

**CHARTER TOWNSHIP OF LYON
BOARD OF TRUSTEES
MEETING MINUTES
December 5, 2005**

Approved as submitted January 9, 2006.

DATE: December 5, 2005
TIME: 7:00 PM
PLACE: 58000 Grand River

1. **Call to Order:** Supervisor Young called the meeting to order at 7:00 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
Chris Olson, Township Superintendent
Chris Doozan, Township Planner
Leslie Zawada, Township Engineer
Loren Crandell, Township Engineer
Les Young, Fire Chief
Al Hogan, Building Official

Guests: 85

4. **APPROVAL OF THE CONSENT AGENDA**

- Approval of Special Meeting Minutes of October 27, 2005
- Approval of Regular Meeting Minutes of November 1, 2005
- Proposed Meetings Calendar for 2006
- Approval of Disbursements
- October Revenue/Expense Report
- Cash Balance Report through October, 2005
- Fire Department Report for October, 2005
- Building Department Report for September and October, 2005
- Zoning Report for October, 2005
- Sheriff Department Report for October, 2005
- Engineer Status Report for October, 2005
- Earth Tech Operating Report for October, 2005

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

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

Motion approved.

5. ANNOUNCEMENTS AND COMMUNICATIONS

a. Lake Angela Update

Ms. Zawada gave an update of the Lake Angela issue. Mark Sweatman, Geologist for Insight Environmental, gave a presentation of his findings and conclusions regarding the Lake Angela issue. Mr. Young stated that any further questions could be e-mailed to Pam Johnson, Clerk, at pjohnson@lyontwp.org. He noted that Ms. Johnson will make sure that the questions get to the appropriate person for answering.

b. Brookside Acquisitions Court Case (Sucher Properties, Mobile Home Park)

Mr. Quinn explained that after the Board of Trustees denied the rezoning for the mobile home park the Brookside property owners sued the Township in Oakland County Circuit Court. He stated that at that level, the Judge agreed with the Township Board and dismissed the case. The applicant then appealed this decision to the Michigan Court of Appeals. He said that within in the last month the Michigan Court of Appeals determined the Oakland County Circuit Judge was correct and that the Board of Trustees were correct in denying the rezoning request. He stated the justices determined from statements made that there were other more suitable locations in the Township for a mobile home park and this particular site did not meet the requirements of the Township ordinances. He noted that the justices also looked at the Township already having 20% of their home sites in mobile homes. He stated the court gave the Township an opinion in case law that they can refer to in future matters and dismissed the case. He noted that the time frame for an appeal to the Michigan State Supreme Court is running, but they don't expect the applicant to appeal.

Mr. Quinn stated that the Township's Insurance Attorney, Mark Johnson, did a fine job on these cases. He stated they are very pleased with the outcome of these cases.

6. CALL TO THE PUBLIC

Michelle Russo, 15323 Plaza S. Drive, Taylor, stated that at the last meeting it was indicated that the Lake Angela issue will be kept on the agenda until the issue is settled. She questioned if this issue will be on the agenda for the next meeting. She stated that they are not satisfied with what has happened here tonight in the fact that they can't voice their comments. Ms. Carcone stated that she made a motion at the last meeting to have this issue on every agenda until it is solved.

Shirley Baker, 27239 Stancrest, stated that since Eleven Mile Road is paved they have shaved off part of the hill at the cemetery. She stated that she is concerned with the water run-off in this area.

Jeff Potter, Oakland County Commissioner, updated the Board on what has been happening in the County.

7. APPROVAL OF AGENDA

The following item were added to the agenda:

- Lake Angela (added to Unfinished Business)
- Discussion – Park Building (added to the end of New Business)
- Temporary Signs (added to the end of New Business)

The following items were moved to the end of the agenda:

plan. He thanked Lannie and Chris for the wonderful job they did promoting this plan to the County.

Paul Budesheim, 29775 Milford Road, discussed the traffic problems on Milford Road. He reported the traffic sometimes backs up all the way to the golf course.

Donald Bell, 57185 Cash Road, discussed the traffic problems on Milford Road. He stated that the new developments along Milford Road will only be adding to the traffic problems.

The public hearing was closed at 8:00 PM.

Mr. Olson responded to some of the questions that were asked during the public hearing.

9. UNFINISHED BUSINESS

a. First Reading on Amendments to Ordinance Adopting the Downtown Development Authority Development Plan and Tax Increment Financing Plan

Mr. Quinn explained that currently the ordinance, section 14.81 under definitions defines a development plan. He stated that this would be the first reading of passing the amended plan. He commented that this will come back in January for a second and final reading.

Ms. Carcone made a motion to have this be the first reading on amendments to ordinance adopting the Downtown Development Authority Development Plan and Tax Increment Financing Plan. Mr. Hicks supported the motion.

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

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

Motion approved.

b. Lake Angela

Mr. Young stated that this issue was added to the agenda. He stated that they are going to have Mark Sweatman answer any questions the residents may have.

Shirley Baker, 27239 Stancrest, questioned what the impact is of the dewatering.

Chris Roberts, 56645 McKenzi Lane, questioned if there is currently any wells that have become dry because of the dewatering.

Theresa O'Brien, 26965 Milford Road, discussed the level of the lake. She questioned what they can do to bring the lake level back to where it was before the dewatering started.

Mr. Sweatman responded to the questions that were asked.

c. Southwest Water & Sewer - Award Appraiser

Mr. Quinn explained that in accordance to his letter to the Board dated November 28, 2005, the sub-committee interviewed four of the five appraisers. He reported they are recommending Andrew Reed and Associates be the award winner in this matter for the 28 parcels within the community for sewer and water. He stated that Mr. Reed is experienced in this field and has

worked in the Township before and that Mr. Reed does have the time in his schedule to complete the requirement within the next 45 to 60 days.

Ms. Johnson made a motion to award Andrew Reed & Associates, Inc. the contract for appraisal services for the Southwest Sanitary Sewer Special Assessment District and the Southwest Water Main Special Assessment District appraisals in the amount of \$28,800 and at an hourly rate of \$140 per hour for related services subject to final approval of contract terms by the Township Attorney. Mr. Schilling supported the motion.

Mr. Young asked if there were any comments regarding the motion. Mr. Hemker questioned why they weren't recommending Mr. Philippeau be awarded the contract. Mr. Quinn responded that Mr. Philippeau is a sole practitioner and has indicated he would have to sub-contract this out and that with his schedule he would be pressed for time in getting the job completed in the 45 to 60 day time frame. He noted that he did discuss with Mr. Philippeau his role in updating the appraisals of the ring road, which he did several years ago.

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

Motion approved.

d. Mill River Contract Award

Ms. Zawada explained that this project includes the onsite and offsite sanitary sewer and water main for the Mill River SAD. She stated they are recommending that Mill River, LLC be awarded the contract in the amount of \$3,353,994.25 and they are also recommending that the matter of contract rights be part of this contract. She reported this is a similar document that the Township has seen in the past and that Mill River has a contract with Star Contracting, who will be performing the work.

Mr. Cash made a motion to approve the contract in the amount of \$3,353,994.25 with Mill River, LLC. Ms. Johnson supported the motion.

Mr. Young asked if there were any comments regarding the motion. Ms. Carcone questioned who composes Mill River, LLC. Dave Pawlaczuk responded that it is four different developers, Mocerri, Multi Building, Pallazzolo Brothers and Lombardi Companies.

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

Motion approved.

Mr. Quinn stated that Paul Wygowski, Bond Counsel, has requested this amending resolution, being the second revised project description. He stated that the number of REU's increased slightly to 465.9 and the amount going to the waste water treatment plant project has been increased accordingly. The new amount is \$869,132.83.

Mr. Hicks made a motion to approve the amended resolution approving the revised project description, approving the revised cost estimate and confirming the Mill Rivers sanitary sewer and water main improvements special assessment roll in the amount of \$869,132.83. Mr. Cash supported the motion.

Mr. Young asked if there were any comments regarding the motion. Ms. Carcone stated that she

will need a letter on the eighth indicating exactly how many REU's to pay Mr. Harris, in writing.

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

Motion approved.

Mr. Quinn explained that this is in the same form as the collateral assignment that the Board previously approved for Ivanhoe-Huntley. He stated this means that Star Contracting is the company that has the ability to obtain the bonds (labor and material bonds, performance bonds and any maintenance and guaranty bonds) necessary for the Township. He noted that the Township has the right to go after these bonds, if Mill River, LLC defaults on the performance of the construction. He stated he would recommend that the Board approve the Collateral Assignment of Contract Rights subject to his office filling in the final blanks, which is the contract date between Mill River and Star Contracting.

Mr. Hicks moved by resolution to accept the Collateral Assignment of Contract Rights for the Mill River Sanitary Sewer and Water Improvements subject to completion of the form by the Township Attorney. Ms. Carcone supported the motion.

Mr. Young asked if there were any comments regarding the motion. Mr. Hemker stated the Collateral Assignment indicates Mill River Investors, LLC, and that the contract was awarded to Mill River, LLC. Mr. Quinn stated that their appropriate name is Mill River Investors, LLC and would be reflected in the contract documents.

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

Motion approved.

The Board took a five minute break.

10. NEW BUSINESS

a. Timber Trail Retention Pond Agreement

Ms. Zawada, using a displayed plan, pointed out where the retention pond is located. She stated that during site plan review they noticed part of the pond went onto the adjacent property. She stated they sent a letter indicating that Timber Trail needs to put more volume onto their property or obtain an easement. She explained an alternate plan that has been proposed by the developer.

Ms. Carcone made a motion to enter into an agreement with Tower Development Company with regard to the retention pond agreement with a bond amount of \$15,000 for a period of four years. Mr. Hemker supported the motion.

Mr. Young asked if there were any comments regarding the motion. Mr. Cash questioned if they could remove more soil out of the boring to add volume. Ms. Zawada responded that this would be another option but it would probably be the same situation with the natural low area.

Voice Vote: Ayes: All
 Nays: None

Motion approved.

b. Win 3 Technology Planned Development – First Reading

Mr. Doozan reviewed the comments indicated in the McKenna Associates, Inc. letter dated November 22, 2005 regarding this issue.

Mr. Hemker made a motion to approve the final planned development agreement subject to the conditions cited in the McKenna Associates, Inc. letter dated November 22, 2005. Mr. Schilling supported the motion.

Mr. Young asked if there were any comments regarding the motion. Mr. Quinn stated that this would be a first reading of this planned development ordinance and it will have to be published in the newspaper and then brought back to the Board at their January meeting for a second reading and final approval.

Mr. Hemker amended his motion to indicate that this is a first reading. Mr. Schilling supported the amendment.

Voice Vote: Ayes: All
 Nays: None

Motion approved.

c. Crossroads Church – Special Land Use Request

Mr. Doozan reviewed the comments indicated in the McKenna Associates, Inc. letter dated November 23, 2005 regarding this issue.

Mr. Cash made a motion to approve the Crossroads Church special land use request subject to the conditions cited in the McKenna Associates, Inc. letter dated November 23, 2005. Mr. Hicks supported the motion.

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

Voice Vote: Ayes: All
 Nays: None

Motion approved.

d. Carriage Trace Phase V – Lot Averaging

Mr. Doozan reviewed the comments indicated in the McKenna Associates, Inc. letter dated November 30, 2005 regarding this issue.

Mr. Hicks made a motion to approve the Carriage Trace Phase V revised average lot size condominium project, subject to the conditions cited in the McKenna Associates, Inc. letter dated November 30, 2005. Ms. Carcone supported the motion.

Mr. Young asked if there were any comments regarding the motion. Mr. Cash stated that the Hornbrook development is constructing a monument sign with their development because it is located at one of the entrances into the Township. He asked the developer if they would consider constructing a similar sign. Ron Hughes, Hughes Properties, responded that they would be willing to do this.

Mr. Quinn requested that the motion be amended to indicate the developer will work with the Township to create an easement for a Township entry sign location. Mr. Hicks amended his motion to include this. Ms. Carcone supported the amendment.

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

Motion approved.

e. Walnut Creek Village Conceptual Review – ADCO Group

Mr. Doozan reviewed the comments indicated in the McKenna Associates, Inc. letter dated November 30, 2005 regarding this issue. He noted this is a conceptual review and that no action is required by the Board.

Mr. Olson briefly discussed the fiscal analysis he did when the developer proposed more density and also discussed the issue of the transfer of development rights. He indicated there are still many questions that need to be answered with regard to the open space and the golf course.

Mr. Quinn stated that his office represents ADCO on a pending project in Novi, which they started on before this project was brought to the Township. He stated that his office will not be rendering any advice or reviewing any PD contracts, these would be done by Dave Gillam's firm.

Joe Galvin, representing ADCO, displayed a board showing the proposed development and one with an aerial view of the property. He briefly discussed the displays in his presentation. He noted that they have been working on this plan for approximately 18 months and said he felt that this plan will provide the Township with a unique opportunity, to preserve the land in a viable golf course forever. He stated that additional benefits to the Township would be the creation of a 250' view shed along the road with a similar view shed along the golf course. He stated they are providing substantial material benefits that cannot be obtained in a conventional rezoning situation. He felt that these benefits, together with the bike path, will be provided for the Township. He noted the criteria in the Township ordinances have been met.

Mr. Galvin noted there are two principle issues that Mr. Hicks and the other Planning Commissioners repeated to them. He reported that one is the access issue and they are handling this issue with a temporary emergency access together with a provision of a stub for permanent access.

Chief Cash stated that they did have discussions regarding the access, but it is not what he is hearing tonight. He stated they discussed a boulevard entrance.

Mr. Hicks commented on the name of this development. He noted it is similar to the name of another development close by.

Mr. Young questioned why the 53 acres, which is not part of the proposed planned development, is shown on the plan. Mr. Galvin responded that it was put on the plan just to show the entire land mass, and that it is not part of this project. Mr. Young indicated he is concerned about what will happen to the 53 acres in the future. He stated that with regard to the transfer of development rights, he felt the concept would preserve more open space and would like to hear more about this. He stated this is nothing that he is adamantly opposed to and he would be interested in seeing what the long term conservation looks like for the golf course.

Mr. Hemker stated that whenever they talked about the transfer of development rights when he was on the Planning Commission, they always talked about vacant parcels or farms, not a private

golf course. He stated he does not see community benefits. The traffic will still be pushed out onto Ten Mile Road, which is a huge issue for the residents in the area and that the private golf course is no benefit to the community. He stated that there was talk about higher quality, but he cannot equate higher quality to smaller lots and condominiums. He stated he has real issues with this whole concept on this piece of property.

Mr. Cash stated that he likes the idea of permanently preserving open space, even though it is private. He felt they will lose more than half the Township's golf courses over the next few years.

Ms. Carcone stated that she is in between Mr. Hemker and Mr. Young's comments. She stated she does not see any public benefit from the golf course, because it is private. She stated it is really nice and that it is open space. She stated that she is not big on all the density being put on the one parcel.

Ms. Johnson concurred with Ms. Carcone. She stated that it was mentioned of possible problems for a future Board regarding the transfer of development rights, and indicated that she would not want to do this.

Mr. Schilling concurred with the comments made. He stated that this appears to be made up of bits and pieces and felt that the plan should include all the parcels and not just some.

f. Proposed 2005 Budget Amendments

Mr. Olson reviewed the comments indicated in the memorandum from him to the Board dated December 2, 2005.

Ms. Carcone made a motion to approve the 2005 Budget amendments outlined in the December 2, 2005 letter from Township Superintendent, Chris Olson. Mr. Hicks supported the motion.

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

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

Motion approved.

g. Approval of the 2006 Proposed Budget

Mr. Olson reviewed the comments indicated in his letter to the Board dated December 2, 2005 regarding the proposed budget. He briefly discussed several of the Funds within the budget.

Mr. Cash made a motion to approve the proposed 2006 budget as presented. Ms. Carcone supported the motion.

Mr. Young asked if there were any comments regarding the motion. There was discussion regarding the Library budget. Ms. Carcone questioned what 3/10ths of a mill would be. Mr. Olson responded that from the net available millage, 3/10ths of a mill would be \$169,000.

Ms. Carcone made a subsidiary motion to amend the revenue for the Library to \$206,000 in the approved budget column in lieu of \$213,000. Ms. Johnson supported the motion.

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

Voice Vote: Ayes: Carcone, Johnson

Nays: Hemker, Cash, Schilling, Hicks, Young

Motion failed.

Mr. Young called the question by roll call on the original motion.

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

Motion approved.

h. Discussion – Park Buildings

Mr. Hicks stated they have put a lot of money into the park building and that they have no assurances that whatever additional money they put into it, the building will be operable. He stated that he would like to get some formal quotes on moving the building to another location in the park.

Mr. Hicks made a motion to go out for bid to get some formal quotes on possibly moving of the park building. Mr. Schilling supported the motion.

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

Motion approved.

i. Discussion – Temporary Signs

Mr. Cash briefly discussed all the lead in signs that are displayed throughout the Township on the weekends. He noted that there are signs from developments in other communities displayed in the Township. He stated that since they have tried to clean the situation up, there have been more signs displayed. He noted there was a letter sent to all the developers within the Township to stop displaying these signs or they would be ticketed.

Chris Roberts, McKenzi Lane, noted that Novi has a really good Monday morning ordinance. He stated that if the signs are left out on Monday morning, there is a \$1,000 per sign fee.

Mr. Cash stated most of the signs are placed in the road right-of-way, which goes against the Township's ordinance.

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

Mr. Cash made a motion to revisit the sign ordinance, but in the meantime the offenders will be ticketed and warrants for the developers, if necessary, would be issued. Mr. Hemker supported the motion.

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

Motion approved.

- 11. ITEMS REMOVED FROM CONSENT AGENDA FOR ACTION OR DISCUSSION NONE
- 12. EXECUTIVE SESSION REGARDING PENDING LITIGATION/PROPERTY ACQUISITION

13. ADJOURNMENT

Mr. Schilling made a motion to adjourn the meeting and go into Executive Session regarding pending litigation and property acquisition. Ms. Carcone supported the motion.

Voice Vote: Ayes: All
 Nays: None

Motion approved. The meeting was adjourned at 9:52 PM.

Respectfully Submitted,

Deby Cothery

Deby Cothery
Recording Secretary

Pamela Johnson
Clerk