

Charter Township of Lyon
Board of Trustees
Special Meeting Minutes
July 23, 2010

Approved: September 7, 2010 as written

The meeting was called to order by Supervisor Young at 12:00 p.m.

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

Absent: John Dolan, Trustee
Brent Hemker, Trustee

Guests: 2

Also Present: Chris Doozan, McKenna Associates
Phil Seymour, Township Attorney

CALL TO THE PUBLIC – None

APPROVAL OF AGENDA

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

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

MOTION APPROVED

BUSINESS ITEMS

A. Consider Elkow – Twin Pines Letter of Intent (Property Purchase)

A letter of intent was presented to the Township Board of Trustees in the name of Twin Pines LLC by Rick Elkow, Managing Member.

Lannie Young stated that passed out a couple changes to this letter and informed them that he talked to Trustee Hemker who wanted them to know that he is against the agreement being

presented. Mr. Hemker also had a problem for item #4 and this is one of the items that have been changed. Mr. Young also made a change to item #3 of the agreement.

Rick Elkow, 2683 Lakeridge, Wixom, MI addressed the Board and stated that they have watched this property go through the process and was working with the bank when they owned, tried to purchase it but it never came to fruition.

Mr. Elkow stated that when he saw it come through tax sale he felt this is a way as a builder to acquire property and for the Township to move it off their books and onto his.

Mr. Elkow continued that he has spent time with his attorney, Phil Adkison and with Matt Quinn discussing the merits of this and how to go through the process of taking a property that is a liability to the Township and concerting it into a viable project.

Lannie Young reviewed the tax sale process, which is the period of time before the first sale, the first sale, the period of time before the second sale. When these properties along with other properties that were delinquent were proposed the agreement was to wait until after the second sale.

Mr. Young explained that since then the letter of intent came before the Board for consideration, in it the Township would acquire the properties from the County before it hits the first sale in the amount of \$317,000.00. By acquiring the property before the first sale there are other associated costs but these costs are taken into consideration in the letter of intent.

John Hicks requested clarification that only thirty-four units are included in this letter of intent.

Phil Seymour noted that a letter of intent is not a binding contract it is just a document stating what the parties intend to do.

Steve Fletcher expressed his concern that if the Board moves forward with this they will be changing the PD and does it look like they don't care what the Planning Commission thinks. Even though the Board has the final approval it is rare that a deal is made with the developer before they appear before the Planning Commission.

Lannie Young responded that the Planning Commission previously approved this plan in concept when Wyndham Reality came in but it is not to say they wouldn't change their mind.

Patty Carcone stated that she would like to see Twin Pines LLC buy this property because it is a huge burden to the Township but wants to protect the Township and therefore has a big problem with this letter of intent. She explained that she does not like one thing about this agreement, and does not like going under the assumption that it would be changed to single family even though she is in favor of that change.

Ms. Carcone continued that there is nothing in the agreement for the Township if the project does not happen. The Township purchases the property and if the change does not go through the Planning Commission the property comes back to the Township and the tax sale is missed

along with the opportunity for someone else to purchase the property. The Township then has to pay for someone to market the property.

Ms. Carcone also expressed her concern that through no fault of their own there is two Board Members missing at this meeting and in good conscience can't say yes to this agreement.

Michele Cash agreed that she also does not like circumventing the Planning Commission.

Steve Fletcher suggested Mr. Elkow get this project before the current Planning Commission in August to make sure there is not a huge stumbling block and then purchase the property at the next redemption period before the second tax sale. This would take the risk way for both Mr. Elkow and the Township.

Lannie Young stated that he went ahead and revised the letter of intent so that Twin Pines LLC enters into an agreement to buy the piece of property right now for the back taxes and all cost associated with it. It will then be sent to the Planning Commission to get the zoning changes and move forward. The money instead of going into escrow will go into the Township treasury.

Mr. Young explained that it is the same agreement, buying the property before it goes to tax only the escrow is removed.

Pat Carcone & Steven Fletcher both stated that this is something they could agree with.

Rick Elkow asked for a vote on the original letter of intent.

Motion by Hicks, second by Young

To approve the letter of intent with changes including descriptions of parcels referred to, removal of warranty deed, removal of purchase price for future portions under item D and the proposed changes as shown under item 3 and 4.

Roll call vote:	Ayes:	Young, Hicks
	Nays:	Carcone, Cash, Fletcher

MOTION FAILS

Mr. Elkow requested time to confer with his attorney and would like to come back before the Board after next agenda item is concluded.

B. Eight Mile Paving Additional Consideration

Lannie Young explained that in the original document any project cost above the Tri-Party funding of \$184,035.00 would be funded first with any available tri-party funds and the additional amount of \$40,000 would be funded 100% by Lyon.

Mr. Young noted that receiving Tri-Party funds for 2011 looks good and those funds can be rolled into this project meaning that we now have to come up with \$75,000 versus the \$102,311.00 originally requested. He felt that this was a significant enough reason to bring it back to the Board.

Steve Fletcher stated that he is totally in favor of spending the Tri-Party funds but has concerns about where the additional money will come from out of the Township budget and feels that in the split the Township is not receiving the same level of value as the other parties.

Lannie Young noted that he discussed with Dennis Kolar the project being more beneficial to the City than the Township and the Township's portion being greater but was told that a formula based on front footage is used throughout the County and no deals can be cut on that.

Steven Fletcher expressed his concerns about possible cost overruns and his displeasure with the Township spending any additional money on this project.

Pat Carcone reminded the Board that there was 10 miles of bike path paved 7 ½ miles of that bike path is in the Township and if the City had not participated in the payment of this it might not have happened. Ms. Carcone continued that sometimes you have to look at the whole picture and give a little even though it might not be totally beneficial to you.

Motion by Carcone, second by Young

To approve the Cost Participation Agreement Revision One for the construction of Eight Mile Road from Pontiac Trail to Dixboro Road as reviewed at the Special Meeting of the Lyon Township Board of Trustees on July 23, 2010.

**Roll call vote: Ayes: Hicks, Young, Carcone
 Nays: Cash, Fletcher**

MOTION APPROVED

Lannie Young stated that the Board is reconvening to continue discussion of the Twin Pines letter of intent.

Rick Elkow explained that against strong advisement from counsel he is ready to move forward on the letter of intent. The changes in the letter being, warranty crossed out in paragraph three (3) and the addition in paragraph five (5) summarizing that Lyon Township has granted Twin Pines LLC right of first refusal to purchase the undeveloped Phase 2 of Twin Pines.

Lannie Young suggested a motion to propose that the Board approves a purchase agreement for the purchase price as defined in the letter of intent as long as the money is deposited with the Treasurer by a certain date.

Phil Seymour stated that the first right of refusal can be part of the purchase agreement and with a time limit worked out.

Motion by Fletcher, second by Carcone

To authorize the supervisor to move forward with the purchase agreement for the Phase 1 of the Twin Pines property per the revised second letter of intent from Rick Elkow dated July 23, 2010 along with a list of parcel numbers and provided the \$317,000.00 is deposited into the Treasurer's account by July 29, 2010.

**Roll call vote: Ayes: Young, Hicks, Carcone, Cash, Fletcher
 Nays: None**

ADJOURNMENT

Motion by Carcone, second by Cash

To adjourn the special meeting at 1:50 p.m.

**Voice vote: Ayes: Unanimous
 Nays: None**

MOTION APPROVED

Meeting adjourned at 1:50 p.m.

Respectfully submitted

Rose Case
Lyon Township Secretary

Michele Cash
Lyon Township Clerk