Creech, Robert Long, Rick Sovel, Robert Berkheiser


NAYS: None

ABSENT: John Hindo

RESOLUTION DECLARED ADOPTED.

STATE OF MICHIGAN)
)ss.
COUNTY OF OAKLAND)

I, the undersigned duly qualified Township Clerk of the Charter Township of Commerce, Oakland County, Michigan, do hereby certify the foregoing is a true and complete copy of the proceedings taken by the Township Board of the Charter Township of Commerce at a meeting held on the 13th day of September 2016.


MELISSA CREECH, Clerk
Charter Township of Commerce

Dated: 9-15-2016