

**CHARTER TOWNSHIP OF LYON  
BOARD OF TRUSTEES  
SPECIAL MEETING MINUTES  
August 25, 2005**

Approved as submitted October 3, 2005.

DATE: August 25, 2005  
TIME: 6:00 PM  
PLACE: 58000 Grand River

**1. Call to Order:** Supervisor Young called the meeting to order at 6:03 PM.

**2. Roll Call:**

Present: Lannie Young, Supervisor  
Patricia Carcone, Treasurer  
Pamela Johnson, Clerk  
Brent Hemker, Trustee  
John Hicks, Trustee  
Troy Schilling, Trustee

Absent: Dan Cash, Trustee

Also Present: Philip Seymour, Township Attorney  
Chris Doozan, Township Planner  
Chris Olson, Township Superintendent  
Leslie Zawada, Township Engineer  
Les Cash, Fire Chief  
Al Hogan, Building Official

Guests: 7

**3. Pledge of Allegiance**

**4. Approval of Agenda**

Ms. Carcone made a motion to approve the agenda as submitted. Mr. Hemker supported the motion.

Mr. Schilling noted that there were a couple items (7a and 7b) on the agenda that he did not recall being on the last agenda and carried forward. He stated that it is his understanding that items for a special meeting have to be noticed. Mr. Young stated that this was noticed and that it does meet the notification requirements. It was noted that these items were put on the agenda because they need to be taken care of as soon as possible.

Voice Vote: Ayes: All  
Nays: None  
Absent: Cash

Motion approved.

**5. Call to the Public**

John Bell, 23113 Currie Road, stated that the Township will be hosting a breakfast for the Chamber of Commerce on September 16, 2005 at 8:30 AM. He noted that they will be trying to get sponsors

for the File of Life program.

**6. OLD BUSINESS:**

**a. Proposed Resolution Accepting Ballot Questions for November 8<sup>th</sup> Election**

Mr. Hicks made a motion to adopt the resolution regarding the Fire Department millage proposals to go onto the November 8, 2005 ballot. Mr. Schilling supported the motion.

Mr. Young asked if there were any questions or comments. Mr. Hicks noted that these are both worded the same, but questioned a sentence in Ballot Question No. 2, "...dedicated funds for fire operations, maintaining paid-on-call firefighters only,...". He questioned if this would encompass the full time people that they already have. It was noted that additional language of "full time Fire Chief and full time Fire Inspector" should be added to this.

Mr. Young stated that he spoke with Mr. Cash on the phone today because he couldn't be at the meeting tonight. He stated that Mr. Cash questioned what would happen if there is a tie vote on these two ballot questions. There was discussion regarding this possibility. Mr. Seymour stated that his initial reaction would be that the higher millage would win. It was determined that the Board should make a determination as to which one would become effective should there be a tie vote. Mr. Seymour felt that having a default would be a good idea. Mr. Young felt that if they are going to propose a default, they should default to the lesser millage.

Mr. Hemker made a subsidiary motion to change the resolution to add:

1. If both ballot questions have a "Yes" vote and end in a tie, then the Ballot Question No. 2 would be the one that is successful;
2. Add wording to Ballot Question No. 2 "maintaining full time Fire Chief, full time Fire Inspector and paid-on-call firefighters".

Mr. Hicks supported the motion.

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

Motion approved.

Chief Cash stated that he would like to see a legal opinion with regard to the tie vote issue before they put this into a resolution.

Mr. Young called the question on the original motion:

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

Motion approved.

**7. NEW BUSINESS:**

**a. Contract Awards – Spaulding Road Sanitary Sewer Special Assessment District, Eleven Mile Paving and Milford Road and Spaulding Road Water Improvements Special Assessment District and Timber Trail Water and Sewer Improvements Special Assessment District.**

Ms. Zawada stated that they recommend that the contract for the Spaulding Road Sanitary Sewer SAD be awarded to Ivanhoe-Huntley in the amount of \$745,000. She stated that Ivanhoe-Huntley

will act as the general contractor. She stated that they have reviewed Ivanhoe-Huntley's plans and prices and have determined that they are reasonable and in line with what their estimate would be for this project. She stated that Giffels-Webster will be doing the inspections on this project. She noted that the sanitary sewer has been completed, at the developer's own risk. She stated that because of the bond issues and the way that the SAD have been, the bond monies are finally available.

Ms. Carcone made a motion to approve the contract award from Giffels-Webster, 16188.07, to Ivanhoe-Huntley for the Spaulding Road Sanitary Sewer in the amount of \$745,000. Mr. Hicks supported the motion.

Mr. Young asked if there were any comments. Ms. Carcone questioned what they were burying on Spaulding Road. Ms. Zawada responded that they were burying the pipes.

Mr. Hicks stated that they are approving an award of \$745,000 but the special assessment amount is \$936,712.35. Ms. Zawada stated that this award is only for the construction costs.

Mr. Hemker questioned if they are required to bid this out rather than just award it. Ms. Zawada responded that this is similar to the Woodwind Well project. She noted that because this was designed by a private developer, the developer has been able to act as the general contractor. She noted other projects that they have handled this way.

Mr. Young questioned who the contributors are in this SAD. Ms. Zawada responded that it is Elkow and Ivanhoe-Huntley. Mr. Young stated that Elkow and Ivanhoe-Huntley are actually paying for this. Mr. Hemker stated that this is where he has a problem, because they are not actually paying for this, they are passing the cost onto the people who are buying the homes. He stated he has a problem with developers offering benefits, but not paying for them. Mr. Young stated that they do pay for this, but they get a return on their investment.

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

Motion approved.

Ms. Zawada stated that they recommend that the contract be awarded to Ivanhoe-Huntley for the Eleven Mile Road paving and Milford Road and Spaulding Road Water Improvements in the amount of \$2,800,000.

Ms. Carcone made a motion to approve the recommendation of Giffels-Webster, #16188.05 and #16188.06 to Ivanhoe-Huntley for the Eleven Mile water main and paving in the amount of \$2,800,000. Mr. Hicks supported the motion.

Mr. Young asked if there were any comments. Ms. Carcone stated that this bond has not yet been sold. Ms. Zawada stated that this is correct. She stated that the developer knows that the monies will not be available until mid-October. She noted that even though this is a recommendation of contract award, the contract will not actually be signed until within 30 days of that date.

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

Motion approved.

Ms. Zawada stated that they recommend that the contract be awarded to Tower Development

Company in the amount of \$84,416.00 for the Timber Trail sanitary sewer and water main improvements special assessment district. She noted that Giffels-Webster will be inspecting all of the work as well as monitoring the payment to Tower Development. She stated that they have reviewed the prices and they are in line.

Ms. Carcone made a motion to approve the recommendation from Giffels-Webster, #16895, for the Timber Trail Water and Sewer Improvements to Tower Development Company in the amount of \$84,416.00. Mr. Schilling supported the motion.

Mr. Young asked if there were any comments. Mr. Schilling questioned the dollar amount. Ms. Zawada responded that it is the amount of construction costs. Mr. Young questioned if Giffels-Webster has worked with Tower Development in the past. Ms. Zawada responded that Tower has hired Harte to do the work. She noted that Harte has done work in Brighton Township in the past.

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

Motion approved.

**b. Contract with Oakland County for 800 mhz Radio Tower**

Mr. Seymour explained that this is the contract between Lyon Township and Oakland County on behalf of the Fire Department for participation in the public safety program.

Mr. Hicks made a motion to adopt the resolution to approve the radio system agreement between Oakland County and the Charter Township of Lyon. Ms. Johnson supported the motion.

Mr. Young asked if there were any comments or questions. Mr. Hicks stated that when they had the original presentation of this issue there was discussion regarding ownership of the tower. He stated that this resolution indicates that the County is the owner of the radio equipment and infrastructure. He questioned if infrastructure meant the tower. He stated that he recalls that the Township was interested in owning the tower so that they could solicit co-locators on the tower, if they wished.

Chief Cash stated that this resolution is for the radio system and not the tower. He stated that Oakland County is lead agency for every public safety system in Oakland County. He noted that Oakland County will be getting bids on the radios. He stated that the tower is not part of this package. He noted that there is another agreement that the Township should have signed with regard to ownership of the tower.

Ms. Carcone stated that she recalls that they did discuss ownership of the tower. She noted that they also discussed how much the maintenance of the tower would cost the Township. Mr. Olson stated that they also discussed whether or not the tower should be painted white or should remain galvanized. He noted that ownership has already been approved by the Board. It was noted that this issue needs to be clarified.

Mr. Hemker stated that this document references an Exhibit A, Radio System Policies and Procedures, which they don't have attached to the contract. Chief Cash stated that this is being worked on as they speak tonight. He noted that they don't have this ready yet. Mr. Hemker stated that he is not going to vote on something that he doesn't have all the information on.

Chief Cash stated that by agreeing to this contract, the Township is not spending a dime. He stated that the Township can cancel the contract, if they wish.

Mr. Young questioned if there is a time frame on this issue. Chief Cash responded that they were hoping to have the system up and running sometime in September. He noted that Oakland County will not do this until all the contracts are signed.

Ms. Johnson discussed a section that indicates the purchase of equipment. She questioned if this would be municipal owned. Chief Cash responded that the walkie-talkies and the mobile radios will be purchased by Oakland County. He stated that if the Township wants to have a speaker for the walkie-talkies, the Township would have to purchase that. Ms. Johnson questioned if the Township should anticipate any major purchases. Chief Cash responded that the Township is not purchasing anything, it is all being purchased by the County.

Mr. Young stated that if they are not going to be the hold-up on this, which he did not feel that they were, he would like to get more information to better understand this, especially when it comes to the infrastructure issue. He felt that there were still some loopholes in this.

Mr. Hemker made a subsidiary motion to table this until they get more clarification on their questions and get the Exhibit A attachment. Mr. Schilling supported the motion.

Voice Vote:           Ayes: All  
                              Nays: None  
                              Absent: Cash

Motion approved.

**c. Mill River Agreement for Construction and Amending Consent Judgment**

Mr. Olson stated that before the Board is a document that relates to discussion from the last Board meeting, which is revisions to the written part of the agreement. He stated that this is also a result of a committee meeting held a few days after the Board meeting. He stated that the draft of the amended agreement which encompass some of the items that the Board has already approved in April, 2005. He stated that there are some items that are covered under the Planner's review letter. He stated that the Township Attorney did send a letter to Paul Burns, Attorney for the applicant.

Mr. Seymour read a letter from Matt Quinn, Township Attorney, that was sent to Paul Burns, Attorney for the applicant, dated August 24, 2005. He noted that this letter was sent via fax and first class mail. He indicated that there were six items that Mr. Quinn asked for.

Earl LaFave responded to the comments indicated in the Mr. Quinn's letter. He stated that with respect to the first couple of comments, these have been corrected. He noted that he did bring corrected copies with him this evening. He stated that he also brought the environmental studies that were done as well as three other studies that were done 1998, 2002 and 2004. He noted that all the conclusions were the same.

Mr. LaFave stated that with regard to the day care center the original consent judgment was for a day care or limited B-2 uses, with about six exceptions that they agreed not to use. He stated that they are continuing the same language in the amended consent judgment. He stated that they do have a tentative purchase agreement for a day care/school center, but it is not yet closed, therefore, they are keeping the option of limited B-2 open. He noted that this is consistent with the original and the amended consent judgment.

Mr. Doozan stated that on the original agreement the office and the commercial uses were not on the day care center. Mr. LaFave stated that there was a resolution by the Township Board that amended this. Mr. Olson noted that this was changed in April, 2005.

Mr. Olson stated that the discussion at the committee meeting was that they believed that there was a user and that they were 90% sure that there would be a day care facility there of approximately 23,000 to 25,000 square feet. He stated that there was no retraction of the office uses. Mr. LaFave stated that they did have 20,000 square feet approved as a combination day care/business facility. He stated that if they do not execute a close for the day care facility, he has no problem reverting back to the 20,000 square feet.

Mr. Young stated that this particular issue in the original consent agreement called for 20,000 square feet for this particular use on the site. Mr. LaFave responded that this is correct. Mr. Young stated that what is being asked for now, because of the size of this particular piece and the size of the project, it was very reasonable to allow up to 25,000 square feet. He questioned if the request is if they have a day care center, can they go to 25,000 square feet. Mr. LaFave indicated that this is corrected. He stated that if the deal is not closed on the day care center, what uses would be allowed on this site. Mr. LaFave stated that they would then revert back to the original consent judgment.

Mr. LaFave stated that if the day care center does not materialize, then it would revert back to the 20,000 square feet. He stated that the user that they currently have under contract, but not closed, have the option of going up to 25,000 square feet. He stated that there was also an additional incentive that they added for the Township's recommendation or approval to do this, is the additional acreage that they will now be donating to the Township.

Mr. Seymour read items three and four from Mr. Quinn's letter. Mr. LaFave indicated that both of these items have been taken care of.

Mr. Seymour read item four from Mr. Quinn's letter. Mr. LaFave stated that the discussion they had regarding this is that if and when the Township parcel is developed, at that point in time the storm sewer system that the Township would be tying into is a private system that has to be privately maintained. He stated the advantage of the Township tying into this system, as opposed to creating their own system on the Township property, would be that the Township would lose a lot of property for retention or detention and also the additional piping that would be needed could already be installed. He stated that they will put this in at their expense today and when the Township exercises their option to build on the property, they would then buy into the storm system and be obligated to share in a proportionate share of the maintenance that is relative to the library piece which the storm system services. He stated that this would be a cooperative effort between the Township parcel/Library and with the development. He briefly discussed typical maintenance of a storm system. He stated that the charges would be fair and reasonable and could be reviewed by the Township Engineer.

Mr. LaFave stated they will be extending the sanitary sewer extensions to the Township's property. He stated he will be paying for all of this now and are trying to be pro-active, trying to save everybody some money. He stated that they went through the engineering for the Township's site, and determined what the maximum storm water run-off would be, which the Township Engineer's concurred with the numbers. He stated when the Township builds on their parcel, the storm water, sewer and water mains have already been properly engineered, sized and installed.

Mr. Olson stated that in the draft agreements there was discussion with regard to Chapter 18 drains. He questioned if the association is going to own the system. Mr. LaFave responded that "yes", the association will own the storm water management system and they will then be responsible for the maintenance because it will be privately owned.

Mr. Olson referred to a problem with Colonial Acres where the Township was named in a law suit. He questioned how the Township be tied into this in respect to a liability issue. Mr. LaFave responded that there will be the necessary insurance indemnifications where the Township would be named as an additional insured.

Mr. Young questioned if the sewer being supplied is documented in this form. Mr. LaFave responded that it is. He noted that it is in the approved engineering plans.

Mr. LaFave stated that the road issue is similar to the storm water issue. He stated that the road that will be servicing the Library, Senior Citizen's Center and the Medical Office complex to the north will be constructed by the first user that comes forward, either the Library, Senior Center or Medical Office complex. Mr. LaFave stated if the Senior Center or the Medical Office complex comes first, then he will have to put the road in. He stated that if the Library comes first, then the Township will put the road in. He stated what he is proposing is to try and create a fair and equitable way that everybody shares equally, based on their usage of the road. He said that if the Library goes in first, then it would charge him back his pro-rata share for putting the road in, using a formula that has already been decided. He stated that originally the Township's portion of the road was 42% with his portion being 58%. He stated it was brought up at the committee meeting that the actual road was within the 13 acres being proposed as donation to the Township. He stated they recalculated the number at that time, taking out the entire road from the Township's pro-rata share which reduced it to 37%. He noted that this number is reflected in the documents. There was further discussion regarding the road issue.

There was discussion with regard to the drainage on the site. Mr. LaFave noted that they have oversized their ponds in order to accommodate the drainage from the Library property. He also explained the route of the sanitary sewer and the water.

Mr. Seymour noted that any approval of this would have to be subject to the review and approval of the exhibits by the Township Attorney.

Mr. Doozan reviewed the comments indicated in the McKenna Associates, Inc. letter dated August 25, 2005 regarding this issue.

There was discussion regarding the minimum size for the units. Multiple Family Units are proposed to be 1,100 square feet. Duplex units are proposed to be 1,500 square feet. Single Family Large Lot units will average 2,400 square feet. Mr. LaFave stated they are complying with the square footages that they laid out in their original architectural guidelines. He noted that he will have to talk to the builder to get a definitive answer for the square footage of the Single Family Large Lot units. After further discussion, it was determined Mr. LaFave would come back to the Board with more definitive answers for all the minimum unit sizes.

Ms. Carcone asked Mr. LaFave if he would mind if they tabled this issue. Mr. LaFave responded that he doesn't mind tabling this. Mr. Schilling stated that there are too many things that still need to be finalized. He concurred that this should be tabled.

Mr. Schilling made a motion to table this issue until all documents are updated, reviewed by the Engineers, Planners, Legal Counsel and the review committee, which would include the original consent judgment and the revised one from April. All of these would have to include the associated exhibits and documents. Mr. Hemker supported the motion.

Voice Vote:                      Ayes: All  
   Nays: None  
   Absent: Cash

Motion approved.

**d. Increase Contract Building Inspection Fees from \$25 to \$30 per Inspection**

Ms. Carcone made a motion to set the contracted building inspector fee to \$30.00 per inspection.

Mr. Hicks supported the motion.

Mr. Young asked if there were any comments. Ms. Johnson felt that with the rise in gas prices, this is certainly needed.

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

Motion approved.

**8. ADJOURNMENT:**

Ms. Carcone made a motion to adjourn the meeting. Mr. Hemker supported the motion.

Voice Vote:               Ayes: All  
                                  Nays: None  
                                  Absent: Cash

Motion approved.  
The meeting was adjourned at 8:32 PM.

Respectfully Submitted,

Deby Cothery

Deby Cothery  
Recording Secretary

Pamela Johnson  
Clerk