

**CHARTER TOWNSHIP OF COMMERCE
REGULAR BOARD OF TRUSTEES MEETING
November 13, 2018
2009 Township Drive
Commerce Township, Michigan 48390**

CALL TO ORDER: David Scott, 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: David Scott, Supervisor
Melissa Creech, Clerk
Molly Phillips, Treasurer
Robert Berkheiser, Trustee
Vanessa Magner, Trustee
Rick Sovel, Trustee
George Weber, Trustee

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

Supervisor Scott thanked everyone who worked on the last general election.

PLEDGE OF ALLEGIANCE TO FLAG

APPROVAL OF MINUTES

MOTION by Sovel, supported by Berkheiser, to approve the October 9, 2018 Regular Township Board of Trustees Meeting minutes, the October 9, 2018 Special Township Board Meeting minutes and the October 23, 2018 Quarterly Township Board Meeting minutes, as submitted. **MOTION CARRIED UNANIMOUSLY**

PRESENTATIONS

A. DDA Variable Rate Bond Options – Tom Traciak and Mike Gormely
Tom Traciak and Mike Gormely were present to discuss the Downtown Development Authority variable rate bond options. Mr. Traciak advised the Board that Mr. Gormely is a Bond

PRESENTATIONS (DDA Variable Rate Bond Options continued)

Marketing Agent and stated that Bowden Brown, who was not present, has been the Township's Bond Legal Counsel for many years.

Mr. Traciak provided the Board with a conversion table summary of a variable interest rate v. a fixed interest rate. As of this date, the Township has a variable interest rate. Variable rates have gone up 2% in the last 2 years. The Board may want to consider converting to a fixed rate or stay with a variable rate.

Mr. Gormely said it would cost approximately \$350,000 in normal bonding costs to convert from a variable rate to a fixed rate.

ITEM 1:11-13 APPROVAL OF AGENDA

MOTION by Phillips, supported by Magner, to approve the November 13, 2018 Agenda and move Item 13:11-13 New Business A. DDA Variable Rate Bond Options and B. Conditional Rezoning Agreement – Andrea Putt after Item 1:11-13 Approval of Agenda, and add FEMA Grant as J. under Item 13:11-13 New Business. **MOTION CARRIED UNANIMOUSLY**

ITEM 2:11-13 NEW BUSINESS

A. DDA Variable Rate Bond Options

MOTION by Sovel, supported by Phillips, to instruct Tom Traciak to prepare a DDA Fixed Rate Bond Resolution for the December 2018 Township Board of Trustees Meeting.

MOTION CARRIED UNANIMOUSLY

B. Conditional Rezoning Agreement – Andrea Putt

Dr. Andrea Putt is requesting to rezone the residential structure at 613 Commerce Road from R-1D to B-1 for the purpose of using that building as an expansion of the veterinary clinic. The building would be used for rehabilitation services, including a doggy treadmill and doggy acupuncture.

Trustee Weber said the Planning Commission is 100% in support of the conditional rezoning and recommends approval.

Dr. Putt said she will install a sidewalk along the front of Commerce Road if that is a requirement of the Township Board.

MOTION by Scott, supported by Creech, to approve the Conditional Rezoning Agreement between The Charter Township of Commerce and Andrea Putt for the purpose of expanding the Commerce Village Veterinary Hospital into the existing structure at 613 W. Commerce Road. The approval is based on A. The proposed rezoning will benefit the public interest, such that the expected benefits of the rezoning, subject to the conditions offered, clearly outweigh

ITEM 2:11-13 NEW BUSINESS (Conditional Rezoning Agreement – Andrea Putt Motion continued)

any reasonably foreseeable detriment. B. The proposed rezoning shall include conditions sufficient to assure the integration of the proposed development and use with the surrounding land uses and to protect the public health, safety, and welfare. C. The specific uses proposed in conjunction with the rezoning do not adversely affect the public utility or traffic systems, drainage or the environment.

MOTION CARRIED UNANIMOUSLY

ITEM 3:11-13 PUBLIC COMMENTS

Kari Cotter, Race Director for Outrun Hunger, 10177 Lakeside Dr., White Lake, Michigan thanked the Board for use of the Township Hall for Outrun Hunger annual charity event. She gave an update on the event as follows: 254 registered racers from our community, 65 volunteers, 59 donors and 26 sponsors. They raised \$15,523.00+ for Hospitality House in Commerce and Open Door Outreach Center in Waterford.

Karen L. Myers, Executive Director Open Door Outreach Center, thanked the Board for their support by allowing use of the Township hall for the Outrun Hunger annual charity event.

Alyson Loberty, 2107 Hidden Meadows Drive, Walled Lake, Michigan thanked the Board for allowing use of the Township hall for the Outrun Hunger annual charity event.

ITEM 4:11-13 PUBLIC HEARINGS

A. Resolution Approving the 2019 Community Development Block Grant Application

Supervisor Scott opened the Public Hearing

No one present had any comments.

Supervisor Scott closed the Public Hearing

MOTION by Sovel, supported by Magner, to approve the Charter Township of Commerce Resolution Approving the 2019 Community Development Block Grant Application.

Discussion:

Trustee Weber asked how the dollar amounts were established designated for Battered and Abused Spouses, Youth Services, Home Delivered Meals, and Remove Architectural Barriers. Janet Bushey, Finance/Human Resource answered Oakland County came up with the dollar amounts.

Trustee Weber asked how much it will cost to remove the bridge at Byers Farm. Supervisor Scott said it will cost approximately \$30,000 to turn the bridge into a full size ramp.

Trustee Weber asked what the future plans are for Byers Farm. Emily England, Senior Director, said the Parks and Recreation Committee's first priority is to make the house structurally sound.

ITEM 4:11-13 PUBLIC HEARINGS (Resolution Approving the 2019 Community Development Block Grant Application Motion continued)

Supervisor Scott advised the Board that the Circuit Court determined that Townships/Cities/Villages should fund the school district in their area which in our case is Huron Valley Youth Assistance and Lakes Area Youth Association.

Trustee Magner said Lakes Area Youth Association supports West Bloomfield and White Lake Township even though they do not receive funding from them.

ROLL CALL VOTE

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

NAYS:

MOTION CARRIED UNANIMOUSLY

B. Resolution Confirming Special Assessment Roll for the SAD Designated Half Penny Court Snow Plowing SAD

Supervisor Scott opened the Public Hearing
No one present had any comments.
Supervisor Scott closed the Public Hearing

MOTION by Weber, supported by Sovel, to approve the Resolution Confirming Special Assessment Roll for the Special Assessment District Designated Half Penny Court Snow Plowing Special Assessment District.

ROLL CALL VOTE

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

NAYS:

MOTION CARRIED UNANIMOUSLY

ITEM 5:11-13 BOARD APPOINTMENTS

A. Bob Mistele – Reappointment to the Zoning Board of Appeals for a 3-year term to expire December 31, 2021.

Bob Mistele was present.

MOTION by Sovel, supported by Weber, to reappoint Bob Mistele to the Zoning Board of Appeals for a 3-year term to expire December 31, 2021.

MOTION CARRIED UNANIMOUSLY

ITEM 6:11-13 CONTRACTS AWARDS AND AGREEMENTS

A. Giffels Webster Contract Extension

Jason Mayer, Giffels Webster, was present.

Trustee Weber asked if the Township ever sent this out for bids. He is very satisfied with the work of Jason Mayer from Giffels Webster but questioned how the Township would know if the

ITEM 6:11-13 CONTRACTS AWARDS AND AGREEMENTS (Giffels Webster Contract Extension continued)

rates from Giffels Webster are competitive with other companies since it was not sent out for bids.

Trustee Magner said the Township went out for bids in the year 2010.

Trustee Weber asked Mr. Mayer to explain cost saving measures he plans on taking and the 2% per year rate increase.

Jason Mayer replied:

- He compared his rates with other companies and set the amount by taking an average rate from all companies.
- Cost savings – General Fund costs are discounted by 12%. He does not charge homeowners an estimate fee on sanitary sewer or water SAD's unless they become a project. He has not charged any fees for Scarlet's Smile playground.
- All private developer costs are documented and available for viewing. He has had no issues with developers.
- Cost of living is between 1 – 3% per year. He took an average and came up with 2% cost of living expense.

Trustee Sovel said there is history with Giffels Webster that is hard to put a price on. He asked Mr. Mayer what other communities he works for. Jason Mayer said he has done work for Livingston County but Commerce Township is his main client. He has 4 - 5 employees of Giffels Webster that are assigned to work with him on projects within Commerce Township. Trustee Sovel asked about travel time. Jason Mayer said he lives close to Commerce Township and does not charge for travel time to the Township or for his time at meetings.

Treasurer Phillips said Mr. Mayer's prices are very comparable to other companies that she knows of.

Trustee Weber asked if there is a difference in cost for municipal v. commercial work. Jason Mayer said commercial rates are higher because it takes longer to receive payment from them.

Supervisor Scott said he is aware of only one conflict of interest and that was when Mr. Aiken wanted to hire Giffels Webster for engineering work. Because Giffels Webster is the Township's engineer they did not contract with Mr. Aiken.

MOTION by Berkheiser, supported by Magner, to extend the Charter Township of Commerce Non-Exclusive Engineering Consulting Agreement, Calendar Years 2019 - 2023 and approve the Charter Township of Commerce Mandatory Insurance and Indemnification Rider with Giffels Webster.

Discussion: Trustee Sovel would like the liability limits of \$1,000,000 increased to \$2,000,000 – \$5,000,000.

ITEM 6:11-13 CONTRACTS AWARDS AND AGREEMENTS (Giffels Webster Contract Extension Motion continued)

Phillip Adkison, Township Attorney, recommends approval and request Giffels Webster change the insurance amount.

MOTION CARRIED UNANIMOUSLY

B. Byers Well Refurbish

Emily England, Senior Director, advised the Board that the Friends of Byers received 3 bids to have their well refurbished. They currently have no water on site. The Parks and Recreation Committee recommends Ayers Water Systems, Inc. in the amount of \$3,347.00 with the cost split 50/50 between the Friends of Byers and the Township.

Dean and Karen Schantz, Friends of Byers, were present.

MOTION by Berkheiser, supported by Phillips, to approve the contract with Ayers Water Systems, Inc. to refurbish the well at Byers Farm in the amount of \$3,347.00 (quote dated 10-3-2018) and the cost split 50/50 between the Friends of Byers and the Township. The cost incurred by the Township shall not exceed \$1,700.00. **MOTION CARRIED UNANIMOUSLY**

C. First Amendment to Library Option Agreement

Phillip Adkison, Township Attorney, stated this amendment will extend the Option to Purchase Agreement to January 10, 2019. The DDA received \$100,000 to extend the purchase agreement which will not be counted towards the purchase price.

Trustee Weber questioned why Mr. Aiken needs 6 months to secure lease agreement signatures.

Mark Stacey, DDA Director, said this was a request by Mr. Aiken, Developer of 5 and Main. Mr. Aiken stated to him that December 2, 2018 is not a feasible date for him to close on the property. He said he needs to have 6 months to obtain the last of tenant lease agreement signatures.

The Planning Commission made it clear to Mr. Aiken that January 10, 2019 is the latest date he must have all his due diligence and title work completed by.

Trustee Weber said Mr. Aiken needs to have roughly 70% lease agreements signed before he can get funding. Mr. Stacey said Mr. Aiken is at 45% right now.

Treasurer Phillips can understand why it would take another 6 months because it takes months before something is approved because of the leasing committees and approvals that are needed by retailers.

MOTION by Sovel, supported by Phillips, to Adopt the First Amendment to Option Agreement by the Charter Township of Commerce, and Commerce Downtown, LLC.

ITEM 6:11-13 CONTRACTS AWARDS AND AGREEMENTS (First Amendment to Library Option Agreement Motion continued)

ROLL CALL VOTE

AYES: Sovel, Phillips, Creech, Magner, Scott

NAYS: Weber, Berkheiser

MOTION CARRIED

ITEM 7:11-13 ADOPTIONS

- A. An Ordinance to Amend the Zoning Map of the Charter Township of Commerce as Adopted by Zoning Ordinance 3.000, to be known as Zoning Amendment Ordinance No 3.039.**

MOTION by Magner, supported by Berkheiser, to Adopt an Ordinance to Amend the Zoning Map of the Charter Township of Commerce, Oakland County, Michigan as adopted by Zoning Ordinance 3.000, to be Known as Zoning Amendment Ordinance No. 3.039, post and publish according to law.

MOTION CARRIED UNANIMOUSLY

ITEM 8:11-13 PUBLIC HEARINGS FOR 2018 MILLAGE RATES

Supervisor Scott opened the Public Hearing

No one present had any comments.

Supervisor Scott closed the Public Hearing

ITEM 9:11-13 APPROVAL OF 2018 MILLAGE RATES

- A. Charter Township of Commerce Resolution of Levy of Operating Millage for the 2018 Tax Year**
- B. Charter Township of Commerce Resolution of Levy of Library Millage for the 2018 Tax Year**
- C. Charter Township of Commerce Resolution of Levy of Public Library Service Millage for the 2018 Tax Year**
- D. Charter Township of Commerce Resolution of Levy for Additional Sheriff Deputies Millage for the 2018 Tax Year**
- E. Charter Township of Commerce Resolution of Levy for Park Improvements and Creation and Acquisition of Open Space Millage for the 2018 Tax Year**

MOTION by Sovel, supported by Creech, to approve:

- The Charter Township of Commerce Resolution of Levy of Operating Millage for the 2018 Tax Year at a rate of 1.4100 Mills.
- The Charter Township of Commerce Resolution of Levy of Library Millage for the 2018 Tax Year at a rate of 0.3000 Mills.

ITEM 9:11-13 APPROVAL OF 2018 MILLAGE RATES (Motion continued)

- The Charter Township of Commerce Resolution of Levy of Public Library Service Millage for the 2018 Tax Year at a rate of 0.6792 Mills
- The Charter Township of Commerce Resolution of Levy for Additional Sheriff Deputies Millage for the 2018 Tax Year at a rate of 0.3000 Mills.
- The Charter Township of Commerce Resolution of Levy of Park Improvements and Creation and Acquisition of Open Space Millage for the 2018 Tax Year at a rate of 0.3819 Mills.

MOTION CARRIED UNANIMOUSLY

ITEM 10:11-13 PUBLIC HEARINGS FOR 2019 TOWNSHIP BUDGET

Supervisor Scott opened the Public Hearing

No one present had any comments.

Supervisor Scott closed the Public Hearing

ITEM 11:11-13 2019 TOWNSHIP BUDGET

MOTION by Sovel, supported by Weber, to approve the 2019 Township Budget as presented

MOTION CARRIED UNANIMOUSLY

Trustee Sovel said the wage issue will be brought back to the Township Board next month.

ITEM 12:11-13 OLD BUSINESS

A. Metro Act Permit Renewal – Fiber Technologies

Hans Rentrop, Township Attorney, stated that on July 24, 2018 the Township Board denied a permit extension request regarding Fiber Technologies because there was no evidence of environmental insurance. An insurance policy has now been submitted to the Township.

MOTION by Weber, supported by Magner, to approve the Approval of Modification to Exhibit A of Right-Of-Way Telecommunications Permit. (Fiber Technologies Networks, L.L.C., (“Fibertech”) Metropolitan Extension Telecommunications Rights-Of-Way Oversight Act (“Metro Act”) Permit Extension Request (“Application”).

MOTION CARRIED UNANIMOUSLY

B. Metro Act Permit Renewal – AT&T

Hans Rentrop, Township Attorney, stated that on July 24, 2018 the Township Board denied a permit extension request regarding Michigan Bell Telephone Company d/b/a AT&T Michigan because there was no evidence of environmental insurance, no updated route map or updated contacts. The Township is now in receipt of all materials.

MOTION by Phillips, supported by Creech, to approve the Metro Act Right of Way Permit Extension (Michigan Bell Telephone Company d/b/a AT&T Michigan, (“AT&T”) Metropolitan

ITEM 12:11-13 OLD BUSINESS (Metro Act Permit Renewal – AT&T Motion continued)
Extension Telecommunications Rights-Of-Way Oversight Act (“Metro Act”) Permit Extension Request (“Application”).
MOTION CARRIED UNANIMOUSLY

ITEM 13:11-13 NEW BUSINESS

C. Dodge Park V Improvements Design Proposal – Phase 1
Emily England, Senior Director, was present.

Jason Mayer, Giffels Webster, is requesting approval to perform design phase one of the project at a cost not to exceed \$66,963.

Discussion – Will there be continued fundraising by Scarlet’s Smile to cover costs incurred by the Township? The project was supposed to be at no cost to the Township, although the Township has and will continue to incur costs because of future maintenance, sidewalks, restrooms, etc.

MOTION by Berkheiser, supported by Weber, to authorize Giffels Webster to proceed with project design phase one of Dodge Park V improvements in order to obtain construction bids at a cost not to exceed \$67,000.00
MOTION CARRIED UNANIMOUSLY

D. Dodge Park V Butterfly Fencing

Emily England, Senior Director, received a proposal from Northern Fence Company in the amount of \$3,480.00 to install a fence at the Richardson Community Senior Center.

Supervisor Scott reached out to a few companies and they stated they can duplicate the fence for less money. He would like to see this go out for bids.

No action taken

E. DDA Cash Advance

Treasurer Phillips stated the DDA will need a cash advancement at a minimum amount of \$383,120.83.

Mark Stacey, DDA Director, was present. Final projections for 2018 showed a shortage of \$383,120.83. The \$100,000 received from Mr. Aiken to extend closing from the sale of Township property was not included in this shortage. He is requesting a cash advance not to exceed \$500,000.

MOTION by Phillips, supported by Magner, to approve a cash advancement for the DDA in the amount not to exceed \$500,000.00. Funds to come from Debt Sinking.
MOTION CARRIED UNANIMOUSLY

ITEM 13:11-13 NEW BUSINESS (continued)

F. Richardson Center Catering Services

Hans Rentrop, Township Attorney, said the RFP for a caterer at the Richard Community Center is almost complete, however clarification is needed as to the sharing of alcohol profits and the number of preferred caterers with whom to contract. Mr. Rentrop recommends the Township use one preferred caterer who will be responsible for managing alcohol, however if someone wants their own caterer, they can have that but cannot have a caterer that makes a profit from alcohol. They can have alcohol if a profit is not made

After discussion between Board members it was agreed to have one preferred caterer with all profits from the sale of alcohol going to the caterer. Mr. Rentrop will prepare the necessary documents for an RFP.

G. Township Hall Use Policy

Trustee Weber offered to work on the policy with Hans Rentrop, Township Attorney. He is requesting all Board members forward their comments to either Mr. Rentrop or Trustee Weber. No action taken

H. Metro Act Permit Application – 123 Net, Inc.

Hans Rentrop, Township Attorney, said insurance and other documents were missing. He recommends approval subject to confirmation that all documents required are received by the Clerks Department.

MOTION by Berkheiser, supported by Magner, to approve Application for Access to and Ongoing Use of Public Ways by Telecommunications Providers under Metropolitan Extension Telecommunications Right-Of-Way Oversight Act 2002 PA 48 MCL Sections 484.3101 to 484.3120 by 123 Net, Inc. subject to the Clerks Department receipt of all necessary documents.
MOTION CARRIED UNANIMOUSLY

I. Bank Depositories

MOTION by Berkheiser, supported by Magner, to approve the Resolution approving the use of the following institutions as bank depositories for the year 2019, and going forward until the next update: PNC Bank, Flagstar Bank, Comerica Securities, MERS, Crestmark Bank, Huntington Bank, Level One Bank, Chemical Bank, Chief Financial Credit Union, The State Bank, CIBC, Genysis Credit Union, Michigan Cooperative Liquid Asset Securities System (Michigan CLASS), and Oakland County Local Government Investment Pool.

ROLL CALL VOTE

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

NAYS:

MOTION CARRIED UNANIMOUSLY

ITEM 13:11-13 NEW BUSINESS (continued)

J. Extension of Sewer – 5 & Main

Phillip Adkison, Township Attorney, said this is no longer needed because of approval of the First Amendment to Library Option Agreement.

K. FEMA

Fire Chief Jim Dundas is asking for permission to apply for 2 AFG grants for equipment (new fire engine #3 and 11-year-old air tanks and masks) for the Fire Department. There is no cost to the Township to apply for these grants.

MOTION by Berkheiser, supported by Weber, to authorize the Township Fire Chief to apply for 2 AFG grants for the Fire Department. **MOTION CARRIED UNANIMOUSLY**

ITEM 14:11-13 ORDERS AND ADD-ONS

MOTION by Phillips, supported by Berkheiser, to approve the Orders and Add-Ons. **MOTION CARRIED UNANIMOUSLY**

ITEM 15:11-13 OTHER MATTERS

Magner –

- She heard that Walled Lake City Council did not pass their trailway fund. Supervisor Scott said they do not have additional money earmarked beyond what they already set aside.
- She is concerned about the projects that were supposed to be at no cost to the Township, then ends up costing the Township a lot of money. She said this has happened with two projects already at 1 million dollars each.

Supervisor Scott said the agendas going forward will include contract negotiations under Closed Session.

ITEM 16:11-13 CLOSED SESSION

A. Contract Negotiations

MOTION by Berkheiser, supported by Magner, to enter into Closed Session, including attendance by Janet Bushey and Fire Chief Jim Dundas, for the purpose of discussing Contract negotiations.

ROLL CALL VOTE

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

NAYS:

MOTION CARRIED UNANIMOUSLY

Entered into Closed Session: 9:52 p.m.

Returned from Closed Session: 10:40 p.m.

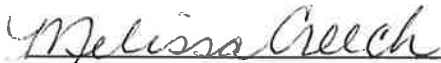
ITEM 16:11-13 CLOSED SESSION (continued)

MOTION by Phillips, supported by Berkheiser, to adjourn from closed session and approve the closed session minutes.
MOTION CARRIED UNANIMOUSLY

ITEM 16:11-13 ADJOURNMENT

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

MOTION by Berkheiser, supported by Magner, to adjourn the meeting at 10:41 p.m.
MOTION CARRIED UNANIMOUSLY



Melissa Creech, Clerk
Charter Township of Commerce