

**CHARTER TOWNSHIP OF COMMERCE
REGULAR BOARD OF TRUSTEES MEETING
December 12, 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
John Hindo, Trustee
Vanessa Magner, Trustee
Rick Sovel, Trustee

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

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES

MOTION by Berkheiser, supported by Sovel, to approve the November 14, 2017 Regular Township Board of Trustees Meeting minutes, as submitted.

MOTION CARRIED UNANIMOUSLY

PRESENTATIONS:

None

PETITIONS:

None

ITEM 1:12-12 APPROVAL OF AGENDA

MOTION by Sovel, supported by Magner, to approve the December 12, 2017 Agenda with the following additions: add Item 12 (H) Sonitrol Security System and (I) Letter from John Hindo.

MOTION CARRIED UNANIMOUSLY

ITEM 2:12-12 PUBLIC COMMENTS

Regina Roth, 4080 Lake Pointe Lane, questioned why Conditional Rezoning Agreement – Wow! Gas Station is on the agenda again since their request was denied during a previous Planning Commission Meeting. Supervisor Scott said when it is time to discuss this agenda item, she will have a better understanding of why it is on tonight's agenda.

ITEM 3:12-12 PUBLIC HEARINGS

None

ITEM 4:12-12 BOARD APPOINTMENTS

None

ITEM 5:12-12 CONTRACT AWARDS AND AGREEMENTS

A. Waste Water Treatment Plant Power System Analysis/Grounding Study

Jason Mayer, Giffels Webster Engineers, is requesting approval to perform a grounding study at the Wastewater Treatment Plant (WWTP). The purpose of the study is to ensure that improper grounding is not causing transient voltage issues at the WWTP. Grounding is very critical to ensure the life of Variable Frequency Drive (VFD) equipment. The proposal under consideration is to perform the study and make any recommendations for improvements to the electrical grounding systems for mechanical equipment and buildings at the Commerce Township WWTP. The cost will not exceed \$45,000.00

MOTION by Sovel, supported by Berkheiser, to authorize Giffels Webster to perform a grounding study at the Wastewater Treatment Plant at a cost not to exceed \$45,000.00 and report their findings back to the Township Board. Funds to come from the Sewer Fund.

MOTION CARRIED UNANIMOUSLY

B. Option Agreement for Sale of Old Library

Phillip Adkison, Township Attorney, explained the option agreement tracks the timeframe that is included in the DDA purchase agreement. His recommendation is for the Township Board to allow the Supervisor the authority to execute the agreement along with a \$100 fee to begin the process.

MOTION by Berkheiser, supported by Phillips, to authorize the Township Supervisor to execute the Option Agreement between The Charter Township of Commerce and Commerce Downtown, LLC and initiate the \$100.00 fee to start the process. Two hundred thousand dollars (\$200,000) paid, without interest, in twenty annual installments of ten thousand dollars (\$10,000) shall be earmarked for the Trailway Maintenance Fund.

MOTION CARRIED UNANIMOUSLY

C. KER Engineering Building Department Contract

Jay James, President KER Engineering, Inc. was present to answer questions regarding the contract.

**ITEM 5:12-12 CONTRACT AWARDS AND AGREEMENTS - KER Engineering
Building Department Contract (continued)**

Trustee Sovel would like the following change to the contract: 6.0 City Property – Office Space changed to “Township Property – Office Space”.

Hans Rentrop, Township Attorney, recommends a separate Motion for the duties of the Building Official.

MOTION by Sovel, supported by Hindo, to approve the Charter Township of Commerce and Ker Engineering, Inc. Professional Services Agreement and authorize the appropriate signatures. **MOTION CARRIED UNANIMOUSLY**

MOTION by Sovel, supported by Hindo, to approve the duties of the Township Building Official. **MOTION CARRIED UNANIMOUSLY**

ITEM 6:12-12 INTRODUCTIONS

None

ITEM 7:12-12 ADOPTIONS

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

MOTION by Berkheiser, supported by Creech, to Adopt an 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

MOTION by Sovel, supported by Berkheiser, 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. 1.035, post and publish according to law.

MOTION CARRIED UNANIMOUSLY

ITEM 8:12-12 SITE CONDOMINIUMS AND PLATS

None

ITEM 9:12-12 CONSENT AGENDA

- A. 2018 Meeting Schedules**
- B. 2018 Holiday Closures**
- C. Property Deeded from Oakland County**

ITEM 9:12-12 CONSENT AGENDA (continued)

- D. Banner Permit – St. Patrick Catholic School**
- E. 2017 Township Budget Amendments**

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

ROLL CALL VOTE

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

NAYS:

MOTION CARRIED UNANIMOUSLY

ITEM 10:12-12 PURCHASES

A. Radio Communications G5 Dual Band Voice Pagers – Fire Department

Jim Dundas, Fire Chief, was present to request approval to purchase twenty (20) pagers to replace single band radio equipment that is over 10 years old.

MOTION by Sovel, supported by Phillips, to approve the purchase of twenty (20) G5 dual band voice pagers from Digicom Global at a cost not to exceed \$15,170.00. Funds to come from the Fire Department Capital Improvement Account.

Trustee Berkheiser - We are already negative on the budget, what is the need to purchase the equipment? Fire Chief Dundas responded that Oakland County will be changing their communications system county wide next year. The voice pagers will be compatible with the pending changes made by the county. They are a dual band radio which allows the firefighters to be able to switch bands to monitor emergencies. They come with a 5 year warranty an estimated lifespan of 20 years.

Treasurer Phillips asked if the purchase will come out of the 2017 Capital Outlay Budget. Chief Dundas answered yes. Phillips said we are not over budget in that account.

MOTION CARRIED

Opposed: Berkheiser

B. Staff and Command School Tuition – Fire Department

Jim Dundas, Fire Chief, was present to request approval to attend the Staff and Command Class at EMU. The program teaches leadership, decision making, budgeting, labor relations and legal issues for Fire Department managers.

MOTION by Berkheiser, supported by Sovel, to approve the purchase of EMU Staff and Command Class for Mark Gall at a cost not to exceed \$3,000.00. Funds to come from the 2017 Fire Department Education Fund. **MOTION CARRIED UNANIMOUSLY**

ITEM 11:12-12 OLD BUSINESS

A. 2018 Township Budget

Moved to Item 12 (F,G,H)

ITEM 12:12-12 NEW BUSINESS

A. Amendment No. 3 to Water Service Contract between Great Lakes Water Authority and Charter Township of Commerce

Jason Mayer, Giffels Webster Engineers, was present to answer questions.

MOTION by Berkheiser, supported by Phillips, to approve Amendment No. 3 to Water Service Contract between Great Lakes Water Authority and Charter Township of Commerce.
MOTION CARRIED UNANIMOUSLY

B. Conditional Rezoning Agreement – Wow! Gas Station

MOTION by Hindo, supported by Sovel, to recuse John Hindo from discussion and vote because of a conflict of interest. His firm has a close relationship with the petitioner.
MOTION CARRIED UNANIMOUSLY

David Campbell, Planning Director, advised the Board the agreement is for the development of a gas station with retail building at the southwest corner of Commerce and Newton Roads, encompassing a total of five properties with one of the properties to be rezoned from B-2 Community Business to B-3 General Business. He stated the Planning Commission recommends denial because the conditional rezoning application does not meet the applicable standards of Articles 3 and 36 of the Commerce Township Zoning Ordinance, and does not meet the intent of the Commerce Township Master Plan.

The Planning Commission's denial was based not on the layout of the CRP (size/location of the retail building, number of gas pumps, configuration of driveways, etc.), but on the proposed land use and its requisite zoning relative to the Commerce Township Master Plan.

The petitioner's conditional rezoning plan (CRP), which is an exhibit to the conditional rezoning agreement (CRA), has been revised significantly from the CRP reviewed by the Planning Commission in February 2017. Those changes include:

- The size of the proposed retail building was reduced from 4,400 to 3,787 sq. ft., and shifted farther west on the site.
- The size of the fuel canopy was reduced, the number of fueling stations was reduced from twelve to eight (from six double-loaded pumps to four), and the configuration of the pumps was revised from a stacked to a linear configuration.
- One of the two proposed driveways on the south side of Commerce Rd was eliminated.
- The proposed driveway on Newton was reconfigured to restrict inbound and outbound left turns to and from Newton Road.

ITEM 12:12-12 NEW BUSINESS - Conditional Rezoning Agreement – Wow! Gas Station (continued)

- The parking spaces were relocated

Planning Director David Campbell gave Mr. Sharrak the option to bring his revised petition back to the Planning Commission to see whether his revisions to the CRP might garner a favorable recommendation from the Planning Commission. Mr. Sharrak opted not to do so. The question came up under Public Comments why this is before the Township Board again. David Campbell said all rezoning requests have to appear before the Planning Commission and the Township Board of Trustees. If the Township Board of Trustees approves the Conditional Rezoning Agreement then it goes back to the Planning Commission for site plan and special land use approval.

Treasurer Phillips asked if there were any comments received from surrounding residents. Planning Director David Campbell said a Public Hearing was held, standing room only, and the majority of public comments received were not favorable to the proposal. Phillips then asked Campbell if he received any additional communication since the Public Hearing was held. Campbell answered no.

Trustee Berkheiser asked if they will be able to obtain a liquor license. Hans Rentrop, Township Attorney, answered no they will not, based upon the Township's Zoning Ordinance.

Iden Kalabat, PE Kalabat Engineering, gave a presentation on the proposed site plan. He stated the petitioner's plan and intent is to create a very residential look to the building elevation including utilizing sloped roofs on the Convenience Store and Gas Station to mimic typical residential construction. He presented a 3D rendering of the building to show detail, architectural features and landscape. The proposed development will also include a right-of-way sidewalk along the entire property frontage to promote pedestrian traffic and access.

Iden Kalabat discussed the Standards for Review in Section 36.06 of the Township Zoning Ordinance, as noted in the Township Attorney's letter and responded as follows:

- The proposed rezoning will benefit the public interest, such that the expected benefits of the rezoning, subject to the conditions offered, clearly outweigh any reasonable foreseeable detriment. The need for a gas station in the general area is real and present, and the proposed development would offer a much-needed service to the community. The convenience store will be constructed with a residential look to blend in and complement the residential developments in the surrounding area and will dramatically improve the current condition and aesthetics at the site. Promotes much needed competition to neutralize an unintended monopoly. Redevelopment of existing non-conforming properties. Creates 4 mils in assessed property value. An increase in tax revenue for the Township.
- The proposed rezoning shall include conditions sufficient to assure integration of

ITEM 12:12-12 NEW BUSINESS - Conditional Rezoning Agreement – Wow! Gas Station (continued)

- the proposed development and use with the surrounding land uses and to protect the public health, safety and welfare. The proposed development will be conditioned on the provision of adequate access, infrastructure, signage and utilities in compliance with law. There will be a densely landscaped residential buffer and screening on the front and rear of the building. They are not proposing to rezone existing residential to commercial. Emphasis on walkability for a healthy lifestyle. The proposed building and canopy will be designed with residential style sloped roof with gables. The existing chain link fence will be removed. The above ground propane tank will be removed. There will be restricted hours of operation compliant with a new development.
- The proposed development and specific uses proposed in conjunction with the rezoning do not adversely affect the public utility or traffic systems, drainage or the environment. Instead, the proposed development will put the site to a better use that benefits the community in a more tangible, every day manner, and will transform an unsightly and out-of-place piece of property to a beautiful, modern establishment that complements surrounding properties. There will be conversion from well and septic to newly developed municipal water and sewer. Implementation of modernized storm water management practices. There will be an oil water separator pretreatment sediment swirl chamber and surface underground detention. New concrete pavement will eliminate gravel pavement and lot. There will be a newly improved intersection and widened roadway. This will eliminate visibility obstruction at the intersection. There will be a driveway approach reduction on Commerce Road and a restricted driveway approach along Newton Road (right in, right out only). Existing traffic volumes will be absorbed.

They are seeking a Motion for approval and said they meet all Township setbacks and requirements.

Supervisor Scott asked if they had a study done on how many vehicles will be serviced by the gas station. Iden Kalabat said a traffic volume study was not done.

Trustee Sovel is concerned about the depth of the tanks and any potential site contamination. Iden Kalabat said there is some contamination on the site now but it has not reached the depth of the tanks. Sovel asked how many homes in the area have well water, how many are hooked up to municipal water and what is the depth of the wells. Kalabat could not answer his question. He did say the tanks will have a double wall and an alarm on the pumping system. Sovel asked how deep the tanks will be. Kalabat said they will dig down 12-14'. Kalabat said there is no possibility any contaminants will go any further down. He said during the excavation process, the company will remove all contaminated soil and will test the soil to make sure none is left. Sovel questioned how he can say it will be environmentally safe if they do not know how many wells are around or even the depth of the wells. Kalabat apologized for not having the details of

ITEM 12:12-12 NEW BUSINESS - Conditional Rezoning Agreement – Wow! Gas Station (continued)

that report. Sovel reminded Mr. Kalabat that he said they do not need a variance but then said that he may ask for a variance for the Commerce Road side of the building in order to allow architectural depth to the building. Kalabat said at this time a variance is not needed but to make the building look better on the Commerce Road side a variance would be needed. If they were not approved for one, they could still move forward but the building will have a flat appearance to it and will not look as nice. Sovel said this is a primarily residential district and asked him what type of comments he heard at the Planning Commission Public Hearing. Kalabat said most of the residents said they did not want a gas station at this location. He said a natural inclination of the public is to not want one but once it becomes available it becomes a focal point of the community and well visited by residents that were initially opposed. Mr. Kalabat said they have determined there is a need for this type of establishment in the area and are redeveloping a commercially zoned property use with a commercial use.

Trustee Berkheiser said 1) No one has asked him for another gas station in the area, 2) The traffic is already at a standstill on Newton Road and 3) The library already has an issue with traffic exiting onto Commerce Road, how will traffic not be an issue on your site? Berkheiser asked for an explanation on what an oil/water separator does. Mr. Kalabat said it is an underground system that has different compartments/chambers to separate passing oil to the high chamber. He then explained how the system works. Berkheiser asked how there will be walkability to the site since the sidewalk will end at the both sides of the site. Kalabat said when sidewalks become part of a community they have to start somewhere and their establishment will be the starting point to future sidewalks.

Supervisor Scott said the proposed rezoning will not benefit the public interest but be a detriment to the community, and it will more egregiously clog traffic, not increase traffic flow on a road that is already a parking lot on a daily basis.

The property in question can't accommodate the proposed use of a gas station, and it's not sufficient in size to allow such a business without adversely affecting the neighboring properties and traffic flow.

The public response in prior planning commission hearings support that this is nothing the community wants, supports, or needs, even removing the signatures provided by a competitor – it is obvious there is no public demand.

The specific use proposed does adversely affect the traffic and safety of the community. Gas is readily available in Milford to the west, on M59 in Highland Township, south to Wixom, as well as along the Union Lake Road corridor to the east. The idea that a gas station is necessary to fill a void is wrong, the reason there are no gas stations, contrary to the petitioner's statement, in the northwest is it's not wanted, needed, and that is also why the master plan does not support it.

ITEM 12:12-12 NEW BUSINESS - Conditional Rezoning Agreement – Wow! Gas Station (continued)

MOTION by Scott, supported by Sovel, to deny the conditional rezoning petition request, consistent with the February 6, 2017 recommendation of the Planning Commission, by Commerce Land Development Co., LLC of West Bloomfield MI, for Conditional Rezoning of a parcel of land consisting of 0.43 acres from B-2 Community Business to B-3 General Business located at 9555 Commerce Road. Sidwell No.: 17-11-332-029. This was for the development of a gas station with retail building at the southwest corner of Commerce and Newton Roads. This denial is based on the fact the conditional rezoning application does not meet the intent of the Commerce Township Master Plan and the applicable standards of Articles 3 and 36 of the Commerce Township Zoning Ordinance as follows:

- The Minimum Standards for a conditional rezoning contained within Section 36.04 of the Zoning Ordinance have not been met.
- The factors to be considered for a request to amend the Township's Zoning Map contained within Section 3.03.D.3 have not been adequately satisfied.
- The conditional rezoning application is inconsistent with the intent of Commerce Township's 2015 Master Plan, including the intent for properties designated as Cottage Residential on the Future Land Use Map.

MOTION CARRIED UNANIMOUSLY

C. Conditional Rezoning Agreement – Comfort Care of Commerce

David Campbell, Planning Director, advised the Board that Comfort Care of Commerce proposed a 73,652 sq. ft. senior assisted living / memory care facility comprised of 91 dwelling units (including 79 one-bed units and 12 two-bed units, 103 total beds), to be constructed on vacant land near the northeast corner of 14 Mile and Decker Roads. The Planning Commission recommends approval.

Trustee Sovel asked if you will be able to see the siding from the roadway. Mr. Sikander said no there will be some siding in the rear of the building facing the apartment complex but the front of the building facing the roadway will consist of brick.

MOTION by Berkheiser, supported by Hindo, to approve the Conditional Rezoning Agreement between the Charter Township of Commerce and 100 Decker Road LLC consistent with the December 4, 2017 recommendation of the Planning Commission and direct the Township Supervisor to execute the Conditional Rezoning Agreement. This 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 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 and C) the specific uses proposed in conjunction with the rezoning do not adversely affect the public utility or traffic system, drainage or the environment.

MOTION CARRIED UNANIMOUSLY

ITEM 12:12-12 NEW BUSINESS (continued)

D. Charter Township of Commerce Resolution on Investment Policy

Treasurer Phillips gave an explanation of the policy.

MOTION by Berkheiser, supported by Sovel, to approve the Charter Township of Commerce Resolution on Investment Policy. **MOTION CARRIED UNANIMOUSLY**

E. Tree Removal – Curtis Addition

This is to remove a rotted tree which poses a clear danger to grave stones and visitors of the Curtis Addition Cemetery.

MOTION by Sovel, supported by Berkheiser, to contract with Owen Tree Service, Inc., to remove a rotted tree at the Curtis Addition Cemetery at a cost not to exceed \$3,745.00. Funds to come from the Cemetery Maintenance Fund.

MOTION CARRIED UNANIMOUSLY

F. Elected Officials' Wages

Trustees Sovel and Magner worked diligently on wages for Township elected officials, management, and Boards and Commissions. They submitted their recommendations to the Board.

Supervisor Scott appreciates the task they took on.

Trustees Sovel and Hindo feel that since the public has a right to know what the officials are being paid, we should discuss this first and come to an agreement as a Board then open it to the public.

MOTION by Sovel, supported by Hindo, to set the 2018 Elected Township Officials' annual wages as follows:

Supervisor	\$89,182.05
Clerk	84,090.33
Treasurer	84,090.33

MOTION CARRIED UNANIMOUSLY

MOTION by Sovel, supported by Phillips, to set the 2018 Township Management annual wages as follows:

Deputy Clerk	63,000.00
Deputy Treasurer	64,260.00
Planning Director	76,000.00
Maintenance Director	62,000.00
Director of Finance/HR	70,000.00
Parks & Rec/Senior Center Director	70,000.00
Director of Technology	67,000.00
Library Director	72,469.00
Fire Chief	83,000.00

MOTION CARRIED UNANIMOUSLY

ITEM 12:12-12 NEW BUSINESS (continued)

G. Board's and Commission's Wages

MOTION by Sovel, supported by Magner, to set the 2018 Board's and Commission's wages as follows:

Township Board of Trustees	\$ 150.00 per meeting
Planning Commission	70.00 per meeting
ZBA	70.00 per meeting
Parks & Recreation	60.00 per meeting
Library Advisory Board	60.00 per meeting

MOTION CARRIED UNANIMOUSLY

H. Sonitrol Security System

Supervisor Scott advised the Board that as part of the completion of the security system, we need to move and add some cameras at the library building. The cost will be \$8,630.00 plus an increase of an additional \$49.00 per month for maintenance fees.

MOTION by Berkheiser, supported by Phillips, to approve completion of the security system at the Township Library by adding and moving security cameras by Sonitrol Security Company in an amount not to exceed \$8,630.00 and an additional monthly fee of \$49.00 for Maintenance fees. Funds to come from the Library Building Fund.

I. Letter from John Hindo

The Township is in receipt of a resignation letter from Trustee John Hindo.

MOTION by Magner, supported by Berkheiser, to accept the resignation letter from John Hindo as Trustee of the Township Board of Trustees and liaison for the Planning Commission effective December 31, 2017.

Supervisor Scott thanked Mr. Hindo for his excellent service, input and dedication to the Township and its residents.

Trustee Hindo thanked the Supervisor and Board for allowing him to serve the Township.

MOTION CARRIED UNANIMOUSLY

Publication for a Trustee on the Township Board of Trustees will be advertised in-house, on Facebook and on the Township website. Applications for Trustee shall be received by the Township no later than 4:00 p.m. on January 3, 2018. Applicants shall be a registered voter and resident of Commerce Township. Applications shall be reviewed at 5:00 p.m. on January 8, 2018 and successful applicants will be interviewed starting at 5:30 p.m. on January 10, 2018. At the meeting on January 16, 2018 at 5:30 p.m. the Township Board will proceed with interviews if necessary and appoint a new Trustee.

ITEM 13:12-12 ORDERS AND ADD-ONS

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

MOTION CARRIED UNANIMOUSLY

ITEM 14:12-12 OTHER MATTERS

Trustee Berkheiser -Money received by the Township from renting out Township Buildings should be earmarked to a shrinking or support fund to cover maintenance for those buildings that were rented out.

Magner – Asked for an update on the Richardson Center remodel. Supervisor Scott said it is coming along very well and looks nice inside. Estimated reopen date is around February 15, 2018.

Clerk Creech said the revised precinct boundaries were approved by the State. The boundaries were moved for 4 of the precincts. The new voting equipment has been delivered and will be set up after January 1, 2018. A mock election to test the equipment will take place after set up is complete.

ITEM 15:12-12 CLOSED SESSION

None

ITEM 16:12-12 ADJOURNMENT

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

MOTION by Creech, supported by Phillips, to adjourn the meeting at 9:28 p.m.

MOTION CARRIED UNANIMOUSLY



Melissa Creech, Clerk
Charter Township of Commerce