

**CHARTER TOWNSHIP OF COMMERCE
TOWNSHIP BOARD OF TRUSTEES MEETING
August 8, 2023
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
Robert Berkheiser, Trustee
Vanessa Magner, Trustee
Rick Sovel, Trustee
George Weber, Trustee

Also Present: Hans Rentrop, Township Attorney
Dave Campbell, Planning Director
Jim Dundas, Fire Chief
Emily England, Senior/Parks and Recreation Director
Jay James, Building Official
Alyson Lobert, Library Director
Jason Mayer, Giffels Webster Engineers
Mark Schoder, Maintenance Director
Deborah Watson, DDA Director

APPROVAL OF MINUTES

MOTION by Sovel, supported by Magner, to approve the July 11, 2023 Regular Township Board Meeting minutes and the July 25, 2023 Quarterly Joint Meeting with the Planning Commission minutes, as submitted.

MOTION CARRIED UNANIMOUSLY

PRESENTATIONS

A. Website Photo Contest

Supervisor Gray said the Township received 117 photo submissions and 5 winners were selected and are to be honored tonight. The winning photos were shown in a presentation and will be featured on the Township's new website.

PRESENTATIONS (A. Website Photo Contest continued)

Supervisor Gray introduced the 5th place winner as Michelle Lesner, not present, photo Wild Phlox. The 4th place winner was Stephen Carmickle, photo Autumn Brew. The 3rd place winner was Paul Umansky, photo Swan Power. The 2nd place winner was Maddie Green, not present, photo Water Drops On Grass. The 1st place winner was Cheryl Magalski, photo I Love Commerce.

Trustee Weber took a few moments to discuss the actions the Township has taken regarding encroachments on Township property and Township parks. He stressed that the Township protects over 30% of the over all land space as green space and parks. The Township mailed letters to 50 property owners with encroachments. 90% of these issues have been resolved but a few remain unresolved.

ITEM 1:8-8 APPROVAL OF AGENDA

MOTION by Creech, supported by Magner, to approve the August 8, 2023 agenda with the addition of Item 12 A. Closed Session – Contract Negotiations, and moving Adjournment to Item 13.

MOTION CARRIED UNANIMOUSLY

ITEM 2:8-8 PUBLIC COMMENTS

Supervisor Gray opened Public Comments and advised the public that he has increased the speaking time to 3 minutes. This is for public comments only.

Bruce Jaquays, 1841 Lerene, asked what is the status of Windmill Farms? Is there a new vendor yet?

Crystal Opalko, 3208 Barberry Street, she was issued a violation for having an encroachment of a garden and swing set on Township property. The Township property in question is located directly behind her home and is a 50 foot wide gas pipeline utility easement operated by Consumer's Energy. She understands that she does not own this property and appreciates what the Township is trying to do, however in the 19 years that she has lived in her home Consumer's Energy has allowed her to access, maintain, and place non-permanent structures on the property. Unfortunately, she is unable to locate the authorization they gave her giving her those rights to the easement and they would not send her another letter because they no longer own the property. She wants the Board to please understand that her home sits on the very back of this property line and being able to use the easement allows privacy for her family to be outside as they only have a front yard. It's her understanding that she can obtain authorization from the Township so she is asking the Board to consider allowing her to continue utilizing this easement as she has over the last 19 years. She would like to maintain the property by keeping the grass cut, grow a vegetable garden and have a swing set. What she is asking does not interfere with Consumer's operating the pipeline in any way. Consumer's has been out many times over the years and never expressed any concerns over their garden and swing set. She understands this property is no longer

ITEM 2:8-8 PUBLIC COMMENTS (continued)

owned by Consumer's but is still operating it in the same capacity. She would greatly appreciate the Board's consideration in allowing them to access this easement.

Sandy Taylor, 4944 Oakwood Court, after 20 years their canvass structure in the back yard needed to be replaced. They replaced it with a better structure and they were told it was in violation of the ordinance and were required to remove it. She said the ordinance is too strict and they need protection from the sun. She wants the ordinance revised.

Kyle Morris, 4853 Whitlow Boulevard, he and his wife purchased their home back in May of last year with everything on the property existing as it sits. Two weeks ago they received a notice of violation from the Township stating that their back fence, which has been there since at least 1968, is encroaching on Township property and calling for its removal, effectively eliminating 2200 square feet of land they thought was theirs. He's here tonight to ask for a compromise or a long-term extension to resolve the violation. The size of the backyard and the security of the fence were a major factor in purchasing the property. He has young children and pets and the backyard is a safe playground. He said removing the fence now is not an option from a safety standpoint because his home is right next to the public walking trail into the Township property and there's constant traffic. That's one reason the fence is important for the safety of his neighbors and his dogs. Chaining his dogs up is not a permanent solution. He doesn't want them to be sitting ducks for the coyotes, which are a real problem around here. At this time, he absolutely cannot afford the cost of a new fence. Short of a compromise, he's asking for an extension for resolve until at least next spring which gives him time to clear the over growth, to access the fence for removal, and save up enough funds to build a new fence before removing the old fence. As a side note, he is working with the title insurance company for coverage but it is unknown how long that process will take. Since there are no plans to develop on the Township property, he hopes they can work something out.

Jamie Maxwell, 4750 Broadway Street, she received the same letter that some of these other people received. They purchased their house in 2004 and they did not have it surveyed. It's an almost 100-year old home with everything and the fence already existing on the property. The property in question is on the riverbank and is no use to anyone and Commerce has not maintained this property at all in the 20 years they've lived there. It is a 20 foot drop from their backyard to the riverbank and it's a big safety concern for her children and her dog. She said the Board indicated that 90% of these issues were resolved and she thinks that this letter came as a big surprise and with only 10 days to remove and with no explanation, no direction. She has sent pictures to Supervisor Gray dating back to 2006 showing the fence. They are first-time home buyers and this is their first home. They didn't have the funds for a survey and they didn't think it was something they needed to do. They are asking for an extension, resolution, or some sort of agreement they can come to with the Township.

ITEM 2:8-8 PUBLIC COMMENTS (continued)

Jim Jewett, 4819 Whitlow Boulevard, he lives across the way from Kyle, who spoke earlier. He wants to say he is in support of Kyle's comment regarding a sort of stay so they can take a look at what they can do to resolve that. He's lived in the house next to them for the last 35 years and they've maintained parts of the property that apparently belong to the Township but that the Township does not maintain. These letters will come as shock to a lot of folks because they've been there so long and it's never been a problem before. He hopes the encroachment study is available on the website so he can take a look at it. He hopes there's a pathway to a resolution.

Supervisor Gray closed Public Comments.

ITEM 3:8-8 PUBLIC HEARINGS

A. Roll Resolution – Special Projects No. 50 SAD

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. 50.

ROLL CALL VOTE:

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

Nays:

MOTION CARRIED UNANIMOUSLY

ITEM 4:8-8 CONTRACT AWARDS AND AGREEMENTS

A. Huron Cemetery Maintenance

Clerk Creech recommend approval of the new contract.

MOTION by Weber, supported by Creech, to support the contracts from 2024 through 2026 for Huron Cemetery Maintenance, as submitted.

MOTION CARRIED UNANIMOUSLY

ITEM 5:8-8 ADOPTIONS

A. An Ordinance to Amend the Code of Ordinances to Be Known as Code Amendment Ordinance No. 1.064 – to Permit Cost Recovery for Advanced Life Support Services

MOTION by Sovel, supported by Magner, to adopt an ordinance to amend the code of ordinances to be known as Code Amendment Ordinance No. 1.064.

MOTION CARRIED UNANIMOUSLY

ITEM 5:8-8 ADOPTIONS (continued)

B. An Ordinance to Amend Ordinance 2.023 to Be Known as Fee Ordinance No. 2.024 – Set Forth Various Fee Charged, Security Required, Fines Assessed, and to Repeal Conflicting Ordinances

MOTION by Sovel, supported by Magner, to adopt an ordinance to be known as 2.024.
MOTION CARRIED UNANIMOUSLY

ITEM 6:8-8 SITE CONDOMINIUMS AND PLATS

A. Five & Main Site Condominium – Sub-condominium Within Unit 13 of Commerce Towne Place

David Campbell, Planning Director, reviewed the changes proposed within Unit 13. This sub-condominium would create a condominium within a condominium. The Planning Commission recommended approval at their July 10, 2023 meeting.

Hans Rentrop, Township Attorney, said the master deed is entirely satisfactory but he recommends the following:

Approval contingent upon the engineer's review to make sure there's access and the legal descriptions are correct.

Approval contingent upon the approval of the 7th Amendment to the Commerce Towne Place Condominium Master Deed.

Bruce Aikens, Commerce Downtown II, LLC, Manager, was present.

MOTION by Weber, supported by Sovel, to approve PSP#23-08 Five and Main Site Condominium, Sub-condominium within Unit 13 of Commerce Towne Place, subject to the contingencies describe by the Township Attorney.

MOTION CARRIED UNANIMOUSLY

B. 7th Amendment to the Commerce Towne Place Condominium Master Deed

David Campbell, Planning Director, reviewed the proposed changes, including the need for additional land for the residential component of the development and moving the residential component from the north side of the development to the east side of the development and in the process making unit 14 smaller and unit 13 larger by 0.44 acres. The Planning Commission recommended approval at their July 10, 2023 meeting.

MOTION by Weber, supported by Sovel, to approve the 7th Amendment to the Commerce Towne Place Condominium Master Deed.

MOTION CARRIED UNANIMOUSLY

ITEM 7:8-8 PURCHASES

A. Library Strategic Plan

Alyson Lobert, Library Director, requested the approval of the Board to engage Fast Forward Libraries for strategic planning purposes in an amount not to exceed \$29,300 and to make a deposit payment of \$7,325.

MOTION by Magner, supported by Phillips, to award the strategic planning to Fast Forward Libraries and to pay the 25% deposit of \$7,325.

MOTION CARRIED UNANIMOUSLY

ITEM 8:8-8 OLD BUSINESS

A. Non-Motorized Pathway on Oakley Park Road – Extension Along Pickle Ball Courts

Emily England, Senior/Parks and Recreation Director, explained the scope of the project. The project is divided into 2 sections. One section is to install the pathway along the west side of the pickle ball courts and down Oakley Park Road to South Commerce Road. The second piece is the new pathway extending from the Richardson Center to the east to Newton Road. The Trustees debated the merits of doing both projects as an economy of scale. Director England reiterated that these pathways were included in the overall trail master plan and the parks master plan. Director England is asking the Board to approve the \$29,000 for the engineering costs for the proposed improvement of the existing pathway and the pathway along the west side of the pickle ball courts, to get the construction documents together in order to put this out over the winter for spring construction. This also allows Director England time to work with the County on reprogramming CDBG funds to cover approximately \$185,000 of the project.

MOTION by Weber, supported by Berkheiser, to approve \$22,500 for engineering by Giffels Webster up through the bid process, with the bid being a comprehensive project and/or the west portion of the project.

MOTION CARRIED UNANIMOUSLY

B. 8th Amendment to Option Agreement – Library Parcel

Hans Rentrop, Township Attorney, reminded the Board that last year they approved the 7th Amendment to the option agreement with an August 9, 2023 deadline, which is tomorrow. The developer has asked to extend the option to October 31, 2025.

The Trustees debated the timeline, deposits paid by the developer, and sewer access.

Bruce Aikens, developer, explained that October 31, 2025 lines up with the purchase agreement he has with the DDA on Phase Two. He hopes to purchase the property well in advance of that date.

MOTION by Gray, supported by Weber, to approve the 8th Amendment to Option Agreement – Library Parcel, with a term of October 31, 2025 with continuing updates as currently required and a closing date no later than November 30, 2025.

ITEM 8:8-8 OLD BUSINESS (B. 8th Amendment to Option Agreement – Library Parcel motion continued)

Discussion: Trustee Berkheiser said he is struggling with the long time-frame on this development.

Trustee Berkheiser and Treasurer Phillips voted no

MOTION CARRIED

ITEM 9:8-8 NEW BUSINESS

A. Resolution Authorizing Oakland County Municipal Credit Agreement – People's Express

Supervisor Gray explained the Oakland County Board of Commissioners approved the new transit coverage area which is from 7 Mile Road to M59 and from Drake Road to US 23. The participating communities are Commerce Township, City of Wixom, the Village of Milford, Village of Wolverine Lake, Milford Township, Lyon Township, and the City of South Lyon. The new program costs \$4.00 a ride each way and \$2.00 a ride each way for veterans, low-income residents, and disabled residents.

MOTION by Berkheiser, supported by Phillips, to approve the Resolution of the Charter Township of Commerce authorizing entry into the Oakland County Municipal Credit Agreement.

MOTION CARRIED UNANIMOUSLY

B. Five & Main Second Amended & Restated Sub-Planned Unit Development Agreement

Dave Campbell, Planning Director, reviewed the history and progress to date. The Planning Commission recommended approval at their July 10, 2023 meeting.

Bruce Aikens, Commerce Downtown II, LLC, Manager; Sue Neumann, Architect with JPRA Architects; and Dawn Faxon-Singer, Attorney with Dickinson Wright PLLC; gave a presentation showing the development's features and building placements.

A discussion followed regarding Continental Construction, the height of the residential component and moving that component from the north side to the east side of the development, the abandonment of the sewer pump station, the viability of movie theaters in this economic climate, and whether DTE can handle the additional load without further improvements.

MOTION by Weber, supported by Sovel, to approve the Five & Main Second Amended & Restated Sub-Planned Unit Development Agreement.

MOTION CARRIED UNANIMOUSLY

C. SAD Threshold Approval

Trustee Weber said that he believes that requiring only 51% on private property SAD's is too low of a threshold. He believes the Township should require 60%.

ITEM 9:8-8 NEW BUSINESS (C. SAD Threshold Approval continued)

A discussion followed regarding that the purpose of those SAD's is to allow residents to make the improvements they want in their neighborhood. It was pointed out that each resident receives a letter regarding proposed SAD's and has the opportunity to object at the public hearing. Trustee Magner said that residents often object and the Board approves it anyway.

MOTION by Weber, supported by Magner, for private property SAD's, to move the Township threshold from 51% to 60%.

Discussion: Trustee Berkheiser asked if the Township can require the petition signature gatherer to attend the Board meeting at which their petition is considered by the Board? Township Attorney Hans Rentrop answered that the Board can require that as part of the SAD process.

ROLL CALL VOTE:

AYES: Weber, Magner, Creech

NAYS: Phillips, Berkheiser, Sovel, Gray

MOTION FAILED

D. Intent Resolution – Chickory Lane Maintenance SAD

Supervisor Gray said this petition received 8 signatures out of the 9 residents living on Chickory Lane.

MOTION by Weber, supported by Berkheiser, to approve the Chickory Lane SAD for gravel, dust control, and snow plowing. **MOTION CARRIED UNANIMOUSLY**

E. AT&T METRO Act Right of Way Permit Extension

Township Attorney Hans Rentrop received the appropriate documents from AT&T mid-day today.

MOTION by Magner, supported by Berkheiser, to approve the extension of the AT&T Metro Act Right of Way Permit. **MOTION CARRIED UNANIMOUSLY**

ITEM 10:8-8 ORDERS

MOTION by Phillips, supported by Magner, to approve the orders.

MOTION CARRIED UNANIMOUSLY

ITEM 11:8-8 OTHER MATTERS

Trustee Magner asked if the encroachment time frame to comply is only 10 days? Is the Township able to work with the residents? Supervisor Gray answered yes to both questions. Trustee Magner would like to review the relevant ordinance at September's Board meeting.

ITEM 11:8-8 OTHER MATTERS (continued)

Trustee Sovel asked if the Board could approve a resolution to correct the public's misconception that the Township limits the companies in the Township that are allowed to provide cable, internet, and TV services. He wants residents to know that all companies are welcome to provide those services in the Township but many choose not to.

Trustee Berkheiser asked for an update on the Township website redesign. Supervisor Gray said the IT Director has indicated it will be ready in about 90 days. Trustee Berkheiser also asked about the potential development at the old Commerce Drive In site and whether a cut-through is feasible. Planning Director Campbell said there is no funding for that. Supervisor Gray said the Township is still working with the RCOC on that.

Trustee Weber asked what the timing is of the demolition of the Fisher Avenue building. Supervisor Gray answered teams will begin working on it on Friday.

Treasurer Phillips reminded the Board that the County will soon be asking for the L4029 tax rates, which they need by September 30, 2023.

Supervisor Gray said the septic tank ordinance is coming back next month with the correct wording. He gave the Board a list of encroachments which shows the status of the violations. In addition, he wants to add a new staff position for a public relations/social media/grant writer who can manage all of these things for the Township.

ITEM 12:8-8 CLOSED SESSION

A. Contract Negotiations

MOTION by Creech, supported by Magner, to enter into Closed Session for the purpose of Contract Negotiations.

ROLL CALL VOTE

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

NAYS:

MOTION CARRIED UNANIMOUSLY

Entered into Closed Session: 9:25 p.m.

Returned from Closed Session: 9:49 p.m.

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

MOTION CARRIED UNANIMOUSLY

ITEM 13:8-8 ADJOURNMENT

MOTION by Creech, supported by Berkheiser, to adjourn the meeting at 9:50 p.m.

MOTION CARRIED UNANIMOUSLY



Melissa Creech, Clerk
Charter Township of Commerce