

**CHARTER TOWNSHIP OF COMMERCE  
REGULAR BOARD OF TRUSTEES MEETING  
Tuesday, November 14, 2017  
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

Absent: John Hindo, Trustee (excused)

Also Present: Phillip Adkison, Township Attorney  
Nancy McClain, Giffels Webster Engineers  
Hans Rentrop, Township Attorney

**PLEDGE OF ALLEGIANCE**

**APPROVAL OF MINUTES**

**MOTION** by Magner, supported by Sovel, to approve the October 10, 2017 Regular Township Board of Trustees Meeting minutes, as submitted.

**MOTION CARRIED UNANIMOUSLY**

**MOTION** by Sovel, supported by Magner, to approve the October 16, 2017 Special Township Board Meeting minutes, as submitted.

**MOTION CARRIED UNANIMOUSLY**

**MOTION** by Creech, supported by Magner, to approve the October 24, 2017 Special Township Board Meeting minutes, as submitted.

**MOTION CARRIED UNANIMOUSLY**

**PRESENTATIONS:**

None

**PETITIONS:**

None

**ITEM 1:11-14 APPROVAL OF AGENDA**

**MOTION** by Magner, supported by Sovel, to approve the November 14, 2017 Agenda with the following changes: move ITEM 12:11-14 NEW BUSINESS (f) Conditional Rezoning Agreement - JR Senior & Associates, LLC to the beginning of the meeting when all parties arrive and add (b) Health Care to ITEM 11:11-14 OLD BUSINESS.

**MOTION CARRIED UNANIMOUSLY**

**ITEM 2:11-14 PUBLIC COMMENTS**

Regina Roth, 4080 Lake Pointe Lane, stated that she has accumulated several newspaper articles relating to residents wanting the Township to stick to the Master Plan. She believes people are not wanting to reside in the Township because of new developments going in the Township, wetlands being destroyed, etc.

David Gingrich, the owner of Sammy's Fine Wine & Liquor, 4341 S. Commerce Road, is concerned about contaminants going into the Huron River because a gas station was previously on the site. He would like John Hindo to recuse himself from voting because of his close relationship with the petitioner's attorney.

**ITEM 3:11-14 PUBLIC HEARINGS**

**A. Community Development Block Grant Program Year 2018 Resolution**

Supervisor Scott opened the Public Hearing.

No one present had any questions or comments.

Supervisor Scott closed the Public Hearing.

**MOTION** by Sovel, supported by Berkheiser, to approve The Charter Township of Commerce Resolution Approving the 2018 Community Development Block Grant Application adopted on: November 14, 2017. **MOTION CARRIED UNANIMOUSLY**

**ITEM 4:11-14 BOARD APPOINTMENTS**

**A. Dan Lublin, DDA, 4 Year Term to Expire December 31, 2021**

Dan Lublin was present.

**MOTION** by Sovel, supported by Phillips, to re-appoint Dan Lublin to the DDA for a 4 Year Term to expire December 31, 2021.

Trustee Berkheiser asked Mr. Lublin what he looks forward to accomplishing with the DDA. Mr. Lublin answered he is pleased to work with the DDA on all projects and is proud of the final outcome.

**MOTION CARRIED UNANIMOUSLY**

**ITEM 5:11-14 CONTRACT AWARDS AND AGREEMENTS**

**A. KER Engineering, Inc.**

Jay James, President KER Engineering, Inc., presented a proposal for his company to staff the entire Commerce Township Building Department. He will hire all the staff currently in place, and attempt to keep all current staff benefits the same.

Discussion took place on the pros and cons of the Building Department's transition to KER Engineering. The Township Board is in agreement to the concept but needs additional time to review the proposal.

**MOTION** by Sovel, supported by Magner, to authorize the Township Attorney to work with KER Engineering on the concept of his company overseeing the Building Department and to begin working on a proposal for a 5 year contract, hopefully to begin 1/1/2018.  
**MOTION CARRIED UNANIMOUSLY**

**ITEM 6:11-14 INTRODUCTION**

**A. An Ordinance to Amend Ordinance No. 2.015 to be Known as Fee Ordinance No. 2.016 – Sewer Rate**

Hans Rentrop, Township Attorney, advised the Board that Dawn Lund of UFS recommended this to the Board during the October meeting.

**MOTION** by Berkheiser, supported by Creech, to introduce The Charter Township of Commerce Ordinance to Amend Ordinance No. 2.015 to be known as The Charter Township of Commerce Fee Ordinance No. 2.016, post and publish according to law.  
**MOTION CARRIED UNANIMOUSLY**

**B. An Ordinance to Amend the Code of Ordinances to be Known as Code Amendment Ordinance No. 1.035 – Alcohol, Consistency, and Firearms**

Hans Rentrop, Township Attorney, explained the change in the Ordinance.

**MOTION** by Sovel, supported by Berkheiser, to Introduce an Ordinance to Amend the Code of Ordinances, Charter Township of Commerce, Oakland County, Michigan to be known as Code Amendment Ordinance No. 1.035, post and publish according to law.  
**MOTION CARRIED UNANIMOUSLY**

**ITEM 7:11-14 ADOPTIONS**

**A. An Ordinance to Amend the Code of Ordinances to be Known as Code Amendment Ordinance No. 1.034 – Minor in Possession**

**MOTION** by Sovel, supported by Creech, to Adopt an Ordinance to Amend the Code of Ordinances, Charter Township of Commerce, Oakland County, Michigan to be known as Code Amendment Ordinance No. 1.034, post and publish according to law.  
**MOTION CARRIED UNANIMOUSLY**

**ITEM 7:11-14 ADOPTIONS (continued)**

**B. 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. 3.036 – Inclusion in the Haggerty Road Corridor Overlay**

**MOTION** by Sovel, supported by Creech, to remove 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. 3.036 – Inclusion in the Haggerty Road Corridor Overlay from the Table. **MOTION CARRIED UNANIMOUSLY**

**MOTION** by Phillips, 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. 3.036, post and publish according to law. **MOTION CARRIED UNANIMOUSLY**

**(Moved) ITEM 12:11-14 NEW BUSINESS (F.) Conditional Rezoning Agreement - JR Senior & Associates, LLC**

Present:

- Sindi Rabban, JR Senior & Associates, LLC and John Rabban and Sylvia Rabban, owners
- Richard Rattner, Williams, Williams, Rattner & Plunkett, PC, Attorney
- Jerry Resic
- Sahira Rabban, JR Senior & Associates, LLC
- David Decoster and Charles Burns, Oscar W. Larson Company
- Jeffrey A. Scott Architect
- Marsha A. Horning, Architect.

JR Senior & Associates, LLC ("Owner") seeks to conditionally rezone six parcels of property to allow for the construction of a two-unit building consisting of a gas station/convenience store and a retail tenant on the NE corner of E. Commerce and Carroll Lake Roads.

Richard Rattner, Attorney, gave a presentation and commented on the following:

He stated this is an upscale convenience store that will serve the community. They will sell high quality food, beverages and gas. This is a convenient location for pedestrians and village residents to come sit and enjoy a beverage with their neighbors. The design is attractive and emphasizes a typical small town and with the residentially influenced architecture it will fit into the neighborhood nicely. This will be a handsome high class development. There is a buffer between the residential development to the

**ITEM 12:11-14 NEW BUSINESS (F. Conditional Rezoning Agreement - JR Senior & Associates, LLC continued)**

east and north and commercial development to the west and south. There will be a berm and landscaping on the north side. He showed the Board a proposed site plan.

The size of the property allows for onsite traffic mitigation that other gas stations cannot provide.

In regards to traffic, the location at the corner of two major roads provides easy ingress and egress. Onsite traffic patterns will be developed to minimize queueing of vehicles. Fuel delivery trucks will not interfere with cars refueling. The Township's Fire Marshal told him the site is adequately accessible from either East Commerce Road or Carroll Lake Road. There will be no concerns with internal circulation or lack of vehicular access around the rear of the building.

Storm water runoff detention – Petitioner will install underground detention to resolve problems with runoff into Hayes Creek and to other areas.

Environmental - Petitioner has obtained a baseline environmental assessment. Department of Licensing and Regulatory Affairs (LARA) has approved the plans for this project, including underground detention design.

Wetlands - Applicant will apply for a permit from the DEQ regarding the small encroachment into the wetland area as part of the site plan approval process.

Master Plan - A slight expansion of B-3 to encompass two small residential lots is appropriate in this location. The Master Plan envisions commercial at this location. They feel it is a perfect fit. It is consistent with the Master Plan and provides a needed buffer and transition between commercial and residential.

Sale of alcohol – A new liquor license will not be required for this project. The license will be transferred. Transferring the license fits the intent of the new ordinance. It makes the sale of liquor less dense.

Conditional Rezoning Agreement/Variations – The only exception will be the DEQ or Road Commission for Oakland County's requirements that we are not aware of now.

Reversion – If zoning reverts back to original, and the building on the property can be utilized by a successor user, then those buildings should be allowed to be repurposed.

**Rezoning requirements**

**Section 3.03.d.3 of the Zoning Ordinance**

Consistent with Master Plan

Environmental features

Suitability with the law

**ITEM 12:11-14 NEW BUSINESS (F. Conditional Rezoning Agreement - JR Senior & Associates, LLC continued)**

Capacity of public services and utilities  
Capability or road system  
Demand for uses  
Scale of future development  
Isolation of uses or creation of incompatibilities  
Other factors

**Conditional rezoning minimum requirements**

Ask for granting rezoning

Richard Rattner, Attorney, concluded his presentation.

Supervisor Scott – Is this the same Power Point that was presented to the Planning Commission? Mr. Rattner said it was the same type; this presentation concentrates on conditional rezoning.

Supervisor Scott – What is the size of the underground storage tank and is it gravity fed or a pump? Marsha A. Horning, Architect, said the detention is not technically designed yet so she cannot give an exact size, although it will meet the county's requirements.

Sovel – Is concerned it will go into the Hayes Creek because it is underground.

Richard Rattner, Attorney, said it will connect to a storm sewer.

Marsha A. Horning, Architect, said it will be an underground detention system and will not go into the Hayes Creek.

Sindi Rabban said they have not designed the detention system yet although nothing will go into the Hayes Creek.

Sovel - If there was a spill (tanker truck) how will you make sure it does not go into the Hayes Creek.

Richard Rattner, Attorney – Answered that when it is designed all the environmental issues will be corrected and spills will be contained.

Sovel – Has the DEQ encroachment been applied for? Petitioner said if they get approval from the DEQ they will not need a variance.

Sovel – Asked if they know when the last time the Township did a Master Plan. Richard Rattner did not know but assumed it was recent. Dave Campbell, Planning Director, said it was adopted in the year 2015. Sovel asked if it included this parcel. Dave

**ITEM 12:11-14 NEW BUSINESS (F. Conditional Rezoning Agreement - JR Senior & Associates, LLC continued)**

Campbell responded "yes". Richard Rattner said the Master Plan is subject to review and scrutiny.

Sovel – Asked about liquor licensing cluster and what is considered too many licenses? Richard Rattner said the Ordinance does not want liquor licenses any closer than 1 mile to each other. They will be making it better because they are transferring a license to that area.

Sovel – There is a large number of patrons who would like to walk to the library. The Township is trying to make it walkable to get to the library. He is concerned for the safety of children with another liquor license in the area and being close to the library.

He asked them to address the safety of children. Richard Rattner said they will be in contact with the Road Commission for Oakland County.

Sindi Rabban stated there will be no problem because there are no sidewalks to the library for children to walk there; they are driven to the library. When sidewalks are installed they will handle it at that time. They are family orientated and follow rules and regulations. They have only had one violation.

Supervisor Scott asked if this is a new presentation or just a detailed presentation. Petitioner said this is a detailed presentation for conditional rezoning. The site plan is the same.

Supervisor Scott asked if there were any changes made to the blueprint. Sindi Rabban said nothing has changed on the site plan that was presented to the Planning Commission.

Sindi Rabban said they have been in the area for 23 years. They listen to the community and are trying to give them what they want.

Supervisor Scott said this does not meet the Master Plan or the criteria needed for approval.

**MOTION** by Scott, supported by Sovel, to deny Item PCZ16-0002, JR Senior & Assoc. Conditional Rezoning, the request by JR Senior & Associates LLC of West Bloomfield MI for a Conditional Rezoning of six parcels of land consisting of a total of 2.3 gross acres from R-1B One Family Residential & B-2 Community Business to B-3 General Business, located at 101 E. Commerce, 103 E. Commerce, 105 E. Commerce, 115 E. Commerce, 4860 Carroll Lake Road & 4870 Carroll Lake Road. The Conditional Rezoning application is for the purpose of developing a fuel station/convenience store and a retail tenant space. Sidwell No.'s: 17-11-151-009, 010, 011, 012, 008 & 007. The

**ITEM 12:11-14 NEW BUSINESS (F. Conditional Rezoning Agreement - JR Senior & Associates, LLC motion continued)**

proposed conditional rezoning does not meet or exceed the following minimum standards:

1. The proposed rezoning will benefit the public interest, such that the expected benefits of the rezoning, subject to the conditions offered, clearly outweigh any reasonably foreseeable detriment.
2. 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.
3. The specific uses proposed in conjunction with the rezoning do not adversely affect the public utility or traffic systems, drainage or the environment.

Discussion: Magner - Was December 2016 the last time the Planning Commission reviewed the site plan? Why did it take so long to come to the Township Board? Richard Rattner said they were trying to make improvement changes. Magner asked what changes were made. Richard Rattner said they were trying to move the building up front but that did not work out.

**MOTION CARRIED UNANIMOUSLY**

**ITEM 8:11-14 SITE CONDOMINIUMS AND PLATS**

None

**ITEM 9:11-14 CONSENT AGENDA**

None

**ITEM 10:11-14 PURCHASES**

**A. 2 New Carboxy-hemoglobin Monitors for Medic Vehicles – Fire Department**  
Jim Dundas, Fire Chief, was present to request approval to purchase 2 new Carboxy-hemoglobin Monitors for Medic vehicles. These were proposed in the budget by the previous Fire Chief.

**MOTION** by Scott, supported by Berkheiser, to approve the purchase of 2 new Carboxy-hemoglobin Monitors from J and B Medical Supplies at a cost not to exceed \$10,986.00. Funds to come from the Fire Fund Capital Outlay Account.

**MOTION CARRIED UNANIMOUSLY**

**B. CPR Training Equipment – Fire Department**

Jim Dundas, Fire Chief, was present to request approval to purchase CPR training equipment (mannequins).

**MOTION** by Berkheiser, supported by Sovel, to approve the purchase of CPR training equipment from Bound Tree Medical at a cost not to exceed \$10,500.00. Funds to come from the Fire Fund Capital Outlay Account. **MOTION CARRIED UNANIMOUSLY**



**ITEM 11:11-14 OLD BUSINESS**

**A. 2018 Township Budget**

Janet Bushey, Finance Director, was present to answer questions of the Board.

**(ITEM 12 NEW BUSINESS heard out of order)**

**G. MDOT M5 Pedestrian Bridge Bids**

Supervisor Scott – Reviewed the cost of the bridge from bids received.

**MOTION** by Scott, supported by Berkheiser, to approve \$1,130,678.80 for the MDOT M5 Pedestrian Bridge project. Funds to come from the General Fund.

**MOTION CARRIED UNANIMOUSLY**

**MOTION** by Sovel, supported by Scott, to approve the 2018 Township Budget as presented with November 14, 2017 paperwork.

**ROLL CALL VOTE**

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

**NAYS:**

**ABSENT:** Hindo

**MOTION CARRIED UNANIMOUSLY**

**ITEM 11:11-14 OLD BUSINESS**

**B. Health Care**

**MOTION** by Berkheiser, supported by Magner, to offer the following medical health care plans to full time Township employees: Simply Blue PPO Plan and Blue Care Network HMO, subject to an 80/20 (20 employee) contribution.

**MOTION CARRIED UNANIMOUSLY**

**MOTION** by Sovel, supported by Magner, to approve full time Township employee vision care as follows: Alwayscare Vision Plan, 12 month plan, Township to pay 100% of the plan for employees and 100% of the difference for moving dependents from a 24 month plan to a 12 month plan.

**MOTION CARRIED UNANIMOUSLY**

**MOTION** by Sovel, supported by Phillips, to approve full time Township employee dental care as follows: Delta Dental Plan with orthodontic benefits, Township paying full cost of plan.

**MOTION CARRIED UNANIMOUSLY**

**ITEM 12:11-14 NEW BUSINESS**

**A. Proposed Amendment to Consent Judgment with Adams Outdoor Advertising**

Phillip Adkison, Township Attorney, reminded the Board that in the year 2010 a Consent Judgment was entered for location and detail of the sign. Construction now necessitates moving the sign. Adams Outdoor wants to move the sign to the west, roughly where Crumb Road intercepts the trail way.

**ITEM 12:11-14 NEW BUSINESS (Proposed Amendment to Consent Judgment with Adams Outdoor Advertising continued)**

**MOTION** by Sovel, supported by Scott, to approve the Second Amendment to Consent Judgment with Adams Outdoor Advertising and authorize the appropriate signatures.

**AYES:** Sovel, Scott, Phillips, Magner, Creech  
**NAYS:** Berkheiser  
**ABSENT:** Hindo

**MOTION CARRIED**

**B. GLWA Wholesale Water Contract Discussion**

Treasurer Phillips explained the contract. The GLWA water contract with Commerce is currently up for review as a result of the Water Storage Facility being online and functioning as designed. Commerce Township has the opportunity to revise the criteria that determines the wholesale rates. A number of scenarios were analyzed by Jason Mayer, Giffels Webster, and he recommends:

Estimated Annual Cost = \$3,632,000, this option uses an interpolated Max Day value based on GLWA data and a Peak Hour that gives a slight cushion to the WRC to operate the system:

- Peak Hour = 7.88 mgd
- Max Day = 6.54 mgd (Increased because Commerce Township is adding customers)
- Total Volume = 103,400 MCF (Increased because Commerce Township is adding customers)

This option is estimated to save \$1,316,300 per year or approximately 26.6% from the current wholesale cost of water.

**MOTION** by Phillips, supported by Sovel, to authorize Giffels Webster Engineers to request GLWA to prepare a draft contract for review and approval by the Commerce Township Board of Trustees using the values in the option #4 (Peak Hour = 7.88 mgd Max Day = 6.54 mgd (Increased because Commerce Township is adding customers) Total Volume = 103,400 MCF (Increased because Commerce Township is adding customers) as recommended by Jason Mayer, Giffels Webster Engineers.

**MOTION CARRIED UNANIMOUSLY**

**C. Approval of Single Year Special Assessments to be Collected on the 2017 Tax Roll**

Phillips answered questions of the Board.

**MOTION** by Berkheiser, supported by Magner, to approve the Single Year S.A.D.'s to be assessed to 2017 Winter Taxes.

**MOTION CARRIED UNANIMOUSLY**

**ITEM 12:11-14 NEW BUSINESS (continued)**

**D. Memorandum of Understanding – AFSCME**

**MOTION** by Sovel, supported by Magner, to approve the Memorandum of Understanding between The Charter Township of Commerce ("Township") and The American Federation of State, County and Municipal Employees Council 25, Local 2720 ("AFSCME"), attached.

**MOTION CARRIED UNANIMOUSLY**

**E. Carpet Bids – OCSO Substation**

Lieutenant Gerald Schroeder is requesting approval to replace the carpet in the substation.

**MOTION** by Creech, supported by Scott, to approve the purchase of carpet from Modern Floors in the amount of \$2486.10 minus sales tax. Funds to come from the Police Maintenance Fund.

**MOTION CARRIED UNANIMOUSLY**

**F. Conditional Rezoning Agreement - JR Senior & Associates, LLC  
(Moved after ITEM 7:11-14 ADOPTIONS)**

**ITEM 13:11-14 ORDERS AND ADD-ONS**

**MOTION** by Magner, supported by Creech, to approve the Orders and Add-ons.

**MOTION CARRIED UNANIMOUSLY**

**ITEM 14:11-14 OTHER MATTERS**

Berkheiser – The Parks and Recreation Committee should attend the January Township Work Meeting so they can update the Township Board on Scarlett's Smile Program.

Supervisor Scott recommends the Parks and Recreation Committee come up with a walkability idea to see where they would like the trail way paths.

Sovel – Will the Township do anything to the parking area at the old Touby site?

Supervisor Scott said the property was seeded to prevent soil erosion only.

**ITEM 15:11-14 CLOSED SESSION**

**A. To Consider Information Pursuant to MCL 15.268(h) and MCL 15.243(f)**

**MOTION** by Scott, supported by Berkheiser, to enter into Closed Session to discuss Information Pursuant to MCL 15.268(h) and MCL 15.243(f)

**MOTION CARRIED UNANIMOUSLY**

Entered into closed Session at 10:42 p.m.  
Returned from Closed Session at 11:01 p.m.

**MOTION** by Phillips, supported by Magner, to adjourn from closed session and direct the Township Attorney to proceed as discussed.

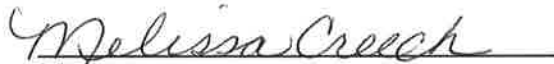
**MOTION CARRIED UNANIMOUSLY**

**ITEM 16:11-14 ADJOURNMENT**

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

**MOTION** by Magner, supported by Creech, to adjourn the meeting at 11:01 p.m.

**MOTION CARRIED UNANIMOUSLY**

  
Melissa Creech, Clerk  
Charter Township of Commerce