

Charter Township of Lyon  
Board of Trustees  
Regular Meeting Minutes  
September 8, 2009

Approved: October 5, 2009 as written

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  
John Hicks, Trustee  
Lannie Young, Supervisor

Guests: 23

Also Present: Chris Doozan, McKenna Associates  
Matthew Quinn, Township Attorney  
Ron McClain, Fire Chief  
Leslie Zawada, Giffels/Webster  
Al Hogan, Building Official  
Sergeant Venus

**APPROVAL OF THE CONSENT AGENDA**

**Approval of Meeting Minutes of August 3, 2009**

**Approval of Board of Trustees, Planning Commission & DDA Special Meeting Minutes of August 27, 2009**

**Approval of Disbursements**

**Building Department Report for July 2009**

**Fire Department Reports for July 2009**

**Zoning Reports for July 2009**

**Engineer Status Report for July 2009**

**Memorandum Agreement regarding Huffman Appeal**

**Pinehurst Pond Outlet Construction Agreement**

**Northfield Human Services Contract**

**Update on Sewer Break at Grand River and Automation**

Mr. Hemker asked that the Pinehurst Pond Outlet Construction Agreement be moved to item K. on the agenda for discussion purposes.

**Motion by Carcone, second by Cash**

**To approve the Consent Agenda as revised.**

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

**MOTION APPROVED**

**ANNOUNCEMENTS AND COMMUNICATIONS**

Ms. Carcone explained that the summer taxes are due on September 14, 2009 without penalty or interest.

**Swearing In New Firefighter**

Chief McClain introduced Chris Brown and explained that he is a veteran of the Marine Corp and comes to Lyon Township fully trained. Mr. Brown will be continuing his education and began his one-year probation on August 25, 2009.

Clerk Cash administered the Oath of Office to Firefighter Brown.

**CALL TO THE PUBLIC**

**Lise Blades** – She requested a brief discussion to discuss the parks Master Plan and volunteers.

**Bob Jesse** – He explained that he was attending the meeting in case there were any questions regarding the West Beds Project.

**APPROVAL OF AGENDA**

Supervisor Young requested adding Ms. Blades request to the agenda and Mr. Quinn requested adding a closed session to the agenda.

**Motion by Hicks, second by Hemker  
To approve the agenda as revised.**

**Voice Vote:   Ayes:           Unanimous  
                  Nays:           None**

**MOTION APPROVED**

**Public Hearing on Confirmation of the Roll for Lyon Town Center Ring Road Special Assessment District**

Supervisor Young opened the public hearing at 7:12 p.m.

Mr. Quinn explained that this is the hearing to confirm the roll of the Lyon Township Paving Improvement Assessment District. They have received two letters of objections, one from

Lyon Center Properties and their ownership of units #8 and #12 and one from WXZ Acquisition Company, LLC. With these objections noted on the record it preserves their right to appeal to the Tax Tribunal.

**David Barbour, Attorney with Kotz, Sangster, Wysocki and Berg, P.C.** – He explained that he is representing WXZ Acquisition Company, LLC who are in objection to the Special Assessment. The company owns unit #14 and the basis for the objection is that the action of the Board may be premature. The Township Board passed a Resolution at the August 3, 2009 meeting determining the necessity for the improvement and he believed that this satisfies the requirement of Section 39-38 of the Township Ordinances. It would appear that according to the Township Ordinances that Section 39-41 the next step in the process is the Boards' acceptance of the special roll. It is his understanding that the item before the Township Board has to do with what would amount to approval or confirmation of the roll itself and he believed that the Board is skipping an essential part of the process. He asked that the Board reconsider the action and table the matter until the next session until Section 39-41 is fully complied with.

Mr. Quinn stated that he received Mr. Barbour's letter tonight and he believes that the Township has complied with the ordinances and requirements, if in fact there is something out of the ordinary a correction action can be taken, he would advise to proceed.

**Tony Antone, Kojaian Company** He stated he was in attendance on behalf of the developer and he claims that they were very clear in the Purchase Agreement and the PD Agreement to the SAD members.

Supervisor Young closed the public hearing at 7:20 p.m. due to no other comments.

### **UNFINISHED BUISNESS**

#### **A. Resolution Confirming Special Assessment Roll for Lyon Town Center Ring Road Paving Improvements**

Mr. Quinn explained the process of the Resolution and stated that if needed amendments can be made.

#### **Motion by Hicks, second by Cash**

**To adopt Resolution Confirming Special Assessment Roll for Lyon Town Center Ring Road Paving Improvements in the amount of \$3,884,081.00.**

Mr. Fletcher questioned if there was a step skipped. Mr. Quinn explained that at the last resolution the Board directed the Supervisor to prepare the roll and provide it to the Clerk. The plans were provided to the Clerk Department and everything was there as required by the last resolution.

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

**Nays: None**

**MOTION APPROVED**

**B. Hold Harmless Agreement with Milford Road East Development and Assocs. LLC (MREDA)**

Mr. Quinn explained the Hold Harmless Agreement.

Mr. Hemker asked if the previous questions had all been taken care of. Mr. Quinn stated that the 40' suit is pending and it may have some implication on this. Mr. Antone stated that he pledged if this is passed he would forget about the 40' and have it all go away.

**Motion be Carcone, second by Cash  
To adopt the Hold Harmless Agreement as presented.**

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

**Nays: None**

**MOTION APPROVED**

**C. AP-09-04 Villas at Crystal Creek Final Approval**

Mr. Doozan reviewed the McKenna Associates memo dated August 26, 2009. Consistent with the Planning Commission's recommendation McKenna Associates recommends approval of the amendment to the Villas at Crystal Creek Planned Development, subject to compliance with the conditions listed in the Township Attorney's August 24, 2009 letter.

Mr. Quinn stated in the Township Attorney's letter the documentation has been updated since his letter; items 1b, 1c, 1e and 1f have been completed. The only item that remains is the date when the document is actually signed.

**Motion by Hicks, second by Dolan  
To adopt the first amendment to the Villas at Crystal Creek Planned Development.**

Mr. Hicks questioned if the footprint of the house would accommodate a deck or patio without encroaching in the rear setback. Mr. Elkow stated he did not see that being a problem. Supervisor Young asked if any of the lots because of the rear yard setbacks would inhibit anyone to from putting a reasonable deck on. Mr. Doozan stated that it probably would because the rear yard setbacks are very close to the rear of the houses. Mr. Elkow questioned if technically decks are not part of the building envelope. Mr. Hogan stated that they could go outside of the building envelope into the rear yard setback it just can't turn into the side.

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

**MOTION APPROVED**

**Motion by Hicks, second by Fletcher  
To approve the Master Deed for Crystal Creek II.**

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

**Motion by Hicks, second by Dolan  
To approve the 4<sup>th</sup> Amendment to the amended and restated Master Deed to the  
Villas at Crystal Creek.**

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

**D.     Committee Report on Parcel #21-21-400-050**

Ms. Carcone explained that the committee met and the committee could not find any avenue where they could change any operation on this property. Ms. Carcone explained that the Committee went to the property and did a site inspection with the property owner and the Committee was happy with what they saw, it was neat/clean and orderly. Permission was granted by the property owner to have the Fire Chief and Building Official inspect the property. The Committee considers this matter closed. The Fire Department has not inspected the property yet but it is on the list

**E.     Auction of Township Surplus Equipment (M.I.T.N.)**

Chief McClain asked the Board for approval to dispose of the following township assets through the auction process utilizing the M.I.T.N system:

- 1979 Ford F-800 Tanker
- 1991Ford- MedTec Ambulance body rescue truck
- Ansul Dry Chemical Fire Extinguisher Trailer (year unknown)
- 1998 Chevy pick-up with plow

**Motion by Fletcher, second by Hemker  
To approve the Fire Chief to work with the Township Supervisor and auction off the  
items listed using the M.I.T.N. system.**

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

**MOTION APPROVED**

**F.     Board Survey Results**

Supervisor Young explained the Board survey results listing the township priorities. Mr. Dolan felt that having a safe in the office is a high priority. Ms. Carcone explained that they have been investigating it and were trying to be cost effective at the same time.

Supervisor Young explained that the roof is good for 1-2 more years and requested that it not be a budgeted amount until 2011. He continued that the lawn mowing cost would try to be reduced further.

### **NEW BUSINESS**

#### **A. Resolution to Transfer Liquor License to June R. Tyrrell of Bon-A-Rose Catering, LLC**

Mr. Quinn stated that the inspections have been updated and the menu has been filed as required.

**Motion by Carcone, second by Cash**

**To approve the transfer of Liquor License to Bon-A-Rose Catering, LLC**

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

**Nays: None**

**MOTION APPROVED**

#### **B. Supervisor Request for a Special Meeting September 24, 2009**

Supervisor Young requested a special meeting for 9/24/09 to hear the information around the Orchards of Lyon. It was not placed on this agenda because the minutes from the Planning Commission had not been approved. If a special meeting were not approved then it would be placed on the October meeting agenda.

It was the consensus of the Board to hold the agenda item at the regularly scheduled meeting in October.

#### **C. Mosquito Control Larvicide Program Resolution**

Supervisor Young reviewed the letter to Timothy Soave, Oakland County, dated August 6, 2009 and explained that the total amount can be reimbursed by the County for the larvicide abatement product.

**Motion by Fletcher, second by Hicks**

**To approve the resolution authorizing reimbursement from the West Nile Virus Fund.**

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

**Hicks**

**Nays: None**

**MOTION APPROVED**

**D. Resolution to Transfer Liquor License to Movam LLC (Lyon Grill)**

Mr. Quinn explained that everything that is required has been submitted and inspections have been completed and approved.

**Motion by Carcone, second by Dolan**

**To approve the applicant's liquor license Movam LLC, Lyon Township.**

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

**Nays: None**

**MOTION APPROVED**

**E. WWTP West Beds Contract Award**

Ms. Zawada reviewed the Giffels-Webster memo dated August 27, 2009.

Ms. Zawada explained that the low bid for the base bid and the alternate was submitted by Anglin Civil Constructors. The second low bidder for the base and the alternate was submitted by Spence Brothers.

The experience, qualifications and references of Anglin Civil Constructors were reviewed and found that Anglin's experience, bonding, insurance and financial statements appear to be sufficient to complete the work. Anglin did not supply a list of subcontractors as required as part of the bid package, therefore when a Contractor does not complete a bid package it is considered unresponsive. Anglin provided four references, out of those references two of them were negative and said they would not use Anglin again.

Ms. Zawada continued that Giffels-Webster also reviewed the experience, qualifications, and references from the second low bidder, Spence Brothers and found that Spence Brothers experience, bonding, insurance and financial statement appears to be sufficient to complete the work. Spence Brothers did provide a complete bid package. All of Spence Brothers references would recommend them again. Giffels-Webster Engineers, Inc. is currently working with Spence Brothers on the Commerce Township WWTP Expansion and is having a positive experience with Spence Brothers.

Giffels-Webster recommends that the alternate bid be awarded and this would supply the west beds with an electrical service instead of the solar panels.

Ms. Carcone asked why the bid package was not completed. Mr. Anglin stated that not all of

the bids require the sub contractors and the person that put it together didn't understand it. Mr. Anglin explained that this was brought to his attention just a few days ago. Ms. Carcone stated that was not good this is a lot of money. Ms. Carcone asked what the negative references were for. Mr. Anglin explained they were personality conflicts.

Supervisor Young explained that the Township has the reputation of taking the lowest bid and he would like to keep it that way because people are eager to bid on the work. But when the bid instructions are not adhered to then problems arise.

Mr. Hemker was concerned that the bid package was not complete. Mr. Anglin commented that the bid package did not say mandatory on it.

Mr. Hicks stated that the Township has been burned so many times by low bidders. Mr. Anglin stated that they have numerous positive references and he would be happy to drop those off to the Township. Mr. Fletcher stated that the difference is \$84,000.

Ms. Carcone explained that she was not comfortable since the bid package was not completed. Mr. Anglin stated that they have two subcontractors. Mr. Fletcher asked if the bid should be disqualified. Mr. Fletcher stated that if they had listed good references and submitted a complete bid package this conversation wouldn't even be happening. Mr. Dolan stated that the Township always takes the low bid and they need a good reason to disqualify the bid.

Supervisor Young commented that Giffels-Webster did not make a recommendation.

**Motion by Carcone, second by Hicks**

**To hire Spence Brothers for the alternate bid of \$1,441,113.00 contingent to the items referenced by Giffels-Webster, which is receiving all, permits, approvals and necessary easements and completion of property transfer documents**

Mr. Fletcher asked if the negative references are similar type projects, he was struggling with the difference in bids. Ms. Carcone stated that their ducks have to be in a row, the bid package was not provided and negative references were made. Mr. Hemker stated that another red flag for him was that the information was requested a second time and it was not received. Mr. Dolan stated that it could go the other way too by taking the highest bidder they could still run into problems, it has to be sorted out and they are doing the right thing by discussing it.

Supervisor Young asked if Spence Brothers has ever been in any type of litigation. Mr. Bob Jesse from Spence Brothers stated to the best of his knowledge they have never been in any litigation but have been in arbitration and mediation. He is aware of only one time; they have been in business since 1893 so it's been a long time. Mr. Jesse explained that Spence Brothers is a general contractor. If you don't ride on it or sleep on it then they don't do it.

Supervisor Young asked if there were any public comments.

**Bob Hewlett, 59160 Annah.** He commented that he agreed with Ms. Carcone. Anglin Brothers did it wrong.

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

**MOTION APPROVED**

**F.      Resolution Concerning Payment of Fees**

Mr. Quinn stated that in accordance with the Code of Ordinances Section 2-200 this resolution sets the hourly rates for the consultants that might be brought into any particular meeting. It was decided to collect the fee prior to the meeting. Concerns were raised regarding the length of the meetings.

**Motion by Fletcher, second by Carcone**  
**To table until the October meeting.**

**Voice Vote:**                      **Ayes: Unanimous**  
**Nays: None**

**MOTION APPROVED**

**G.      Board to Direct Planning Commission on Language for Gas Line Easements**

Mr. Hicks asked that Mr. Doozan direct the Planning Commission regarding gas and sometimes-electrical easements, which are not addressed in the current ordinance. This should be addressed as to lots possibly encroaching on these easements.

Mr. Hemker questioned the necessity for it since the gas companies have their own very strict rules and fly-overs that they do. Mr. Doozan stated that when a subdivision is built they need to make sure that the lots themselves don't encroach into the easements. Right now there are lots that encroach into the easements, which encourages the lot owners to build into the area and place things in that area.

Mr. Dolan agreed with Mr. Hemker that the utilities regulate it.

**Motion by Carcone, second by Cash**  
**To table until the next regular meeting.**

**Voice Vote:**                      **Ayes: Unanimous**  
**Nays: None**

**MOTION APPROVED**

**H.      Probationary Employee Pay Increments for Paid-On-Call Firefighters**

Chief McClain explained when hiring new paid-on-call firefighters there is no documentation supporting or justifying how compensation is determined. He suggested the following training/certification based schedule for new employee compensation:

New hires without any applicable training/certification= 60% of top paid firefighter wages.

Firefighter 1 & II= 5%

Hazmat Operations certificate =5%

FM 123 & LTF driver's training program =5%

Ice Rescue training = 5%

EMT-B License =10%

After 6 months of service with positive evaluation reports =5%

After 12 months of service with positive evaluation reports =5%

**Motion by Hicks, second by Carcone**

**To approve the Probationary Employee Pay Increments for Paid-On-Call Firefighters and integrate it into the Rules and Regulations effective August 1, 2009.**

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

**MOTION APPROVED**

**I.      Installment Agreement for Sewer Capital Chargers for Leo's Coney Island**

Ms. Zawada explained that Leo's Coney Island has to connect to sewer due to an agreement they have with Midland Atlantic. Leo's has requested to pay their sewer capital charges over time through an Installment Agreement, instead of a lump sum payment. In the past, paying over time has not been allowed unless it was through an SAD but Leo's is struggling to come up with the money. The Installment Agreement would be for a period of 3 to 5 years and it would include legal fees to draft the agreement, as well as a 5% administration fee, and interest.

Concerns were discussed regarding if Leo's went out of business and concerns about the possible effects that would have on the township.

There was no opposition among the Board members to starting the process or to the 3-5 year term of the agreement.

**J.      Roediger Estates Retention Pond SAD (Discussion)**

Supervisor Young gave a brief history of the Roediger Estates Retention Pond. This year there

was some flooding in some of the resident's basements. The residents retained an attorney and some of the residents are requesting a version of an SAD to fix the problem. There were very few residents in support of an SAD.

**Jerry Elrite, 59071 Annah Drive** – He commented that having a problem with water makes a home basically unsellable. There were no problems until this subdivision went in.

Supervisor Young stated that the only resolution was to consider an SAD and there are only a few neighbors that want this.

Mr. Quinn explained that there is no Homeowner Association and the residents are asking the Board to consider this problem as a health and safety issue. He continued that the SAD would have to consider the whole subdivision not just a few.

Supervisor Young stated that if they can't get the majority of the residents to share the cost equally then there is no alternative.

#### **K. Pinehurst Pond Outlet Construction Agreement**

Ms. Zawada stated that the Pinehurst subdivision built a retention basin and it's not operating properly. They have been working with Pulte to come up with a solution. Pulte has agreed to the majority of this and put the money up to complete the fix and avoid problems next spring.

**Motion by Carcone, second by Dolan  
To approve the Pinehurst Pond Outlet Construction Agreement.**

Mr. Fletcher commented that this item should not be on the Consent Agenda.

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

**Nays: None**

**MOTION APPROVED**

#### **L. Lise Blades Request – Discussion Master Plan**

Ms. Blades commented that there is not a current Master Plan for the Park Committee and due to the cost it was put on hold. She contacted Eastern Michigan University to see if there were students who could provide a service on a volunteer basis. She has a student that would like to volunteer his time in anyway he can and she asked for the Boards blessing to get the Park Master Plan put together, bare bones, in order to be eligible for grants and use the assistance of the volunteer.

Supervisor Young wanted to encourage volunteers to help out however he felt some controls

would need to be put in place.

The consensus of the Board was that this was a good thing and agreed to the volunteer assisting in the project.

**Motion by Hicks, second by Carcone**

**To recess the regular session at 9:45 p.m. and move into Executive Session.**

**Voice Vote:           Ayes: Unanimous**  
**Nays: None**

**MOTION APPROVED**

**Motion by Hemker, second by Hicks**

**To close Executive Session at 10:00 p.m. and reconvene the regular meeting.**

**Voice Vote:           Ayes: Unanimous**  
**Nays: None**

**MOTION APPROVED**

**Motion by Carcone, second by Hemker**

**To enter into the purchase agreement for the real property as identified in the purchase agreement as presented contingent upon the DDA approval.**

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

**MOTION APPROVED**

**ADJOURNMENT**

**Motion by Carcone, second by Hemker**

**To adjourn the regular meeting.**

**Voice Vote:           Ayes:           Unanimous**  
**Nays:           None**

**MOTION APPROVED**

The Regular Meeting of the Board of Trustees was adjourned at 10:02 p.m.

Respectfully Submitted,

*Kellie Angelosanto*

Kellie Angelosanto  
Recording Secretary

Michele Cash  
Clerk