

**CHARTER TOWNSHIP OF LYON
BOARD OF TRUSTEES
SPECIAL MEETING MINUTES
December 9, 2004**

Approved as submitted February 7, 2005.

DATE: December 9, 2004
TIME: 6:00 PM
PLACE: 58000 Grand River

1. **Call to Order:** Supervisor Young called the meeting to order at 6:00 PM.

2. **Pledge of Allegiance**

3. **Roll Call:** Present: Lannie Young, Supervisor
Patricia Carcone, Treasurer
Pamela Johnson, Clerk
Dan Cash, Trustee
Brent Hemker, Trustee
John Hicks, Trustee
Troy Schilling, Trustee

Also Present: Matthew Quinn, Township Attorney
Michelle Aniol, Township Planner
Loren Crandell, Township Engineer
Chris Olson, Township Superintendent
Les Cash, Fire Chief

Guests: 16

4. **APPROVAL OF THE AGENDA**

The following were added to the agenda:

- Discussion of Meeting Procedures
- Meeting Schedule and Meeting Times

Ms. Carcone made a motion to approve the agenda as modified. Mr. Hicks supported the motion.

Voice Vote: Ayes: All
Nays: None

Motion approved.

5. **Discussion of Meeting Procedures**

Mr. Young stated that they have decided to expand the Call to the Public to include any item and not just non-agenda items. He stated that he felt that this would give more opportunity for the public to speak at the beginning of the meeting. He stated that as a swap they would go through the agenda items without taking public comments. He stated that the Board could make a motion on any agenda item to allow public comments to be heard. He stated that this

turned out to be very awkward and did not work very well. He stated that he has spoken with the individual Board members and some of the residents who were at the Monday night meeting who expressed concern about the new procedure.

Mr. Young stated that based on this in addition to the Call to the Public allowed at the beginning of the meeting, that the Board allow time for public comment after each agenda item, after the item is introduced, explained and presented, if appropriate, with the exception of the obvious housekeeping issues. Mr. Hicks supported the motion.

Voice Vote: Ayes: All
 Nays: None

Motion approved.

Mr. Young stated that if they find that in a couple months this is not working, then they will take public comments and fix the problem. He stated that they would like to make the meetings as efficient as possible and include the public whenever possible.

6. CALL TO THE PUBLIC

Laurie McDougall, 25500 Belladonna, stated that there is a lot of development going on in the Township and a lot of it is on dirt roads. She asked the Board to consider when approving developments on dirt roads, that the developer should help keep the road maintained so that they don't have to rely on the Road Commission. She stated that it really takes a toll on the roads and makes driving conditions dangerous.

7. OLD BUSINESS

a. Acceptance of Donation Documents for Woodwind Well (Tabled from November and Postponed from December 6th meetings)

Mr. Quinn explained that the original documents have been supplied to the Board concerning this. He briefly reviewed the documents that the Board received. He stated that these documents are being proposed by Woodwind Water Association for the donation of the well. He stated that the well site consists of a little over 6 acres of property with 100' isolation circumference that goes around the well.

Mr. Quinn stated that the only other thing of note is that originally Woodwind was going to provide water from this well to the Woodwind Planned Development and within this planned development is the school district. He stated that the owners of the Woodwind Well have donated to the school district sufficient water to cover the schools from this well. He stated that the Township will be honoring this particular donation. The value of the donation is \$198,000, which is what the school would have paid for access to the well, but they were granted the donation from Woodwind, which the Township has agreed to honor.

Mr. Quinn stated that if the Board chooses to approve these documents, he would like to have a motion approve the donation documents and to authorize the Supervisor and Clerk to sign any appropriate documents subject to the final approval and review of the Township Attorney, Township Engineer and Township Superintendent.

Mr. Young explained that they have been working with Woodwind regarding the donation of this well. Once they have accepted the donation this well will then be tied into the other well systems in the Township. Mr. Quinn noted that they are also working with the County for the transfer of the other three wells within the Township, Carriage Club, Tanglewood and Kensington. He stated that once the County approves this at their January or February meeting the Township will then own all

four of the wells that service the Township. He stated that it was always the goal of the Township to control the wells within the Township.

Mr. Young asked if there were any public comments.

Les Cash, 29631 Milford Road, questioned if the well house is included in this. Mr. Crandell responded that the donation is for the property that the well is on. He stated that the well house is included in an SAD. Chief Cash stated that he has been included in a wellhead protection group and suggested that the Township look into doing this.

Mr. Cash made a motion to table this item until the January 3, 2005 meeting. There was no support for the motion, therefore, the motion dies.

Susan Goers, Consultant for Bob Harris, stated that in working with the Township Engineers, Township Legal Counsel and Chris Olson, it was their understanding that all the documents had been presented and all questions had been answered. She questioned why a motion was made to table. Mr. Cash stated that he just received the packet today and has not had enough time to review the information.

Mr. Young made a motion to approve the donation documents subject to review and approval by the Township Engineers, Township Attorney and Township Superintendent and also to authorize the Clerk and Supervisor to sign the document, if approved. Ms. Johnson supported the motion.

Mr. Young asked if there were any comments from the Board regarding this issue. Ms. Carcone questioned why they are agreeing to donate 110 water taps to the school district. She stated that she doesn't remember this. She questioned why the Township has to take the responsibility for a deal that Bob Harris made. Mr. Young stated that his understanding is that there was an agreement with the schools when Bob Harris was originally going to do the well system himself. He stated that the agreement was that they were going to supply the schools with the water REU taps, 110, that they needed. He stated that when the Township decided to enter into an agreement with Bob Harris, the agreement with the schools was already made and the schools were depending upon it. He stated that the donation is included in the agreement process to the Township. The Township would continue to honor the donation of 110 REU's in the amount of \$198,000. Ms. Carcone stated that this is not the Township's responsibility.

Mr. Olson stated that this has been brought up in prior meetings. He stated that up until the end of last week there were a number of clauses that were still being discussed regarding this charitable gift. He stated that these things had to be worked out before the documents got into the Board's packets. Ms. Carcone noted that these are the first documents she has seen. She stated that they have been updated on this by Mr. Quinn, but that she does not remember the 110 REU's ever being discussed before.

Mr. Schilling stated that with regard to the well house, it is his understanding that it has not been built yet. Mr. Crandell responded this is correct, it will be built as part of the special assessment district. Mr. Schilling stated that the Township is paying \$1.00 for this, and questioned if there are any other costs associated with this. Mr. Quinn stated that the bonds have already been sold and received. No monies can be spent on these bonds until the Township is the owner of this particular land through the donation.

Mr. Hicks questioned if the \$198,000/100 REU's is related to any other issue that the Township has with the school district. Mr. Quinn responded that it is not.

Mr. Cash stated that the school district and Woodwind have made the agreement and the Township is brought in to basically bail them out. He stated that the blame could be put on the Township, if the water is not to the school in time. He stated that he does not feel right accepting

this when the Township had no knowledge of it.

Mr. Hemker stated that he would like to get more background information on this. He questioned what is the reason for Woodwind doing this. Mr. Crandell briefly explained.

Ms. Carcone stated that this is \$198,000 that would go into the Township's water enterprise fund. She felt that the Township would be eating 110 REU's. She stated that she recalls the fact that they are going to accept the well, but does not recall the fact that they would be also accepting the donation of the taps.

Mr. Schilling questioned how the 110 units would affect the Township's capacity. He questioned if the Township will still have capacity, if they give these taps to the school. He also questioned it will cost the Township to add.

Ms. Carcone stated that if this was a normal deal and the donated REU's were not part of it and the SAD went through, the Township is borrowing the money to build the well. She stated that the Township is borrowing the money to pay Mr. Harris back for the well and then they will have to eat the \$198,000 that would go into the Township's Water Enterprise Fund. She stated that the Township is losing all the way around. She stated that Mr. Harris made the deal with the schools and now wants the Township to take responsibility for it. She stated that she does not have a problem with accepting the well, but has a problem with giving 110 REU's to the schools. She noted that they don't have enough money to paint or maintain the towers now. She stated that she cannot vote in favor of this.

Mr. Crandell stated that from Mr. Harris' perspective, they feel that they have spent a lot of money building the well system to higher standards. He stated that an iron removal system will be put in and that this would benefit the whole Township. After further brief discussion, Mr. Young called the question on the motion that was made.

Roll Call Vote: Ayes: Johnson, Young, Hicks
 Nays: Carcone, Cash, Schilling, Hemker

Motion failed.

Mr. Quinn explained how another motion could be made.

Ms. Carcone made a motion to accept the Declaration of Charitable Gifts for the Woodwind Well with the removal of the donation of 110 REU's in the amount of \$198,000. Mr. Schilling supported the motion.

Mr. Hemker stated that in looking at the forms provided, they do not have an IRS form which indicates the value of this. Mr. Young noted that there is a much higher value put on this than what he feels there should be. There was further discussion with regard to the value of this. Mr. Olson explained quit claim versus warranty deed.

Roll Call Vote: Ayes: Hemker, Carcone, Johnson, Hicks, Schilling, Young
 Nays: Cash

Motion approved.

b. Resolution of Tentative Declaration of Intention to Make Improvements for the Southwest Ten Mile Road Water Main Improvement Special Assessment District

Mr. Quinn explained that this was carried over from the last meeting. He stated that this will extend the water to the southwest portion of the Township. He stated that the typical way that an SAD is

started is by a signed petition of the property owners. He stated that because this SAD district is so large it would be almost impossible to get property owners to sign. By this process being started by resolution, it will take the place of signed petitions. He stated that a public hearing will be scheduled for February 7, 2005 and the Clerk will notify all the members within this district, which are attached to the resolution. He stated that at that time, they would have the opportunity to come and hear the presentation by the Township Engineers and then voice their comments. The estimated cost for the water main is \$2,900,688.00, which would be assessed against the properties within the district. He stated that this resolution is in a proper form for the Board's consideration.

Ms. Zawada briefly discussed the project including the revised cost for this project. She noted that the increase of the cost from \$2.1 million to \$2.9 million is because of the price increase of the Ductile iron pipe, which almost doubled in price.

Mr. Quinn explained the process of a petition versus a resolution. He stated that once the Board gives their authorization to proceed they will then hear public comments at the public hearing.

Mr. Young asked if there were any public comments regarding this issue.

Bob Seccombe, 56889 Nine Mile Road, stated that his question really has to do with the first issue on the agenda. He noted that it was voted on and no public comments were asked for. He questioned what is the Township accepting in this gift, is it a well that has additional capacity or is it a well that is going to supply water to the Woodwind development, the High School and the Township. He questioned if there is additional capacity for other than the Woodwind development. He questioned if there is not, then why is the Township accepting it. Mr. Crandell responded that there is a lot of extra capacity. He noted that 1,000 gpm are needed for Woodwind and the well has the capacity of 4,000 gpm.

There were no other public comments.

Ms. Carcone made a motion to accept by resolution the Tentative Declaration of Intention to Make Improvements for the Southwest Ten Mile Road Water Main Improvement Special Assessment District. Mr. Hicks supported the motion.

Mr. Schilling questioned what percentage of the residents are needed to approve this. Mr. Quinn responded that the Township needs to have a written protest by 20% or more of land owners by area. He stated that they will accept vocal objections at the public hearing also. Mr. Crandell stated that their proposal is really only to include the property owners who want to be in the district. He stated that they are not going to force anyone who doesn't want to be in the district to be in it.

Mr. Hemker stated that from his Planning Commission history there is one piece of property that is owned by Aspen Group that is extremely wet and un-buildable. He stated that on the water SAD, labeled as R, and on the sewer SAD, this same parcel is labeled as U. He questioned a discrepancy that he found. Mr. Crandell indicated that he would look into this. He noted that this is not being approved tonight.

Roll Call Vote: Ayes: Young, Carcone, Hemker, Hicks, Johnson, Schilling, Cash
 Nays: None

Motion approved.

c. Resolution of Tentative Declaration of Intention to Make Improvements for the Southwest Sanitary Sewer Improvement Special Assessment District

Mr. Quinn explained that this is a Resolution of Tentative Declaration of Intention to Make

Improvements for the Southwest Sanitary Sewer Improvements Special Assessment District. He stated that the estimated cost for this project is \$7,272,000. He stated that this will schedule the public hearing for February 7, 2005. He noted that Exhibit A is the description of the improvements that the Engineers have prepared and Exhibit B is the map and listing of the property owners who would be involved in this SAD. He stated that this resolution takes the place of a signed petition of the property owners and schedules the public hearing to start the process.

Mr. Young asked if there were any public comments. There were none.

Mr. Hicks made a motion to approve the Resolution of Tentative Declaration of Intention to Make Improvements for the Southwest Sanitary Sewer Improvement Special Assessment District. Ms. Carcone supported the motion.

Ms. Johnson questioned what happened to the original petition for the sewer. She stated that she knows that it was going to go this route originally. Mr. Crandell gave a brief history of this project.

Mr. Schilling stated that the total capacity required is 3.25 and now it is 3.34 but the total committed capacity is 3.00. He questioned if they are building something that if everybody wanted it, that they could not provide. Mr. Crandell responded that he does not believe so. He noted that they do have the ability to obtain more capacity. Mr. Schilling stated that if the SAD is being based on this and if they needed more capacity, he questioned if the would the cost be rolled into the SAD. Mr. Olson stated that they would have to scout for more land suitable for sewage bed capacity. Mr. Crandell stated that they shouldn't go over with the next two sewer SAD's.

Mr. Young stated that the good thing about this is that the Grand River corridor will be covered, which is something that they all wanted.

Roll Call Vote: Ayes: Carcone, Johnson, Young, Hemker, Schilling, Cash, Hicks
 Nays: None

Motion approved.

d. Transfer of Water Wells From Oakland County and Operating Agreement

Mr. Olson stated that the Board received in their packets a copy of the operating agreements. He also explained what other documents were included. He stated that the three wells that they are discussing are the Kensington Park Apartment Well, the Carriage Club Well and the Tanglewood Well systems. He stated they are trying to link up these wells in order to get everybody water throughout the Township.

Mr. Quinn stated that on September 8, 2003 the Board passed a resolution to begin this process. He read the resolution to the Board. He stated that since that time the Township and Oakland County have been working out the details of this. He stated that if the Board were to approve the transfer, operation and management of the wells then it would go to the Oakland County Board of Commissioners in late January meeting or a February meeting for their approval.

Mr. Quinn noted that any motion should include the quit claim deed and other transfer documents of the three well systems mentioned, Carriage Club, Tanglewood, Kensington, from the County of Oakland to the Charter Township of Lyon subject to any other transfer documentation that may be acquired by the County Attorney or the Township Attorney. He stated that a second motion later, would be concerning the operation agreement.

Mr. Olson stated that they have received the documents from the Assistant Engineer and that the documents have not yet been sent to the Township Attorney's office for review. He stated that

the Board could approve this in concept.

Mr. Quinn stated that this could be approved subject to the final review and approval by the Township Engineer, the Township Attorney and the Township Superintendent. He stated that the Board could also wait until it comes back to them in the final form. He stated that as a general policy, it is up to the Board to decide. He stated that previous Boards have approved things subject to final review and approval by the Township Attorney and Township Engineer. Once their approval is received in writing, the Clerk is then authorized to execute the documents. He stated that which ever way the Board is more comfortable with, it is fine with them.

Mr. Young asked if there were any public comments.

Bob Seccombe, 56889 Nine Mile Road, questioned why the Township wants to own the wells and what would the obligations be. Mr. Olson explained that by joining all the systems it will make the Township's system easier because there won't be any confusion of entities. He stated that on the negative side, with any asset there will be liabilities. Mr. Seccombe stated that maybe they should give the systems to the County, and then there will be only one ownership. He felt that the County probably knows more about the systems than the Township. Mr. Quinn stated that it doesn't matter if the County owns it or the Township owns it, it is the residents who will be paying in their water fees. He stated that the County is getting out of owning Township and municipal assets, in general. He stated that the getting rid of wells is one of the first things that they a doing in terminating ownership.

Jack Healy, 3636 Sleeth Road, discussed the donation dollars. He indicated that Carriage Club could produce much more. He doesn't feel that Mr. Harris should get \$198,000 out of Woodwind. He felt that Bob Harris' well is no better than any of the other wells in the Township.

Mr. Young asked if there were any other public comments. There were none.

Ms. Carcone made a motion to approve the transfer of the Carriage Club, Tanglewood and Kensington Park Wells from the County of Oakland to Lyon Township via quick claim deed and other supporting documents agreed to by the Township Engineer, Township Attorney and Township Superintendent. Mr. Hicks supported the motion.

Roll Call Vote: Ayes: Schilling, Hicks, Cash, Johnson, Hemker, Carcone, Young
 Nays: None

Motion approved.

Mr. Quinn stated that the second part of the motion deals with the water supply operation and maintenance agreement. He stated that after the wells are donated to the Township this contract with Oakland County will provide that Oakland County will continue to maintain and provide services for the entire water system that is owned by the Township. He stated that this document is in a proper form for the Board's consideration this evening. He requested that if the Board should approve this, he would like it to be subject to the approval of the Township Treasurer for her final input on the cost as well as the Township Engineer, Township Attorney and Township Superintendent.

Mr. Olson asked Mr. Quinn to give a brief overview of the agreement, which he did. Mr. Quinn indicated that the Township could go out for bids for an operator of the system, i.e., companies like Earth Tech, etc., once the contract is finalized. He stated that the Township is not tied into having the County run the wells.

Ms. Carcone made a motion to approve the operation and maintenance system agreement for the water supply system contingent upon the final acceptances of the wells by the Township.

Mr. Hicks supported the motion.

Mr. Cash questioned if they affirm this, could they still go out and shop for bids. He felt that the Township could be better served by having someone local.

Mr. Hemker questioned the verbiage in the contract with regard to overhead revenues. Mr. Quinn responded that this really is no different that what they Township is doing now.

Roll Call Vote: Ayes: Johnson, Cash, Schilling, Carcone, Hicks, Young, Hemker
 Nays: None

Motion approved.

e. Carriage Club Planned Development – Phase III – Tentative and Preliminary Plan Approval Request

Mr. Crandell explained that Phase III was approved by the Planning Commission subject to the drainage issue being resolved. He explained the drainage issue and noted that they have been working with the developer and the residents of Belladonna to try and resolve the issue. He stated that they have talked to the developer who has indicated that he is willing to do some off-site improvements. Mr. Crandell recommended that this be approved subject to Item 3, Final Engineering approval.

Mr. Young clarified the action that the Board needs to take on this issue tonight. It was noted that it was tabled at the last meeting. Mr. Quinn indicated that there needs to be two motions.

Mr. Young asked if there were any public comments.

Laurie McDougall, 25600 Belladonna, stated that there is currently standing water 20' from their walkout basement. She noted that four months out of the year their yard is very dry, the rest of the time there is standing water. She expressed concern with the water quality, fertilizer, pesticides and the wildlife. She felt that the developer should sacrifice a few lots and get their own pond instead of using their pond.

John Talbot, 25600 Belladonna, displayed some pictures of the area to the Board. He explained the location of each of these pictures. He discussed the elevations in the area.

Laurie McDougall, 25500 Belladonna, stated that her property borders the Talbot property. She stated that she is not opposed to development, but felt that it should be done properly. She felt that the drainage issue needs to be addressed before this development continues. She felt that there needs to be some improvements to the east side of the pond, Elkow property. She stated that come Spring time, it will be a lot worse than what it is now.

Ron Martin, 24965 Belladonna, stated that 25 years ago the residents tried to do something about the drainage problem and were told that they were not allowed to drain into the wetlands. He stated that now they are told that drainage can go into or out of the wetlands. He stated that they have been told that the water coming from Carriage Club is a natural flow, but for some reason it is not flowing naturally, it is being held up somewhere. He discussed the sizes of the detention ponds.

Laurie McDougall stated that they have the Carriage Club development to the west and the Elkow development to the east of Belladonna Drive. She stated that there needs to be a lot of improvements made to keep the flooding out.

Ms. Carcone made a motion to suspend the rules and open the issue up for discussion.

Mr. Schilling supported the motion.

Voice Vote: Ayes: All
 Nays: None

Motion approved.

Ms. Carcone questioned if the pond up front and the Healy pond are getting smaller. Mr. Young noted that this is a detention pond that the water will actually leave. Mr. Healy stated that they have two detention ponds with a road going through it. This pond will accept the drainage from approximately 19 acres. It used to have 27.5 acres draining into it. He noted that the pond furthest to the west does not have an outlet yet because they have not put the pipe in yet.

Ms. Carcone stated that it was her understanding that drainage had to be maintained on the property and not sent off to other properties.

Mr. Hemker stated that at the Planning Commission level they knew there was a problem and that they didn't want to add to the existing problem. Mr. Crandell stated that the outlet needs improvements. He noted that it wouldn't take much to improve the outlet.

Mr. Young stated that he walked the property and saw the problem. He stated that he was interested in seeing the calculations. The volume may be a problem and the water could come up higher. He stated that the water will be leaving the Carriage Club pond at about 1 cubic foot per second. He stated that in order for the water to start flowing back to the West, there would have to be a flow of about 40 to 100 feet per second which would be about a 4' culvert. He stated that he would like to see them get a permit from MDEQ to help lower the water table which may help the current situation.

After further discussion, Mr. Young called for a motion.

Mr. Cash made a motion to approve the tentative preliminary plat for Carriage Club Phase III subject to the conditions outlined in the December 9, 2004 Giffels-Webster report, participation in a drainage SAD and putting \$4,000 in escrow for a permit to work on the pond flow. Mr. Hicks supported the motion.

Mr. Quinn asked that the motion be amended to include the following: That the Covenants and Restrictions for Phase III be amended to mandate that they participate in future drainage improvements. Mr. Cash amended his motion to include this. Mr. Hicks supported the amendment.

Voice Vote: Ayes: Carcone, Cash, Hicks, Hemker, Schilling, Young
 Nays: Johnson

Motion approved.

Mr. Cash made a motion to approve the final plat for Carriage Club Phase III subject to final engineering approval. Ms. Carcone supported the motion.

Voice Vote: Ayes: Carcone, Cash, Hicks, Hemker, Schilling, Young
 Nays: Johnson

Motion approved.

Ms. Carcone made a motion to take a five minute break. Ms. Johnson supported the motion.

Voice Vote: Ayes: All

Nays: None

Motion approved.

The meeting re-convened at 8:27 PM.

f. School Sanitary Sewer Update

Mr. Olson updated the Board on the meeting that occurred the day before Thanksgiving with the School Board and representatives of the Township. He noted that the school has requested that the Township pay a portion of the Road Commission permit, Road Commission bond and construction bond, which totals \$38,047.00. He stated that any check from the Township is going to be contingent upon the dedication, bill of sale and the transfer of the mains.

Mr. Quinn stated that if the Board is going to approve payment of the \$38,047 then all documents regarding the sewer should be settled. He stated that the water is a separate issue.

Ms. Carcone made a motion to authorize payment of \$38,047 from the sewer enterprise fund to the schools upon execution of the documents necessary to turn over the sanitary sewer improvements to the Township. Mr. Hicks supported the motion.

Roll Call Vote: Ayes: Young, Carcone, Hicks, Schilling
 Nays: Hemker, Cash, Johnson

Motion approved.

g. 2005 Budget and 2004 Budget Amendments

Mr. Olson distributed updated versions of the budget to the Board. He reviewed the line items. He noted that there is a revenue shortfall and departmental cuts which will probably affect revenue sharing.

Because of the late hour, the Board determined that they would schedule a special meeting next week on Wednesday, December 15, 2004 at 5:00 PM to finish the discussion on the budget and the remaining items of the agenda.

h. Elected Officials Salaries for 2005

i. Meeting Schedule and Meeting Times - Discussion

8. ADJOURNMENT

Mr. Young adjourned the meeting at 9:53 PM.

Respectfully Submitted,

Deby Cothery

Deby Cothery
Recording Secretary

Pamela Johnson
Pamela Johnson
Clerk