

**CHARTER TOWNSHIP OF COMMERCE
DOWNTOWN DEVELOPMENT AUTHORITY**

**Tuesday, April 19, 2016
Commerce Township Hall
2009 Township Drive
Commerce Township, MI 48390
12:00 p.m.**

CALL TO ORDER:

The Meeting was called to order by Chairperson Gotts at 12:00 p.m.

Downtown Development Authority:

Present: Mark Stacey, DDA Director
James Gotts, Chairperson
Dan Lublin, Vice Chairperson
Debbie Watson, Interim DDA Secretary
Tom Zoner, Township Supervisor
Susan Spelker, Member
Tim Hoy, Member
Brian Winkler, Member
Jose Mirkin, Member
David Smith, Member
Susan Averbuch, Member

Also Present: Thomas Rauch, DDA Attorney
Matt Schwanitz, Giffels-Webster Engineer
Randy Thomas, Insite Commercial
Nate Ray, Insite Commercial
Dave Campbell, Township Planner
Melissa Creech, Township Clerk

Item 1: Approval of Minutes

MOTION by Lublin, seconded by Mirkin, to approve the Regular Meeting Minutes of March 15, 2016 as presented. **MOTION CARRIED UNANIMOUSLY**

MOTION by Lublin, seconded by Mirkin, to approve the Special Joint Meeting Minutes of March 22, 2016 as presented.

MOTION CARRIED UNANIMOUSLY

Item 2: Public Comments

Susan Averbuch thanked Brian Winkler, Jason Mayer and Jay James for attending the Adopt-a-Road this past Saturday on Martin Parkway. The cleanup took place from the roundabout to Richardson Road and 60 bags of trash were removed. Chairperson Gotts thanked Susan for coordinating the efforts and Director Stacey added that the road looks stunning.

Item 3: Director's Report

Director Stacey discussed the following with the Board Members:

- **Updates on developers and activity along Martin Parkway:**
 - Pulte closed on the Merrill Park property as expected last month. They are onsite doing tree clearing and mass grading, and they're working on the rest of their permits.
 - Granger is onsite with heavy equipment and have all their permits.
 - We have not seen anything yet for Shapiro, but there is the potential for his development to change speed and possibly upgrade the proposal.
 - Bruce Aikens' project will be covered under the Insite report.

- Wyncliff is projected to be finished at the end of this year.

Susan Averbuch inquired about the Wyncliff pathway connection. Matt Schwantz explained the location of connection, at the bullnose in the pavement in the back corner of the path that parallels the wetland.

- **Bond Refunding**
 - This continues through the process.
 - We project closing on the refunding next week.
 - Those funds are then set aside to refund the old bonds in approximately 18 months.
 - Included in the packet are the financial projections for the savings. The numbers came in better than expected; savings were higher as costs were lower. The original projections were approximately \$2 million for the DDA, and \$3 million for the Township, but it came in at about \$2.5 for the DDA and \$4.5 million for the Township, for a total savings of approximately \$7 million.
- **MTT Judgments** - None for this period
- **HOA Items**
 - Public areas look a little rough; however, we still had snow on the ground just a couple weeks ago.
 - They will be cleaning it up and making it look wonderful.
 - Some of the springtime work has already begun.
 - It should all look better by our next meeting, although this will be a rough year with all of the construction going on and trees being removed, but this is part of the progress.
 - **Landscaping - United Lawnscape, Jim Parkinson**
 - We have a signed contract with United.
 - They have performed the fertilizing service.
 - Lawn cutting will begin either this week or next.
 - Mulch is scheduled for the first week of May, weather permitting.
 - **Irrigation - Michigan Automatic Sprinkler, Mike Rennie**
 - We have irrigation coming out on April 20th to get the system back up and running.
 - We renewed the contracted as directed by the Board last month.
 - **Lighting - CJs Lighting, Chris Niestroy, Shaw Electric, Keith Greene**
 - We are getting ready to place the order with CJ's to replace the light poles.
 - This will get the lighting system up and running so it can be handed over to the association.

Discussion continued between David Smith and Director Stacey regarding the HOA, the irrigation system which is already part of the HOA, and the lighting system which will soon be included in the association, along with the respective percentages for developers and the DDA. Director Stacey elaborated on the necessary lighting system repairs, the insurance funds to replace the light poles and the schedule for installing the new poles in appropriate weather. Brian Winkler inquired about the Grissim Metz Andriese design standards and whether their efforts are complete, or if it's still in process. Director Stacey explained that the design standards are still in process with GMA. The DDA has worked with HP, Jim Galbraith and Bruce Aikens, and will work with Pulte on Merrill Park in the future, in accordance with the previous agreements with HP. The project was somewhat preliminary and the timeline has now been set

to work with the developers as they move forward. There are agreements with the developers and the design concept will be utilized. Discussion continued regarding funding per developer for the design project. Director Stacey concluded that this will work out to about \$500,000 worth of general common area landscape improvements, but the timeline is pushed out accordingly with construction. GMA is 99% finished as far as the design work and they continue to consult with the DDA and developers on design issues.

David Smith suggested doing away with pine trees. He would prefer to see landscaping include deciduous vegetation, oaks, maples and colorful trees. Director Stacey agreed and added that the proposals have incorporated different types of trees. He also stated that the transplanted trees are not doing well, despite arborists coming out on a regular basis, specialized feeding, watering and staking to provide the highest probability of life. They're not thriving, but this will be an HOA issue.

Item 4: Attorney's Report

DDA Attorney, Thomas Rauch, stated that a lot of time was spent on successfully closing Merrill Park with Pulte, along with the assignment from HP which was recorded last month. As everyone has noticed, Pulte's construction is underway.

Granger, having commenced construction, is utilizing an old path across the Aiken parcel, from the Library north toward the Granger site. Director Stacey had indicated that this is a better access point, rather than directly off Martin Parkway, to haul construction vehicles. A preliminary form of license was drafted which will allow for Granger to continue to use this pathway, from the end of Library Drive, north to the Granger property. Attorney Rauch recommended that the Board entertain a motion to approve a form of license that is acceptable to the DDA Director in its substance, and to the DDA Attorney as to form, and allow signature by the DDA Director upon completion of the license agreement.

MOTION by Smith, supported by Spelker, to approve a temporary license agreement with Granger for access across the Aikens property, for the term of their construction and to cease upon completion of their construction of the first phase or December 31, 2016, unless extended by the DDA, as this is an excellent way to promote safety and prevent blocking traffic along Martin Parkway. The license agreement will be acceptable to the DDA Director in substance, acceptable to the DDA Attorney as to form, and it will be signed by the DDA Director upon completion.

Discussion -

Lublin inquired about bonding to guarantee that any damage to the property will be covered. Rauch explained that the document will require the user, Granger, to indemnify both the DDA and the Township, and it's subject to Aikens due diligence. The purchase agreement with Aikens indicates that no parties have any rights of possessions and this will grant a temporary right of possession. Randy Thomas and Bruce Aikens have discussed restoration and this will be incorporated, along with the sunset clause with regard to the date when Granger anticipates they will no longer need access, which is suggested as December 31, 2016, and this does not impact Aikens ability to construct.

Stacey added that the initial response to Granger was that they had to use their property; however, upon review, it was a lot safer than having construction traffic enter and exit off Martin Parkway, so this made sense. He also clarified for Lublin that this is only a dirt path, it's not even a road.

MOTION CARRIED UNANIMOUSLY

Attorney Rauch continued his review, discussing an amendment to the Aikens agreement. This provides a series of deadlines at 12, 18, 24 and 36 months from the date of the agreement. The first amendment to the Aikens agreement was to defer title and survey comments until they became appropriate when Aikens prepared the site plan for the first phase which is June 2, 2016. This date was purposely created because it is after the annual ICSC event in Las Vegas, at which time Bruce Aikens will have had further interaction with tenants and users of the property. The agreement provides that if the developer wants to defer everything that's due on the 18-month

due date to the 24-month, all he has to do is make an additional deposit of \$150,000 within 10 days of June 2nd. If he does so, then the extension is automatic, and then an additional \$50,000 of the deposit becomes nonrefundable, although it is credited to go on the purchase price. Discussion continued regarding an email that Randy Thomas had received today from Bruce Aikens regarding the amendment. Because Director Stacey and Attorney Rauch had not had time to review the new communication yet, it would be further discussed at next month's meeting.

David Smith stated that he would like to see a stipulation included in future purchase agreements to state that any expenses incurred due to a transfer of sale would be the responsibility of the purchaser and not the DDA. Attorney Rauch explained that the DDA can attempt to negotiate anything, and constraints can be put into place; however, it needs to be commercially reasonable or it won't work.

Jose Mirkin stated that he shared David's concerns and he initiated discussions regarding legal fees for Williams, Williams, Rattner & Plunkett. Director Stacey and Attorney Rauch explained that the invoice was for services provided by Attorney Kim Shierk. She specializes in condominium law and she is consulted on HOA matters. She was mentored by Bill Myers, a highly regarded, prominent condominium attorney who is now retired. Kim's fees are very reasonable and often Attorney Rauch calls her with questions and he doesn't even see a bill for the consultation. She is very responsive and helpful.

Dan Lublin inquired about voting rights for each of the developments on the HOA Board, and responsibilities for maintenance. Attorney Rauch stated that each unit is entitled to a seat on the condo association board and each board member has an equal vote. He clarified that although the voting power is based upon acreage, each director is entitled to one vote on board matters. Discussions continued regarding public county roads versus private roads, common area maintenance, landscaping and lighting. Attorney Rauch explained that the individual assessment per development is billed accordingly for their portion of the budget, pro-rata with each unit's acreage. He added that there are all kinds of remedies in place to ensure that the common areas will be maintained. The Township is the governing municipality and they have the ability to correct any defects, then charge the responsible party accordingly.

Jose Mirkin inquired about the Kemp Klein invoice and initiated discussion on legal fees. Attorney Rauch discussed the primary expense on last month's invoice which was \$16,500 for the sale of Merrill Park, including the Pulte acquisition of the rights to acquire the property from HP. Director Stacey stated that legal fees were certainly factored into the budget for the sale of Merrill Park, and his hours as Director were extensive also in relation to the closing. He explained that in every meeting, Pulte and HP were present with their lawyers, and therefore, legal counsel was necessary for the DDA.

David Smith felt the acquisition was what created the hours spent and he reiterated that this subsidization of sale should be prevented going forward. Director Stacey added that whenever there is a flip of the property, there should be some type of profit sharing agreement negotiated. Jose Mirkin did not want to see things go over budget and then Director Stacey would have to return to the Township Board to request additional funding at the end of the year. Director Stacey discussed the legal fees budget of \$150,000 on the revenue and expenditure report in the packet. He added that, if necessary, he would rather go back to the Township to ask for more in order to sell the property because the DDA and Township won't be making any money on raw dirt. Discussions continued regarding planning and meetings already taking place to prepare for Aikens closing, along with issues that will need to be addressed with Walmart.

Item 5: Engineer's Report

Matt Schwanitz, Giffels Webster, reported that they have been answering information requests for transactions and providing history when needed. There has been no hard design work, surveying or land division lately.

Jose Mirkin stated that he would like to congratulate Loren Crandall on the sewer history. Matt replied that he will pass the comment along.

Item 6: Planner's Report

Dave Campbell discussed the following with the Board members:

- The Aldi project on the southwest corner of Haggerty and Walnut Lake Roads is working on construction approval. Their request for a wall sign exception from the Zoning Board of Appeals was denied so they will creatively redo their sign package.
- The old Motor City Steel building is being reoccupied and cleaned up. This is a Special Land Use for a granite countertop business that will go before the Planning Commission.

Chairperson Gotts and Dave Campbell discussed the overall scheme of planning and development along Martin Parkway, including Granger, Pulte and Aikens.

Dan Lublin inquired about possible reuse of the former Masonic Temple on Broadway. Dave Campbell stated that there was potential for a rehab facility there, however the group had withdrawn their proposal.

Item 7: Committee Reports

- A. Finance Committee – Director Stacey reiterated the bond refunding which would be finalized next week.

- B. Public Relations Committee - Jose Mirkin gave a review of the report included in the packet. He discussed the following with the Board:
 - i. The 4th Annual Walled Lake School District K12 Art Exhibit will be May 23rd to the 26th at the Township Hall.
 - ii. The DIA will have their DIA Away Program which features 50 foot expandable trailers onsite May 24th and 25th offering interactive design activities.
 - iii. Also in partnership with the DIA, 8 masterpiece reproductions are displayed throughout the Township. (A flyer and map were shared with the Board showing locations of the masterpieces. These flyers will be distributed throughout the community and made available at each art display location.)

The Board members thanked Jose for a job well done in partnering with the DIA on these events and attractions. Chairperson Gotts noted that there is no liability associated with the DIA art programs as they offer the insurance to protect the Township.

Jose Mirkin added that they are working with the DIA to see if the masterpieces can also be displayed indoors at the Library in October and November.

- C. Marketing Committee – David Smith discussed road closures throughout Michigan, then deferred to Randy Thomas for the Marketing report.

Item 8: Insite Commercial Report

Randy Thomas provided an overview of the Insite report submitted in the DDA Board's packet. He addressed Parcels M and N, the two remaining outlots that the DDA retained in the Aikens transaction. One is located to the west, adjacent to Walmart, and the other is north of Library Drive, fronting Martin Parkway. Director Stacey explained that these parcels cannot be sold yet

until Bruce Aikens' plans are certain; however, it is time to start discussing these in the marketplace. He asked the Board for direction so that Randy could begin to market these in Vegas to interested parties.

MOTION by Lublin, supported by Mirkin, to authorize Randy Thomas, Insite Commercial, to market the two outlot properties, Parcels M and N, in Las Vegas at the ICSC event.

MOTION CARRIED UNANIMOUSLY

Item 9: Approval of Warrants, Carry-Overs and/or Add-ons, and Revenue & Expenditure Report

MOTION by Lublin, seconded by Spelker, to approve the Warrants, Carry-Overs and/or Add-ons and the Revenue & Expenditure Report.

MOTION CARRIED UNANIMOUSLY

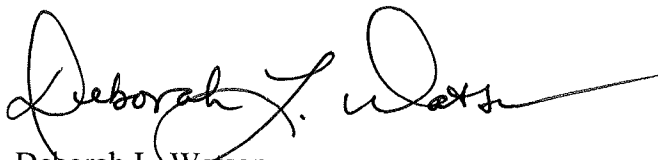
Item 10: Other Matters

- Mirkin initiated discussion regarding the potential for a gas station in the DDA area as proposed at the joint meeting by Director Stacey. Despite a history of discussions that were not in favor of a gas station in this area, Mirkin said his mind was changing after seeing the design that was presented, which is the station located on 13 Mile Road in Novi.
- **The next regularly scheduled meeting of the DDA is Tuesday, May 17, 2016 at 12:00pm.**

Item 11: Adjournment

MOTION by Lublin, seconded by Mirkin, to adjourn at 1:20pm.

MOTION CARRIED UNANIMOUSLY



Deborah L. Watson
Interim DDA Secretary