

**CHARTER TOWNSHIP OF LYON
BOARD OF TRUSTEES
MEETING MINUTES
September 6, 2005**

Approved as submitted October 3, 2005.

DATE: September 6, 2005
TIME: 7:00 PM
PLACE: 58000 Grand River

1. Call to Order: Supervisor Young called the meeting to order at 7:02 PM.

2. Pledge of Allegiance

3. 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 (excused)

Also Present: Matthew Quinn, Township Attorney
Chris Olson, Township Superintendent
Chris Doozan, Township Planner
Leslie Zawada, Township Engineer
Loren Crandell, Township Engineer
Les Cash, Fire Chief
Al Hogan, Building Official

Guests: 39

Mr. Young stated that Dan Cash called to say that because of a situation at work he is unable to take off, therefore, he could not be here tonight. The Board excused the absence.

- 4. APPROVAL OF THE CONSENT AGENDA**
- Approval of Special Meeting Minutes of August 8, 2005
 - Approval of Regular Meeting Minutes of August 8, 2005
 - Approval of Disbursements
 - July Revenue/Expense Report
 - Cash Balance Report through July, 2005
 - Fire Department Report for July, 2005
 - Building Department Report for July, 2005
 - Sheriff Department Report for July, 2005
 - Engineer Status Report for August, 2005
 - Earth Tech Reports for May and July, 2005

Ms. Carcone made a motion to approve the consent agenda as submitted. Ms. Johnson supported the motion.

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

Nays: None
Absent: Cash

Motion approved.

5. ANNOUNCEMENTS AND COMMUNICATIONS

Ms. Carcone reminded the residents that summer taxes are due by September 14, 2005. She explained the different ways that the taxes can be paid.

Mr. Hicks reminded the Board to start thinking about what they want to put in the next newsletter.

Jeff Potter, Oakland County Commissioner, discussed a new County service, pay taxes on line. He noted that there is a nominal fee to do this. He briefly discussed the County's budget process and the wireless Oakland County system.

6. CALL TO THE PUBLIC

Shirley Baker, 27239 Stancrest, questioned the status of the Eleven Mile Road project.

Charlie Hall, Lake Angela Co-op Apartments, expressed concern about the lake level. He noted that the level has dropped at least 5'. He stated that they can't even get into the wetlands any more. He expressed concerns about the wells in the area and wondered what is happening to the water table in the area.

Marshall Vickers, 26902 Sandy Hill Court, Apt. 4, expressed several concerns. He noted that the lake level is certainly going down and that there is pumping going on in the area. He stated that rumors are running about the intent to dry up the wetland next to them and the one south of Eleven Mile Road. He questioned the type of work going on in the pet cemetery because there is machinery digging it up.

Mr. Young stated that there are several people here from Lake Angela with concerns of the lake level. He suggested that this issue be added to the agenda for further discussion. He noted Loren Crandell, Township Engineer, is present and could possibly give some information regarding this issue.

Chris Roberts, 56645 McKenzie Lane, stated that Mr. Young made him a promise the night they were all elected in the primary. He stated the promise was that they would work on making the positions non-partisan. He stated that he would like to see this thought reviewed.

Mary Ellen Dobson, 26945 Milford Road, stated the lake level is bothering all of them, but what really got her upset is that Milford is only a two lane road. She briefly discussed all the new developments going in and noted that Milford Road cannot handle all the traffic now. She questioned how it will be able to handle all the additional traffic being placed on it.

Mary Harrison, 26945 Milford Road, stated that she would like to see something done about public transportation for the seniors. She noted that they can't afford gas because they are on a fixed income. She questioned why the Township couldn't join with the City and get something in place. Mr. Olson noted that this issue will be discussed under item 11b under New Business tonight.

Colleen Vickers, 26902 Sandy Hill Court, Apt. 4, submitted pictures of the lake levels from September 4th through September 6th for the Board's review. She questioned if the Board would let everyone know what the laws are regarding the ponds, creeks and lakes that are around the Lake Angela area so that they cannot be taken over by big business or construction. She stated they moved to this area to retire and most of them are on fixed incomes.

John Mesclier, 26902 Sandy Hill Court, Lake Angela, questioned if the land around the Lake Angela area is a designated wetland area. He noted that there used to be standing water in these areas. He questioned the impact on the water table from the pumps that are being used. He expressed concerns with the amount of dust that is being generated by the trucks and the construction.

7. APPROVAL OF AGENDA

The following item were added to the agenda:

- Lake Angela Discussion (added as the first item under Unfinished Business)
- Status of Planning/Zoning Secretary Hire (added to end of Unfinished Business)
- Collateral Contracts – Ivanhoe-Huntley (added at end of New Business)

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

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

Motion approved.

8. Public Hearing on the Assessment Roll for the Mill River Sewer and Water Improvements Special Assessment District

Ms. Zawada stated that she will be recommending tabling the resolution confirming the roll for the Mill River sewer and water main improvements because the project description and costs may possibly change. She explained what is currently included in the special assessment district. She stated that the total cost for the project is \$7,700,000.

Mr. Young opened the public hearing at 7:27 PM. There were no public comments. He closed the public hearing at 7:28 PM.

9. Public Hearing on Martindale Road Low Pressure Sanitary Sewer Improvement Special Assessment District

Ms. Zawada explained which properties are involved in this special assessment district. She stated that the total estimated cost for this project is \$122,220. She stated there have been many alterations of this cost estimate over the past two years. She stated that in preparing for tonight's Board meeting, they did review the cost estimate an additional time and found they had a similar bid pack in Commerce Township recently where the unit prices were significantly higher than what they had in the original estimate for this project. She stated that she does have a breakdown of the proposed costs per residential unit, which is projected between \$12,000 and \$15,000. She noted there will be an additional capital charge of \$8,400 that may be part of the SAD. She stated that at the time of connection there is also a cost for the grinder pump installation, which is approximately \$6,000. She stated there is a total cost of paying for the mainline sewer, connection fee and the grinder pump between \$24,000 and \$26,000. She wanted to make sure the residents participating in this SAD are aware of these costs.

Mr. Young opened the public hearing at 7:30 PM.

Mary Harrison, 26945 Milford Road, questioned if the costs were per resident. Ms. Zawada explained who pays the costs. She noted that some of these could be paid over a ten year period through the SAD. She explained the requirements of who has to connect to the sewer.

James Hendrickson, 46055 Martindale Road, stated that some of the costs doubled since the last

estimate. He asked Ms. Zawada to go through the cost breakdown again, which she did.

Tom Hubert, 46055 Martindale Road, questioned what the prices are for contingencies, engineering and legal bonding. Ms. Zawada responded that the contingencies is just under \$19,000, the engineering is approximately \$25,000 and the legal bonding and administrative is just over \$13,000. He expressed his frustration with this.

Mr. Young stated that it sounds like they need more details regarding this. He encouraged them to come into the Township Hall to see Ms. Zawada, who has office hours here on Thursdays.

Mr. Young closed the public hearing at 7:38 PM.

10. UNFINISHED BUSINESS

a. Lake Angela Discussion

Mr. Young stated that the Engineers are available to answer questions the residents have. He stated that the Engineers have office hours at the Township Hall on Thursdays.

Mr. Crandell summarized what is taking place in the area of Lake Angela. He noted that he did receive several calls today from residents and did go out and look at the site. He noted that he does agree with the residents that the lake level has dropped. He stated that once the dewatering is complete, he would expect the water table to come back up. He stated that he does not know the details of what is going on at the pet cemetery, but will check into this. He stated he will be talking with the developers regarding these issues and will also ask them to try and control the dust better. He stated that they will closely monitor the lake level. He stated they will be talking with a hydro-geologist about this. Mr. Young questioned if there is some way once Mr. Crandell talks with the hydro-geologist that the information could be relayed to the residents. It was noted that Mr. Crandell or Ms. Zawada will contact Charlie Hall to relay the information.

Mr. Olson noted that with regard to the wetlands, the MDEQ is aware of what is going on and is keeping an eye on it. He noted that the MDEQ has received several calls regarding this issue. He stated with regard to the two lane road, he encouraged the residents to call the Road Commission for Oakland County and express their concerns. He indicated that he does have the phone number, if anyone is interested.

Mr. Schilling stated that he lives just north of Lake Angela and the ponds in his development feed into Lake Angela. He noted that the level of these ponds have dropped also. He stated that he feels the residents concerns. He said that it has been noted that after the de-watering is finished it is believed the water table is going to come back. He questioned if the water table doesn't come back, is the developer liable for this. There was brief discussion as to what steps will be taken if the water table does not come back on its own.

Ms. Carcone stated that they had the same type of situation last year when they dug the waste water treatment beds and it affected the ponds up and down Eleven Mile Road. She stated the residents came in and voiced their concerns and we sent the Engineers out. She noted that they watched this very carefully, just like they are going to watch the Lake Angela situation very carefully. She noted that the waters did come back eventually and everything is good there.

b. Resolution Confirming Mill River Sanitary Sewer and Water Main Improvements Special Assessment District Roll

Mr. Hemker made a motion to table the resolution confirming the Mill River Sanitary Sewer and Water Main Improvements Special Assessment District Roll until further notice from the Township Engineer of a better definition of the boundaries. Mr. Schilling supported the motion.

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

Motion failed.

Ms. Carcone made a motion to postpone the resolution confirming the Mill River Sanitary Sewer and Water Main Improvements Special Assessment District Roll. Mr. Schilling supported the motion.

Mr. Young asked if there were any comments regarding the motion. Ms. Carcone stated that this is supposed to be rolled on the winter tax bill. She stated that she hopes it will be done in time.

Ms. Carcone asked Earl LaFave when he will be splitting the property. Mr. LaFave responded that it will be this week.

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

Motion approved.

c. Resolution Determining Sufficiency of Petitions and Necessity of Improvements and Designating Special Assessment District for the Martindale Road Low Pressure Sanitary Sewer Improvements Special Assessment District

Ms. Carcone made a motion to postpone Resolution Determining Sufficiency of Petitions and Necessity of Improvements and Designating Special Assessment District for the Martindale Road Low Pressure Sanitary Sewer Improvements Special Assessment District. Mr. Hemker supported the motion.

Mr. Young asked if there were any public comments. Ms. Carcone stated that before they start spending money, she wants to make sure the residents involved in this know what they are getting into.

Tom Hubert, 46055 Martindale Road, stated that they went outside and talked about this and have decided they would like to move forward. He stated that they don't want to delay things and they are quite sure on what the costs will be.

Mr. Young questioned how many participants are there in this SAD. Ms. Zawada responded there are nine parcels. Mr. Young questioned how many of the nine parcels are here tonight. Mr. Hubert responded that there are four residents present. Mr. Quinn noted there were only seven out of the nine that actually signed the petition.

If Ms. Carcone withdraws her motion and the Board were to go ahead and approve the resolution, she questioned if this would now put them in a financial obligation. Ms. Zawada responded that it would not. Ms. Carcone questioned if the Engineers would begin to spend money. Ms. Zawada responded that they would. Ms. Carcone felt that all the residents should be informed of this before they approve the resolution.

After further discussion, Mr. Olson suggested Ms. Zawada hold an informational meeting for the residents of this SAD since there have been so many changes with the costs.

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

Motion approved.

d. Resolution for Speed Limit to 25 mph along Martindale Road between Grand River and Montego (Petition submitted).

Mr. Schilling moved by resolution, 8-2005, that the Board of Trustees concur with the residents that the speed limit should be 25 mph along Martindale Road between Grand River and Montego for the health, safety and welfare of the residents. Mr. Hicks supported the motion.

Mr. Young asked if there were any comments regarding the motion. There were none.

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

Motion approved.

e. Walnut Creek Estates at Woodwind Condominium – Amendment to Approved Woodwind Planned Development – 2nd Reading and Proposed Adoption

Mr. Quinn explained that this is the amendment to the Planned Development which allows security gates at both entrances, one at Ten Mile Road and one at Johns Road. He stated that this has been published in the newspaper and is ready for the Board's adoption.

Mr. Hemker made a motion to adopt the amendment to the approved Woodwind Planned Development in order to add the security gates at both Ten Mile Road and at Johns Road. Ms. Carcone supported the motion.

Mr. Young asked if there were any comments. Chris Roberts questioned where the Ten Mile entrance to this development is. Mr. Hemker responded that it is just west of the High School.

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

Motion approved.

f. Bond Resolution, Special Assessment Series 2005-C

Mr. Quinn explained this bond will include two separate SAD's, Lyon Ridge Sanitary Sewer Capacity Improvements and the Eleven Mile Road paving and the Milford Road and Spaulding Road Water Improvements Special Assessment District. He stated that this bond issue is in the aggregate of \$4,535,416 and is payable over a ten year period.

Ms. Carcone made a motion to approve the bond resolution for special assessment bond series 2005 which includes the Lyon Ridge Sanitary Sewer Capacity Improvements and the Eleven Mile Road paving and the Milford Road and Spaulding Road Water Improvements in the amount of \$4,535,416. Mr. Hicks supported the motion.

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

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

Motion approved.

g. Planned Development Regulations – 2nd Reading (Table to October)

Mr. Quinn noted that the publications have not been done on this, therefore, he is recommending this item be tabled until next month.

Mr. Hemker made a motion to table the 2nd reading of the Planned Development Regulations until the October meeting. Mr. Schilling supported the motion.

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

Motion approved.

h. Update from Trustee Hicks on BS & A Software for Planning & Zoning.

Mr. Hicks updated that Board on the status of the BS&A software for planning and zoning. He stated the representative from BS&A assured him that the software would do what they want it to do. He stated the Township employees would need training, which would cost \$600 a day plus \$100 travel expense for in-house training. He noted the training would probably take three days.

Mr. Hicks made a motion to have the Board approve up to \$2,100 for the training and installation of the BS&A software. Mr. Young supported the motion.

Mr. Young asked if there were any comments. Ms. Carcone stated she felt this is a good idea. She suggested they wait until the winter months to train the Building Department because that is their slow time. She questioned if the funds are in the budget. Mr. Olson responded it is not in the budget, but the budget could be amended to include this in the Fiscal 2004 finished Building Department's budget.

Mr. Olson questioned how they will be able to lock in the travel expense amount. Mr. Hicks responded that he will have to check to see how long they will guarantee the price.

Mr. Hemker stated the upgrades were supposedly in the maintenance costs. He questioned why the training does not come with the upgrades. He questioned what kind of maintenance costs are they paying now. Ms. Johnson responded that they are paying \$500 per year, which covers support.

Chris Roberts, McKenzi Lane, questioned what this will be used for. Mr. Olson explained what this software will be used for by the Building Department. It was noted that this is more or less a data base. Mr. Roberts stated that he would be interested in going through the training, if they are allowed to include people other than employees.

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

Motion approved.

i. Milford Road West – AP-05-19 – Lyon Crossing – Requested Amendment to PD (Table to October)

Mr. Quinn explained that he talked with Tony Antone, Kojaian, and told him what they actually needed in order to amend the PD. He stated Mr. Antone will be working with him over the next week or so in order to get this done. He stated this issue should be tabled until the next meeting.

Mr. Hemker made a motion to table the Milford Road West, AP-05-19, Lyon Crossing requested amendment to the PD until October. Mr. Schilling supported the motion.

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

Motion approved.

j. Mill River Proposed Amendment

Mr. Olson stated they have had a few meetings on this issue since the last Board meeting. He reviewed the information provided to the Board in his memorandum dated August 31, 2005, which details the proposed amendments.

There was discussion as to when the information was received. Mr. Young stated that this is frustrating to him because they have had many hours worth of meetings to work out details so that when it came to the Board, it was ready for approval. He stated he understands this, but he has also been involved in every one of the meetings. He stated he can't really expect the rest of the Board to fully understand all the nuances of the changes based on the comments that Mr. Olson just made.

Mr. Hemker stated that at the last meeting they asked for a list of what has changed. Mr. Schilling stated that the motion was clear requiring all the information needed to be compiled and put together prior to the packets going out. He stated that this was not followed, therefore, he felt that this issue should be postponed until the next meeting.

Mr. Schilling made a motion to postpone the Mill River proposed PD amendments until the original motion is carried out as it was intended. Mr. Hemker supported the motion.

Mr. Young asked if there were any comments. Earl LaFave stated that when they met last Wednesday, they addressed every concern that was questioned. He said that if there are any concerns not addressed, he would like to know what they are. He stated further that every correction was made, per that meeting. He questioned what has not changed according to the minutes of the last meeting and what else needs to be changed.

Mr. Schilling said he can't tell if anything else needs to be changed because the first time he has seen this is tonight, which is unacceptable. He stated there is a Board resolution that requires that any item not in the packets, should not even be on the agenda. He said that he clearly stated in his motion at the last meeting all of this needed to be done and presented to the committee and associates in time for it to be reviewed and put into the Board's packets. Mr. Schilling said the thing that really irks him the most about this is that a month ago this was presented as just a 25,000 square foot day care and the Township was going to get 5 acres of land and now all of a sudden it has turned into multiple changes.

Mr. LaFave stated that they just had the meeting at the end of the day last Wednesday. He said that he made the changes on Thursday and then brought them to the Township. He

stated that to say that he dilly dallied, is not correct. He stated that they had the meeting, they made the changes and then brought them to the Township immediately. He stated that they complied with everything that was asked of them, getting everything done and returned within 48 hours.

Mr. Young stated that the most important things for discussion are the landscaping, which was worked out and agreed upon. It was agreed upon the entire frontage of the Library site would be landscaped but the extra 5 acres that is donated to the Township, along Milford Road, will be landscaped by the Township and not Mr. LaFave. He noted the setbacks and square footages have been agreed upon. He stated that what the Board has to consider is the issue of sharing in the cost of the drainage and the cost of the road construction. He said he fully supports this proposal, but what he doesn't understand are the little things, i.e., Exhibit L not being referenced, etc. He felt these little things are not substantial but still need to be worked out.

There was discussion with regard to what has already been approved by Board action. Mr. Olson noted some items that were not referenced. Mr. LaFave stated there are several issues that indicate that they will comply with the Township ordinance. He noted that it is referenced on page 8 that this includes all exhibits B-N, which would include L. He noted that exhibits are part of the consent judgment. Mr. Olson stated that even though it is referenced, it does not indicate who is going to install all of the items. He noted that this was very clear in the prior agreement.

Mr. LaFave stated the exhibits and the original consent judgment is still in force, this only speaks to just the amended portions of the consent judgment. He deferred this to Mr. Quinn. Mr. Quinn responded that paragraph 5 of the original consent judgment makes Mr. LaFave obligated to put in all the streetscape along Milford Road. He stated the amended paragraph 3, A, b on the bottom of page 5, only modifies Exhibit L indicating the Township being responsible for 400'. Mr. Olson stated he wants to make sure that the obligations are clear on this. Mr. Quinn replied that this is what they went through along with Mr. Doozan. He noted that they are satisfactory.

Mr. LaFave stated they are only amending the items that needed to be amended based on the new site plan, based on the contribution of the Library as a whole contribution as opposed to a lease. He stated all of the changes are part of the amendment. He noted that nothing else on the original consent judgment has changed except changes which were all agreed upon.

Mr. Young said there are basically four major issues. He stated there are a lot of things Mr. Olson has been concerned about and that Mr. Quinn has gone over the actual documents and contracts. Using a displayed site plan, Mr. LaFave pointed out the conceptual layout of the road that will service the Library, Senior Citizen and the office complex. He pointed out the additional 5 acres that is being proposed as a donation to the Township. He pointed out where the storm water detention/retention will be. He noted that there is no need for the Township to put detention or retention ponds on their property. The water will all be piped into the existing detention/retention ponds on the site.

Mr. Young stated that the Township is not sharing in the cost of construction of the drainage system, they are only sharing in the cost of maintenance of the system, which will be 7%. Mr. LaFave stated the Township is sharing in the cost of \$19,667, which is only a fraction of what it costs to expand these areas to accommodate the donated Township area. He stated that when and if the Township develops this parcel, is when it will become part of the construction costs. He stated sewer has already been designed to come across and stub into the Township property.

Mr. Young said that with regard to the landscaping issue, Mr. LaFave felt he should not have to landscape in front of the Library because the site was donated as a raw site and not a completed site. Mr. LaFave replied that after negotiating and talking with everybody, finding out that landscaping was such a hot issue, he agreed to pay for the landscaping now. He stated they have agreed to bring it so far, leaving a 400' blank and not landscaped until such time that

the Township is ready to build. Mr. Young stated that committee determination was that when they decide what they are going to build, the 400' that needs to be landscaped will be part of the millage.

There was discussion regarding the temporary sales trailer and the length it can be on the property. It was determined that the temporary sales trailer shall be taken down when the Township begins construction on the Library property or when the permanent sales office is completed in the clubhouse, whichever occurs first.

Ms. Johnson asked Mr. LaFave if he foresees any more amendments down the road. Mr. LaFave responded "No". He stated the reason for the bulk of these amendments was because they wanted to add a fourth product, thereby reducing the number of units from 499 to 491. He stated that any other changes must be mutually agreeable.

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

Motion failed.

Ms. Carcone made a motion to approve the first amended consent judgment for Mill River as presented here this evening with the following modifications:

1. Paragraph 1, viii, language will be added to the end to state that the day care or other uses must meet the parking standards of the Township ordinance.
2. Paragraph 3, c, on page 7 in the third line which begins "designee shall have the exclusive right to construct the..." "original" shall be added "construction of the Township Library, etc."
3. Exhibit B, the reference to the square footage of the Township Library will be deducted or blacked out.
4. Exhibit J, the building area for the Library, the square footage, would be deducted or struck out.
5. Exhibit O, which is the architectural guidelines, on the third page where it talks about minimum size of dwellings, on the second line that begins "Single family 72' lots" add and 80' lots "2,400 square feet including 600 square feet of finished lower level. Also further down on that page talking about building height, the Library will be per ordinance.
6. Exhibit P, which is the Temporary Occupancy Agreement, paragraph 1 talks about when they can utilize the temporary sales trailer – would be until December 31, 2006 or at the time the Township begins construction on the Library or when the permanent sales office is completed in the clubhouse, whichever shall occur first.
7. Planner will review the exhibits for completion, conformity and correlation.

Mr. Hicks supported the motion.

Mr. Young asked if there were any comments regarding the motion. Mr. Hemker questioned of the additional five acres, how much of it is actually usable when they apply the Township setbacks to it. Mr. LaFave responded that there is a set of engineered plans that has it delineated. He stated that it depends what the Township is going to build. There was further discussion of what amount of land is usable.

Mr. Hemker stated that he does not agree with the committee with regard to the square footages of the homes. He said that from what he has ever dealt with in real estate, the basement is not used in the calculation of the size of home. He commented on some of Mr. Olson's comments with regard to the road. Mr. LaFave stated that if he builds first then he will pay for the whole road until such time that the Township is ready to build, then the Township will reimburse him for 37% of the cost of the road.

Mr. Hemker stated that in Mr. Olson's notes it discusses the 7% for the storm drainage. He stated that it does not say anything about after the building. He stated that he wants to make sure they are not paying 7% of the maintenance, if they decide not to build there for five years. Mr. Quinn read paragraph 8, which indicates at the time of commencement of building a proportionate share will be paid.

Mr. LaFave said with regard to the basements, they are all walk-outs and under BOCA, and if there are two egresses, a lower level is considered part of the home. Al Hogan, Township Building Official, concurred with this.

Mr. LaFave stated the Library property will be donated to the Township within 30 days after the closing. He stated they are expecting to close next week. He noted that the consent judgment is quite clear as to how they have to handle this.

Mr. Schilling discussed the setbacks in the development. Mr. LaFave stated that there are eight lots that have decreased rear yard setbacks. Mr. Schilling stated that with regard to road construction, the original did not say anything about this, but now it clearly states that the Township is liable for 37%. He said that they are signing taxpayers up to pay for a road that isn't even on the Township's property. He questioned why they couldn't make a curb cut off Milford Road and save the taxpayers some money. There was further discussion with regard to the road issue.

Mr. Schilling questioned why the sales trailer couldn't be placed on the Senior Center property. Mr. LaFave responded that they want to place it where they have frontage on a main road.

Mr. Schilling stated that the way that this is written, if the Township decides to build the Library or other facility on this property, the contract already states that the Township pays 16% above cost. He questioned if this is just for the initial building or does it cover any additions or secondary buildings that they wish to do in the future. Mr. Quinn responded that his opinion would be that it specifically states for the Library original construction. He read a section of Page 7, which describes this. He stated that his opinion is that the Township would have to use LPRS for the original construction. He stated that this would not apply to any future alterations.

Mr. Schilling questioned if there is any liability with having the Township as a co-owner of the road with a residential development. Mr. Quinn responded that the Township does have a cloak of governmental immunity that this would fall under.

Mr. Schilling discussed the building heights. He noted that there is a discrepancy with the height of the Library. Mr. LaFave noted that the heights are part of the original consent judgment. Mr. Quinn noted that the buildings have to be built to the Township ordinances.

The motion was re-stated and the question called.

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

Motion approved.

k. Status of Planning and Zoning Secretary Hire

Mr. Olson stated that he has received 26 resumes and reported one applicant had dropped out because of the rate of pay that is being offered. He stated that he has been busy on other projects and has not had very much time to interview for this position.

Ms. Johnson questioned what the rate of pay is for this position. Mr. Olson responded that it is based on qualifications and educational background and would be determined by the Board.

The Board took a five minute break.

13. NEW BUSINESS

a. Text Amendment to Clarify “Building and Construction” for Wetland and Water Course Setback (Footnote f, Schedule of Regulations, of the Zoning Ordinance)

Mr. Doozan reviewed the text amendment that is being proposed. He recommended that the Board have the first reading of this tonight.

Mr. Schilling made a motion to approve the first reading of the text amendment to clarify “Building and Construction” for wetland and water course setbacks (footnote f, Schedule of Regulations of the Zoning Ordinance). Mr. Hemker supported the motion.

Mr. Young asked if there were any comments. Mr. Hicks questioned how this will affect the 10’ wide bike paths. Mr. Doozan responded that it would be placed at the edge, but not within.

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

Motion approved.

b. Master Plan – Authorization to Distribute

Mr. Doozan explained that they are seeking authorization from the Board to distribute the updated copy of the Master Plan to surrounding communities, Oakland County and SEMCOG for their review and comments. He explained the process.

Mr. Hemker made a motion to give authorization to distribute the Master Plan. Ms. Carcone supported the motion.

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

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

Motion approved.

c. Approval of SMART Funds Use

Mr. Olson reviewed the comments indicated in a memorandum from him to the Board dated September 1, 2005 regarding this issue.

Ms. Carcone made a motion to approve the SMART funding in the amount of \$5,188 to People’s Express as an unmatched credit. Ms. Johnson supported the motion.

Mr. Young asked if there were any comments. Mr. Hemker questioned if People’s Express has agreed to the \$5,188 in lieu of their normal \$6,000. Mr. Olson stated that he had discussed this with them prior to receiving the documentation. He stated that he will clarify this issue with People’s Express. There was discussion with regard to the nominal trip fee that may be charged. There was also discussion as to how the people would be notified of this service.

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

Motion approved.

d. Oakland County Drain Commission Water System Operating Agreement

Mr. Olson reviewed the comments indicated in a memorandum from him to the Board dated August 31, 2005.

Mr. Quinn stated that the Township needs someone to operate their water system for them once they take it over until the Board formally goes out for bids. He noted that the County is getting rid of all the business ownership that could cause them liability. He briefly discussed some of the items that the Township will be paying for.

Ms. Carcone made a motion to approve the water operation contract between the Charter Township of Lyon and Oakland County Drain Commission to operate the Township water system and iron removal system. Mr. Hicks supported the motion.

Mr. Young asked if there were any comments. Mr. Hemker questioned if they did this last year. Mr. Quinn stated that this agreement has been bouncing back and forth between municipalities until it got to the form that it is now in, which is 80% better than the original form. He stated from their standpoint it is still not 100%. He stated the County is not going to budge any further.

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

Motion approved.

e. Ivanhoe-Huntley Collateral Agreement

Mr. Quinn explained that the Township has a contract with Ivanhoe-Huntley to install the Spaulding Road sanitary sewer SAD project. He stated that Ivanhoe-Huntley has hired Pacitto & Forest Construction Company to install the sewer. He stated that part of the Township's contract with Ivanhoe-Huntley is they provide the Township certain bonds. He stated that they discovered when they made their application to the Bonding Company, they cannot obtain such bonds because they do not have enough historical work in doing these types of projects.

Mr. Quinn stated, in talking with the various bond agents, the only way to make this work is for the Township to take the contract rights, only if Ivanhoe-Huntley defaults. He stated that if Ivanhoe-Huntley defaults the Township has the right under this document to move directly against the bond. He stated the bond will actually be purchased by Pacitto & Forest Construction Company and it will name Ivanhoe-Huntley as a principle bond holder as well as naming the Township as a principle bond holder.

Mr. Quinn stated that this gives the Township a direct contractual right. He stated that other than this the Township will not have any rights under this contract, it will still be between Ivanhoe-Huntley and their own sub-contractor.

Mr. Young said if the Board does not pass this Ivanhoe-Huntley can't get the bonding. Mr. Quinn responded that this is correct.

