

Charter Township of Lyon  
Board of Trustees  
Regular Meeting Minutes  
June 1, 2009

Approved: July 6, 2009 as submitted

The meeting was called to order by Supervisor Young at 7:00 p.m.

Roll Call: Patricia Carcone, Treasurer  
Michele Cash, Clerk  
John Dolan, Trustee  
Steven Fletcher, Trustee  
Brent Hemker, Trustee  
Lannie Young, Supervisor

Absent: John Hicks, Trustee

Guests: 26

Also Present: Chris Doozan, McKenna Associates  
Matthew Quinn, Township Attorney  
Leslie Zawada, Giffels/Webster  
Loren Crandall, Giffels/Webster

Supervisor Young explained that Mr. Hicks was absent due to a family issue.

**APPROVAL OF THE CONSENT AGENDA**

**Approval of Special Meeting Minutes of April 24, 2009 of the Board of Trustees**

**Approval of Special Meeting Minutes of April 28, 2009 of the Board of Trustees**

**Approval of Regular Meeting Minutes of May 4, 2009**

**Approval of Disbursements**

**Building Department Report for April 2009**

**Fire Department Reports for April 2009**

**Zoning Reports for March & April 2009**

**Engineer Status Report for May 2009**

**Oakland County Sheriff's Triannual Report**

**Special Event Application for Library Fun Day at Flagstar Bank, June 6, 2009**

**Acceptance of Grant of Permanent Water Main Easement from Lyon Center Properties, LLC (Liberty Hyundai)  
for Parcel 21-03-151-023**

Mr. Fletcher asked that the Zoning Enforcement be removed for discussion as item H under New Business.

**Motion by Fletcher, second by Cash**

To approve the Consent Agenda as amended.

Roll Call Vote: Ayes: Carcone, Fletcher, Hemker, Cash, Young, Dolan  
Nays: None  
Absent: Hicks

MOTION APPROVED

ANNOUNCEMENTS AND COMMUNICATIONS

Supervisor Young reported that the Township received a thank you card from Nathan Mueller who was the reporter for the Herald Newspaper who has moved on to a new position in Novi and the Board appreciated his hard work and dedication to the Township and they wished him well in his new endeavors.

Mr. John Bell and Mr. Phil Strong gave a power point presentation of the very successful Kite Festival. The Parks and Recreation Committee have decided on June 5, 2010 to host the 2<sup>nd</sup> Kite Festival and they will proceed with the planning. Mr. Dolan and the Board thanked Mr. Bell for all of his hard work in making this happen.

CALL TO THE PUBLIC

Jeff Potter- He provided an apprenticeship guide for 2009. He also reported that Lake Street Tavern would be opening this week and asked that everyone support local business. He commented on the great job that Mr. John Bell did with the Kite Festival and he wished Nathan Mueller well.

APPROVAL OF AGENDA

**Motion by Hemker, second by Carcone  
To approve the agenda as submitted.**

Voice Vote: Ayes: Unanimous  
Nays: None  
Absent: Hicks

MOTION APPROVED

UNFINISHED BUISNESS

**A. First Reading of AP-09-03, Text Amendment to the Zoning Ordinance, Article 16.00-Signs**

Mr. Doozan reviewed the summary of changes to the Sign Regulations.

Mr. Fletcher commented that the committee tried to go back and take into account what they have heard and seen and that this was a first shot at updating it. Mr. Dolan agreed and

thought that this would make it more user friendly for businesses and that electronic signs were brought in which he felt was a good start.

**Motion by Carcone, second by Fletcher**

**To approve the First Reading of AP-09-03, Text Amendment to the Zoning Ordinance Article 16.00-Signs.**

<b>Roll Call Vote:</b>	<b>Ayes:</b>	<b>Dolan, Young, Hemker, Fletcher, Cash, Carcone</b>
	<b>Nays:</b>	<b>None</b>
	<b>Absent:</b>	<b>Hicks</b>

**MOTION APPROVED**

**B. First Reading of AP-08-22, Recommendation for a Text Amendment to the Zoning Ordinance, Section 19.02.V and 23.02.B regarding Nursing Homes and Convalescent Homes**

Mr. Doozan explained that the Planning Commission has reviewed the concerns and felt that the concerns were addressed that were raised by the Board. A Public Hearing was held and was now before the Board for their review.

**Motion by Carcone, second by Cash**

**To approve the First Reading of AP-08-22, Recommendation for a Text Amendment to the Zoning Ordinance, Section 19.02.V and 23.02.B regarding Nursing Homes and Convalescent Homes.**

Mr. Hemker asked if there was anything done regarding the amount of emergency vehicles that are called upon to attend to these facilities? Mr. Quinn commented that Mr. Hemker's concern would be a separate ordinance under the Cost Recovery Ordinance. Mr. Quinn stated that they could incorporate it into the ordinance.

<b>Roll Call Vote:</b>	<b>Ayes:</b>	<b>Cash, Fletcher, Young, Carcone, Dolan</b>
	<b>Nays:</b>	<b>Hemker</b>
	<b>Absent:</b>	<b>Hicks</b>

**MOTION APPROVED**

**C. Costly Lane**

Mr. Quinn explained that he spoke to the Attorney for Mr. Eli and the attorney is going to allow the engineer to provide to the Township the revised plan that will deal with the road drainage improvement and the removal of the two culverts under the road.

Mr. Quinn explained the history of this project. He further explained that the dilemma was the as-built plan that was submitted to the Township at the time did not contain accurately the things that were done. He felt the best resolution was to correct the drainage pattern on the road and have the culverts pulled. There was discussion regarding the original engineer that stamped the as-built plans and how to go about contacting that person.

**Wayne Bailey, 2300 Griswold Road.** Mr. Bailey asked who he should be corresponding with and he felt that the Private Road Ordinance says that not only does the road have to be constructed according to the plan but it also states that the drainage system and road has to be maintained which would be a violation of the ordinance. He agreed that they were moving forward. In addressing the legal issue, he felt it started at the Township and he felt that he had to exhaust all avenues with that first before moving on to a higher decision maker. He commented that he attended the meetings and voiced his opinion that the drainage system would not work and he was assured that it would work and the Township approved it. Now the drainage system didn't work and he has suffered for 12 years with it. The Township attempted to fix it 8 years ago and they were hoodwinked, and now they are back to the same problem that they had 12 years ago. He has been more than patient. He asked that this remain on the agenda until it was resolved.

**Jason Hardesty** – He explained that he lives on Costly Lane and he understood the private road agreement but when he closed on his home there was nothing that told him that the road was not built 5 years ago and he was confused that it has been going on for 12 years. He felt that he was accepting the burden of something that was not done right when he purchased the home. Supervisor Young explained that full disclosure was not the Township's responsibility when someone buys a piece of property.

**D. Sewer/Water Assessment Assigned to Parcel 21-33-126-010 of 103 REUs (Doris Clark Property)**

Ms. Carcone explained and apologized for her absence at the last meeting. She asked the Board to consider forming a sub-committee and include the parcel for Nick Mancinelli as well to see if they can work with them.

**Motion by Carcone, second by Hemker**

**To establish a committee regarding Parcel 21-33-126-010 of 103 REUs (Doris Clark Property) and also include Parcel 21-32-251-060 (Nick Mancinelli property) with the committee to consist of Leslie Zawada, John Hicks, Steven Fletcher and Patricia Carcone.**

<b>Voice Vote:</b>	<b>Ayes:</b>	<b>Unanimous</b>
	<b>Nays:</b>	<b>None</b>
	<b>Absent:</b>	<b>Hicks</b>

**MOTION APPROVED**

**E. Lyon Center Pump Station Enclosure**

Mr. Quinn explained that this was tabled at the last meeting and public notice was given due to John Dolan's conflict of interest.

**Motion by Carcone, second by Hemker**

To excuse John Dolan from the vote due to conflict of interest.

Voice Vote:   Ayes:           Unanimous  
                  Nays:           None  
                  Absent:          Hicks  
                  Abstain:         Dolan

MOTION APPROVED

**Motion by Hemker, second by Carcone**

**To construct a pump station enclosure around the Lyon Center Pump and to award that contract to the low bidder who was South Lyon Fence and Supply.**

Roll Call Vote:                   Ayes:           Young, Hemker, Fletcher, Cash, Carcone  
                                      Nays:           None  
                                      Absent:         Hicks  
                                      Abstain:        Dolan

MOTION APPROVED

**F.     Regional Storm Water Presentation (Meadows Property)**

Supervisor Young recommended that this be tabled.

**Motion by Fletcher, second by Carcone**

**To table until the next committee meets.**

Voice Vote:           Ayes:           Unanimous  
                  Nays:           None  
                  Absent:         Hicks

MOTION APPROVED

**NEW BUSINESS**

**A.     Resolution to Recognize South Lyon Area Youth Assistance as a Nonprofit Organization in the Community**

**Representing South Lyon Area Youth Assistance: Marianne Mihalich**

Mr. Quinn explained that it was necessary that the local community acknowledge the charitable organization as long as it meets the requirements.

Ms. Mihalich explained that the purpose was for the gaming license, and by having the temporary license they were able to send all of the kids to camp that had requested assistance.

**Motion by Fletcher, second by Cash**

**To approve the Local Governing Body Resolution for Charitable Gaming License and have the Clerk complete it and certify it.**

Roll Call Vote:                      Ayes:                      Dolan, Carcone, Hemker, Young, Cash,  
Fletcher

Nays:                      None

Absent:                      Hicks

MOTION APPROVED

**B. Sewer Tap Refund Request: Parcel 21-32-251-060 (Nick Mancinelli Property)**

**Motion by Fletcher, second by Carcone**

**To table until the committee meets.**

Voice Vote:                      Ayes:                      Unanimous

Nays:                      None

Absent:                      Hicks

MOTION APPROVED

**C. Amendments to the Tree Protection Ordinance**

Mr. Doozan reviewed the proposed amendment changes.

**Motion by Cash, second by Carcone**

**To amend the Tree Protection Ordinance Section 18-251.4**

Mr. Fletcher asked what was driving the amendment change. Mr. Doozan stated that the current ordinance did not allow any development to take place particularly in the heavily wooded areas and the current ordinance was too restrictive to the point it could be deemed as a taking. They tried to be more reasonable and still preserve a good amount of trees.

Mr. Hemker raised the concern of a parallel plan and a PD. Mr. Doozan stated it would be based on what they want to do but they would clarify it.

Roll Call Vote:                      Ayes:                      Cash, Young, Dolan, Carcone

Nays:                      Fletcher, Hemker

Absent:                      Hicks

MOTION APPROVED

**D. AP-09-04, Villas at Crystal Creek Condominiums  
Representing Crystal Creek: Paul Elkow, Owner**

Mr. Doozan gave a brief synopsis of the project and confirmed that there would be no increase in the number of units and would adhere to the original plan with regards to landscaping. The applicant shall address all condition cited in the McKenna Associates review dated April 17, 2009 and the Township's Engineer letter dated April 8, 2009. Secondly, an amendment to the Master Deed and Bylaws should be submitted at the time of planned development approval. The applicant shall submit up to \$10,000 to ensure completion of the road.

Mr. Elkow stated that they have taken this project on due to the tax liability and it was a personal issue as well because it was their family farm. They looked at duplexes and found that due to the economy they are not able to gain financing. He stated that each lot is behind about \$9,000.00 plus \$5600.00 principal balance. They looked at what would be viable and marketable in these changing times. He felt that more affordable housing was needed. He has gained the trust and support of the current residents for this project, there would be no increase in the density. Mr. Elkow passed out a rendering of the floor plans to the Board members.

Ms. Carcone stated that she needs Mr. Elkow to turn in his property transfer affidavits. Mr. Elkow stated that he would get those to Ms. Carcone.

Mr. Elkow continued that they would require that they do the landscaping so that it was consistent. Fences would not be allowed. Mr. Elkow stated that 1600'-1800' square foot homes would be offered as well as a 2,000' s.f. home. He explained that all of the quality materials in the original PD would be met if not exceeded. He stated that the starting price would be \$150,000.

Mr. Hemker stated that they fought against this when it first came through at the Planning Commission level and they fought for 30' of distance between homes and now these houses would be an arms length apart. He felt this was the wrong direction for the Township in the long run, as he did originally. He felt that the 30' between buildings should be maintained as well as the aesthetics.

Supervisor Young briefly touched on the high risk properties that are located in the Township. There was brief discussion regarding how difficult it is to get any financing right now, even people with good credit.

Mr. Dolan stated that he supported the project as he did at the Planning Commission level. He felt that the current residents needed some help and they were in support of it. He knows it was not the most perfect thing that they wanted but affordable housing was needed in the community.

**Motion by Carcone, second by Dolan**

**To approve the preliminary amendment subject to McKenna Associate's memo dated May 19, 2009 which incorporates their previous letter of April 17, 2009 and Giffels/Webster letter dated April 8, 2009.**

<b>Roll Call Vote:</b>	<b>Ayes:</b>	<b>Cash, Dolan, Carcone, Fletcher, Young</b>
	<b>Nays:</b>	<b>Hemker</b>
	<b>Absent:</b>	<b>Hicks</b>

**MOTION APPROVED**

**E. Consideration of Fire Fighter Holiday Pay for Specific Days**

Chief McClain explained that when he came to the department some of the firefighters were under the impression that they were receiving time and a half for holidays. There was some oversight and it never happened. He would like to correct that oversight. In the current budget it was already reflected so the money was there and he requested formal approval to pay the firefighters time and a half on holidays.

**Motion by Fletcher, second by Carcone**

**To approve the holiday pay proposal made by Chief McClain to include Easter in the 9 holidays.**

**Roll Call Vote:**                      **Ayes:**                      **Young, Fletcher, Carcone, Cash, Dolan, Hemker**  
**Nays:**                                  **None**  
**Absent:**                                **Hicks**

**MOTION APPROVED**

**F.      Response to Dave Murphy Letter**

Supervisor Young reviewed the letter from Dave Murphy. Officer Bisio gave a brief summary of the duties that he has performed throughout the school district, such as the DARE Program. He also coordinates with the curriculum advisor in order to coordinate what would be needed in each school.

**Motion by Hemker, second by Carcone**

**To continue the program that is currently used where they direct the Oakland County Deputy Tom Bisio in the South Lyon East High School, the Middle Schools and the Elementary Schools and to respectively decline the City of South Lyon's offer to pay half of their officer's salary.**

**Roll Call Vote:**                      **Ayes:**                      **Hemker, Dolan, Carcone, Cash, Fletcher, Young**  
**Nays:**                                  **None**  
**Absent:**                                **Hicks**

**MOTION APPROVED**

Mr. Fletcher suggested that the school district get creative in order to keep this program, it was for the good of all of the community.

**Shirley Baker** - She commented that due to the housing bubble bursting, the rumor was that there were not enough students to put at both high schools anymore and what happens when they close East . The Board stated that they would solve that if and when it happened.

**G.      Zoning Enforcement Reports**

Mr. Fletcher asked if a spreadsheet could be created in order to have a better understanding of the Zoning Enforcement Reports. The spreadsheet would supply if the complaint was handled

and closed or if it was on going and identify the new complaints. Mr. Hogan agreed to adopt a new spreadsheet.

**Motion by Fletcher, second by Carcone  
To accept the March and April Zoning Enforcement Report.**

<b>Voice Vote:</b>	<b>Ayes:</b>	<b>Unanimous</b>
	<b>Nays:</b>	<b>None</b>
	<b>Absent:</b>	<b>Hicks</b>

**MOTION APPROVED**

Supervisor Young called for a short recess at 9:17 p.m.  
Supervisor Young reconvened the meeting at 9:30 p.m.

**H. Consideration of Amendments to Facilities Agreement**

Mr. Quinn gave a brief history of the Facilities Agreement which was entered into in 2006. Giffels/Webster came up with the idea that if they agreed to pay now a certain percentage in lieu of foregoing Lyon Wastewater's right to perform all expansions of these facilities in the future. This would be a tradeoff. There were negotiations to determine a percentage and they concluded that 8.5% to be paid to Lyon Wastewater would be a reasonable compromise for Lyon Wastewater to give up their right to construct but yet having the Township to be able to have a specific amount of money to budget. The amendment says that the Lyon Wastewater would get 8.5% of the cost of construction, which were the hard costs. They would be paid as the contractor receives draws. This would be better for the Township because under the agreement right now Lyon Wastewater does not have to give the Township a budgeted amount, it merely says that they do the work and they get a percentage of whatever that work was based upon in the MDOT Standards. It also does not require that they have to go out and get the lowest bid. Mr. Quinn stated that in his discussions with Bob Langdon that there would be some discussion as to part of the advancement is for Lyon Wastewater Affiliates to pay off the 2007 Assessments including SAD payments that are in arrears and that the Township be allowed to pay that directly. Additionally, Lyon Wastewater affiliates owe the Township roughly \$21,000.00 and that number would be finalized for planning and engineering fees. Also, the Township would pay itself directly out of this advancement those fees that are in arrears. The balance of the figures, \$125,000.00 would be direct payment to Lyon Wastewater.

Supervisor Young explained that there were numerous meetings regarding this issue and he reviewed a spreadsheet which showed the amount of the advancement for the Sewer Plant Expansion for the Southwest Sewer SAD which would be \$799,400.00 and lock in the 8.5%. He reviewed how that would be accomplished.

Mr. Langdon stated that this was the result of many hours of work and he thanked everyone for working hard on trying to find a solution. He has spoken with Bob Harris who gave him the authority to represent to the Township that he goes along with the proposed language and with a commitment that the portion of the advanced proceeds would go to taxes, he has no

problem with that and the portion that would go to consultant fees they may or may not have that figured out yet but the commitment was that Mr. Harris would pay that off.

There was brief discussion regarding the concern that was raised if Mr. Harris sold his controlling interest. Mr. Quinn explained that they would pay it to whoever owns the contract at any given time.

Supervisor Young explained that they looked at the potential risk properties in the Township and reviewed the assessments. Supervisor Young stated that they need to be prepared so that the Township can remain solvent.

Mr. Crandall asked in paragraph two if that included the west beds or not in the future expansions. Mr. Langdon stated it was his understanding that the advanced monies would be credited against the next expansion which would be the plant expansion, and relative to the west beds the 8.5% would apply but not be credited against the advanced monies. The Board felt that was not what they had agreed upon. Supervisor Young explained that the advanced money, the \$799,400.00 was a total amount that would cover the SAD's plus put \$125,000 in Mr. Harris's pocket. That money would be credited towards the plant expansion regardless of what it was called, it's a matter of determining timing of when the additional 8.5% would be paid.

Mr. Quinn stated it was always his understanding that Mr. Harris would be paid 8.5% fee out of the west bed project and that would be it because he was entitled to build the west beds. That the advance would come from out of anything thereafter. Ms. Zawada stated that the discussions that they had they were under the impression that it included the west beds. Mr. Langdon stated that they had been clear about this all along and if that was intended to be altered, he has not discussed that with any of the principals at Lyon Wastewater and it would definitely exceed any of the authority that he had.

Supervisor Young explained that he had confirmed the figures with Mr. Harris. Mr. Langdon stated that it was probably because the language crediting the advanced monies against the next phase was there from the start.

Mr. Langdon stressed the delicacy of the situation and he didn't know what would happen if the Board's offer significantly deviated from what Mr. Harris thinks was going to happen and his authority to make representatives to the Board.

Mr. Quinn offered additional language for paragraph two stating "as additional consideration for this amendment being agreed to by the parties, the Township agrees to advance Lyon Wastewater a sum not to exceed \$799,400.00 to be agreed upon by the parties. To be paid prior to the commencement of the expansion of the west bed projects and to be credited against the 8.5% fee to be paid to Lyon Wastewater adding the language for the west bed expansion and for the next future additions or expansions of the facility."

Ms. Carcone raised the concern that if Mr. Harris lets the property go and does not use the money to pay the taxes the Township would be paying for it again as it goes to foreclosure.

Mr. Quinn stated that Mr. Harris's attorney has committed that the Township can make those payments directly and they are expected to get a follow up written authorization to allow the Township to make the direct payment. Ms. Carcone stated that does not leave Mr. Harris enough money of what he anticipated getting.

Mr. Langdon urged the Board to reconsider and go with the original agreement. He cannot guarantee that the agreement would be signed with the addition.

**Motion by Young**

To adopt the agreement as written.

Motion Failed, there was no support given.

**Motion by Hemker, second by Fletcher**

To adopt the 1<sup>st</sup> amendment to the second amended sewage disposal facility agreement but with changes to paragraph two. Sum not to exceed \$799,400.00. Also, in the last sentence to be paid to South Lyon Wastewater for the west bed expansion and for the next future addition or expansion of the facility. In addition its conditional upon receiving written authorization from South Lyon Wastewater to allow the Treasurer to pay taxes, the 2007 SAD's and planning fees directly without paying those monies to South Lyon Wastewater or other related entities.

Roll Call Vote:	Ayes:	Hemker, Cash, Carcone, Young, Fletcher, Dolan
	Nays:	None
	Absent:	Hicks

MOTION APPROVED

ADJOURNMENT

**Motion by Carcone, second by Cash**

To adjourn the regular meeting.

Voice Vote:	Ayes:	Unanimous
	Nays:	None
	Absent:	Hicks

MOTION APPROVED

The Regular Meeting of the Board of Trustees was adjourned at 10:27 p.m.

Respectfully Submitted,

*Kellie Angelosanto*

Kellie Angelosanto

Michele Cash

Recording Secretary

Clerk