

Charter Township of Lyon
Board of Trustees
Regular Meeting Minutes
May 6, 2015

Approved: **June 1, 2015**

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

Roll Call: Steven Adams
Patricia Carcone
Michele Cash
John Dolan
John Hicks
Sean O'Neil
Lannie Young

Guests: 30+

Also Present: Chris Doozan, McKenna Associates
Jennifer Elowsky, Township Attorney
Leslie Zawada, Civil Engineering Solutions, Inc.

APPROVAL OF CONSENT AGENDA

Approval of Regular Meeting Minutes of April 6, 2015
Approval of Disbursements
Building Department Report for March 2015
Engineering Report May 2015
Zoning Reports for April 2015

**Motion by Cash, second by Carcone
To approve the consent agenda as presented.**

**Roll Call Vote: Ayes: Young, Carcone, Hicks, Adams, O'Neil, Dolan, Cash
Nays: None**

MOTION APPROVED

ANNOUNCEMENTS AND COMMUNICATIONS

Clerk Cash reported that Lyon Township did really well at the election and had a 34% turn out which exceeds the expected 18% for Oakland County. She thanked the election workers for all of their hard work.

CALL TO THE PUBLIC

Troy Creswell, 24670 Brompton Way, resident of Woodwind Village. He explained that for the past few years they have been looking for support from the Township and Developer. As the neighborhood was starting to finish up they noticed that things weren't adding up. They were worried on how the project would be finished. In 2014 things got worse and they have documentation to prove that. The approved plans were reviewed and it was found lacking. He was offered a compromise but it was only a fraction of what was wrong in the development. He also raised concerns about the Woodwind model home. They found out that Carriage Club had the same issues with Mr. Healy. He asked that Mr. Healy comply with what was agreed to in the approved plans. He asked if this item can be placed on the agenda.

Motion O'Neil, second by Carcone
To place this item on the agenda for discussion.

Voice Vote: Ayes: Unanimous
Nays: None

MOTION APPROVED

Steve Emsley, 51824 Eight Mile Rd., he commented on the Devonshire, Charlevoix and Shadow Wood proposed plans and asked that the Board take a moment to breath given the speed in which these developments are coming before them.

Kathy Crawford, State Representative for this District – She gave a brief update regarding the no fault law proposal and the roads. She also listed the committees that she is a part of. She provided Catalpa Tree seedlings to the Board in the hopes that it will be planted in a Township park. The seedlings are from the tree at the Capital Building in Lansing. She reported that any senior over 65 will be able to attend the Michigan State Fair at no cost on Senior Day.

REPORTS

DDA – Ms. Archer provided an Economic Outlook Report to the Board members. Hirata Corporation will be hosting an open house on May 19 from 1:30 p.m. – 4:00 p.m.

Fire Chief – Deputy Chief Berry reported that a bus extrication class was held in Wixom and a few of their people attended. They also participated in two training burns and held career training at South Lyon East High School. A Fire Truck Ride to School was auctioned off and that will take place tomorrow at Dolsen Elementary. Future items to be looking are the updating of their rules and regulations. They are waiting on the 3rd bid for the new rescue.

Sherriff – Sargent Venus reported that the Sheriff's Office has had an Operation Medicine Cabinet in place and now the substation at the Township Hall has that service available. He reported that Pontiac Trail had to be closed by the airport when there was a man in the tree and he was afraid to get down. They have been receiving a lot of positive feedback for the up-turn in police coverage. Sargent Venus explained that the

19 inch rims being stolen on Ford Flex and Ford Fusion has been going on for a while all over Metro Detroit area.

Planning Commission – Treasurer Carcone gave an update regarding the Planning Commission meetings.

ZBA – Trustee Hicks gave a brief update regarding the ZBA meeting.

Park Advisory Board – Trustee Hicks reported that Andrew Mullen is building an information kiosk for the disc golf as his Eagle Scout project. There was a discussion of the signs and the baskets may have been purchased for the disc golf.

Trustee Hicks announced 100 years ago today Babe Ruth made his pitching debut with the Red Sox and had his first home run.

APPROVAL OF AGENDA

Supervisor Young added the item to Woodwind at the beginning of New Business and an Executive Session was added for an update on litigation.

**Motion by O’Neil, second by Hicks
To approve the agenda as revised.**

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

MOTION APPROVED

UNFINISHED BUISNESS

A. CH. 46 Ordinance 05-15 Local Limits Amendment, Second Reading

Ms. Zawada explained this is the second reading to amend the Sewer Utility Ordinance and amend the limitations for ammonia, biochemical oxygen demand and total suspended solids.

**Motion by Cash, second by Adams
To amend Ordinance Number 05-15 known as Local Limits Amendments.**

**Roll Call Vote: Ayes: Cash, Carcone, Adams, Dolan, O’Neil, Hicks, Young
 Nays: None**

MOTION APPROVED

B. Amendment to the Tree Protection Ordinance 06-15 Second Reading

Mr. Doozan explained that there are two amendments. One would clarify that trees removed for certain development improvements would be exempt from tree replacement requirements. The second amendment involves the tree replacement rates.

**Motion by Cash, second by O'Neil
To approve Ordinance Number 06-15 known as the Amendment to the Tree
Protection Ordinance.**

**Roll Call Vote: Ayes: Dolan, Young, O'Neil, Hicks, Adams, Carcone, Cash
 Nays: None**

MOTION APPROVED

NEW BUSINESS

Woodwind Discussion

Supervisor Young explained that there is a successor developer on this project that is required to do everything in the Planned Development. Ms. Elowsky explained that the successor developer is responsible. Supervisor Young explained that Healy Homes built half of the homes in there and Mr. Soave built the other portion.

Mr. Doozan explained in terms of the berm the issue was that they wanted the same number of plantings that were on the original plans even though the mix of plantings was not going to be the same. They focused on what they can do to augment what's out there already and have something substantial on the berm. As the residents have said they didn't know whose responsibility it is. The approved plan and what is out there do not match. In terms of the landscaping around the pond they recommended instead of the evergreen trees that maple trees would grow better in the wet environment.

In terms of the Brompton Way there were serious concerns. This is the area were Mr. Healy did not recognize the plan that had been approved. They did come to a compromise that the berry plants would be replaced with autumn blaze maple trees. The total design would not be completed as shown on the approved plan.

Troy Creswell, 24670 Brompton Way – He commented that the definition of a compromise is an agreement amongst all parties and the residents were not there. Clearly the photos show that the residents are engaged. These approved plans were revised and approved in 2011. He referred to photos that compared landscaping from last year to this year that have had no irrigation. He commented on various aspects of the development that have issues, open space, landscaping, irrigation and the model home.

Mr. Healy stated that he hasn't been contacted from the residents since November. There are open spaces and bare spots where grass hasn't grown. He said that it was the fertilizer man who missed a bunch of areas and he got him to fertilize last November. He had to hire a new fertilizer company. Some of the areas had only been planted 3 months prior. Some rough areas on the berm they had to take out about 20 trees that had died. When the well stopped they had no way of watering the trees. For

the most part it's a berm and from the road it looks fine. He commented that he has had no help from any of the residents and Mr. Soave has not offered any assistance. Mr. Healy stated that Mr. Soave would be equally responsible and that he built half of the development. Mr. Healy stated he got 41 lots and Mr. Soave has 41 lots.

Ms. Carcone stated that Mr. Healy and Mr. Soave will have to fix it, bottom line. There are no deals; the developers have to follow the rules.

The Trustees made various comments in support of the people and agreed that Mr. Healy will have to follow the approved plan and make right with the plans and the Township will find out the legalities as to who is responsible.

Mario DiPonio, 24473 Brompton Way – Stated he has a friend on multiple occasions who tried to purchase the lot that Mr. Healy says that he is actively trying to sell. For Mr. Healy to state that there is no one interested in this lot, when people have been told that there is a deposit on this lot. There are multiple individuals who have tried to purchase this lot. He knows that the Board will do their due diligence to get this solved. He believed that Healy Homes is currently building in Lyon Township and he didn't know what kind of options the Board had in halting the current building until Mr. Healy completes and finalizes this project.

Don Barduca, 24458 Brompton Way - He also had a friend that wants to buy the property and he was told that there is a deposit on it and it wasn't for sale, this was in December. They called back 3 weeks ago and they were told the same story.

Trustee O'Neil read in excerpt from the Zoning Ordinance regarding the model homes.

Mr. Creswell voiced concerns about the safety of the residents with all of the construction debris and equipment.

Steve Emsley, 51824 Eight Mile Rd. – He questioned the thousands of dollars that has been spent to try and solve this. He asked if Mr. Healy is part of the Section 36 consortium.

The understanding is that this item will be on the June agenda. Trustee O'Neil stated that the Township should also investigate to make sure other model homes are not being sold from multiple subs.

Motion by O'Neil, second by Adams

To direct the Ordinance Enforcement Officer to enforce Article 19 this pertains to site development standards applicable to certain uses of the Zoning Ordinance in all subdivisions.

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

MOTION APPROVED

A. 926 Associates LLC – Request for Variance to the Engineering Standards

Ms. Zawada referenced the CES memo dated April 24, 2015. She explained that 926 Associates recently submitted a site plan to build an additional building on the north end of their property. The site currently has a detention basin which has side slopes of 1'V: 3'H which is also currently fenced. Since the applicant was able to meet the current standards for volume and are requesting the same side slopes and fence that they currently have she would recommend that the Township Board grant the applicants request of a variance.

Motion by Cash, second by Hicks

To approve the request for a variance to the Engineering Standards as stated in the CES memo dated April 24, 2015 and the memo from the Township Attorney dated March 31, 2015.

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

MOTION APPROVED

B. Saddle Creek Planned Development – Phasing Revision

Mr. Doozan reviewed the McKenna Associates memo dated April 20, 2015. He explained that a request has been submitted by Mark Roebuck of Lombardo Homes to revise the phasing in the Saddle Creek Planned Development. The proposal calls for inclusion of lots 160, 172 and 178 in phase 5, rather than phase 4. It was recommended that the proposed phasing revision does not impact planning and zoning so he recommended approval of the new phasing.

Ms. Zawada also supported the change in the phase line.

Motion by O'Neil, second by Carcone

To approve the request from Saddle Creek to amend the phasing line as requested in their April 16, 2015 letter.

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

MOTION APPROVED

C. Reflections at Mill River – Ninth Amendment to the Consent Judgment, Second Amendment to the Master Deed.

Mr. Doozan reviewed the April 26, 2015 McKenna Associates memo. The Township has received a request from Lombardo Homes to amend the Mill River Consent

Judgment. To reduce the separation between buildings in the Reflections from 25 feet to 17 feet. He explained that in reviewing the request, their main consideration is that the separation of the main living spaces between adjoining buildings will remain unchanged. Thus, the only concern would be an aesthetic one. It is their opinion; the change is not so dramatic as to affect the overall appearance of the Reflections.

Therefore, it is recommended that the Board approve the amendment. Furthermore, it is their understanding the Board of the Reflections at Mill River Homeowners Association is in support of the change.

Chris Cousino explained that there are 62 units and this represents an additional 42 units. They do have to get the existing units to sign off and it passed 61 to 1. Mr. Cousino stated that most people would take advantage of it.

Trustee O'Neil explained that at the Planning Commission level they were always struggling to get a minimum of 15' between buildings and in this case there are 17'.

**Motion by O'Neil, second by Hicks
To approve the 9th amendment to the Consent Judgment for the Reflections
at Mill River.**

**Roll Call Vote: Ayes: Dolan, O'Neil, Young, Hicks, Carcone, Adams, Cash
 Nays: None**

MOTION APPROVED

D. Charlevoix Place Planned Development – Conceptual Review; AP-14-55

Mr. Doozan reviewed the McKenna Associates memo dated April 27, 2015. He explained that the review letter has identified issues that must be addressed before this proposal can move through the review process. He recommended that the plans be revised to address the deficiencies identified in the memo.

Ms. Zawada reviewed the memo dated April 23, 2015. She explained that most of the items that are mentioned should be addressed during preliminary approval. The applicant should include the off-site improvements including the sanitary sewer with the proposed inverts. The limits of the drainage area need to be shown on the plans. While non regulated wetlands are allowed on lots, lot 16 and 20 have regulated wetlands extending into the lots and shall be reconfigured. There will be a few lots where the wetland buffer extends to the building envelop so those homeowners would not be able to build in that wetland buffer so they would be deed restricted. There could be driveway issues within the wetland setback so those should be reviewed as well during preliminary review.

Mr. Michael, representing Trowbridge Land Holdings, LLC gave a brief presentation of the proposal. He reviewed the open space, the trails that connect the sidewalk system within the development and the one on the major road. The homes will be 2800 to 3400 square feet selling between the \$500,000 to \$600,000 dollars.

Supervisor Young stated that he would rather see the funds for the road go into a fund for the Township since the Township has to provide matching funds for the future paving. It looks like a 1/3 of a Mile will need to be paved at a cost of closer to a ½ million dollars which will have to be determined by the Township Engineer. Mr. Michael stated he had no problem contributing.

Mr. Michael explained that they didn't supply any renderings of the proposed homes. Clerk Cash confirmed that since there are so many wetlands the plans could really change once the MDEQ is involved. Ms. Zawada also explained that she would not recommend final without a MDEQ permit.

Mr. Doozan explained that usable open spaces have to be contiguous and accessible to all residents in order to be usable, so some modifications will need to be made.

Trustee Hicks stated that he didn't know how it could be monitored so that people don't use that 25' wetland buffer.

Trustee O'Neil stated that he agreed with the Planning Commission regarding the front yard setback issue. He questioned if one of these projects failed to get through the process, does the infrastructure fail to go through? Mr. Michael stated of the 5 projects all of them are here tonight. The 5th parcel has agreed to write their check but not go through the planned development process yet. Ms. Zawada explained that the 5 applicants will contribute privately to the water and sewer extensions. The Township's only part is the assistance with easements. If one of the projects doesn't get approved then it could affect the overall utility plan but at that point it goes back to the applicant's. Trustee O'Neil stated he would not vote to fund a SAD. Mr. Michael explained that the funds will go into an escrow account with a title company and be administered by the title company.

Trustee Adams commented that the exteriors don't show many trees many planted. Mr. Michael stated on 9 Mile they have shown some plantings at the entry and plantings are continuous along 9 Mile Road.

Steve Emsley, 51824 Eight Mile Rd. - Mr. Emsley commented that he had concerns regarding Mr. Michael's expertise and felt that the State of Michigan also had concerns.

E. Devonshire Planned Development – Conceptual Review; AP-14-56

Mr. Doozan reviewed the McKenna Associates memo dated April 27, 2015. He concluded that the review letter has identified issues that must be addressed as the proposal moves through the review process. He recommended that the plans be revised to address the deficiencies identified.

Ms. Zawada reviewed the CES memo dated April 23, 2015 and the CES memo dated April 13, 2015 that she presented to the Planning Commission. She mentioned that this property is also part of the off-site extension of public water and sanitary sewer and

those documents should be submitted with the next submittal. There is a 100 year floodplain that exists at the south end of the site on lots 1, 2, and 56, detention basin #4, and within the proposed roadway. The flood zone is designated by FEMA as flood zone "A", meaning the area is subject to the 100 yr. flood, yet the flood elevation has yet to be determined. There is no compensating cut proposed on the plans.

The water main is proposed to be a long dead end. Analysis will be needed to determine if pressure and flows will be sufficient. Looping may be required. The wetland line as well as the 25 foot wetland setback line needs to be shown and labelled on all relevant plans, there are some areas where the setback is not included and on some lots it's shown as 15'. Ms. Zawada also explained that Civil Engineering Solutions, Inc. does not recommend the use of gabion walls as those are being proposed.

Ms. Zawada continued that the limits of the drainage area contributing to the forebays/detention basins needs to be shown graphically on the plans to confirm that the storm water management is adequate. They also plan on having two separate condos one in the north end and one in the south end.

Mr. Emsley spoke regarding the surveyors that trespassed on his property. Mrs. Emsley commented that she was told by the surveyors that their property was sold. Mr. Emsley raised the concerns about his septic field and the high pressure gas line.

Mr. Michael commented that Mr. Emsley's property was not included in what should have been done. He apologized to the Emsley's. Mr. Michael commented that no design work has been done but they have agreed to install the traffic light with the appropriate intersection.

Supervisor Young confirmed that it is all ½ acre zoning with side entry garages. He would like the gateway to really speak to what their vision is like Ten Mile and 9 Mile. Mr. Michael had said that the product is a little smaller than Charlevoix. Devonshire will be 2400 – 3000 square feet.

Trustee Adams questioned what community benefits will be offered? Mr. Michael stated in the McKenna Associates memo on page 3 the community benefits are listed.

Mr. Emsley commented that the conservancy is self-serving, it is MDEQ protected and it can't be touched anyway. He would be losing giant trees all around him and replaced by skinny trees. The sewer system only serves the developers projects. None of those listed are recognizable benefits and an attorney would tell them the same.

F. Shadow Wood Planned Development – Conceptual Review; AP-14-57

Mr. Doozan reviewed the McKenna Associates memo dated April 27, 2015. He explained that the Planning Commission reviewed the conceptual plan for Shadow Wood on April 27, 2015. The Trustees expressed a need for a stub road to the east in the northwest segment of the development. One Trustee expressed concern over the amount of tree removal in the north part of the development, and requested that the

developer not pack the houses so tight in this area. Commissioners noted that the front setback of 30 feet is unacceptable and should be at least 35'.

There were lengthy discussions about open space and whether the landscaped buffers along Eight Mile Road and Chubb Road can be considered usable open space. The Planner suggested reducing the buffers so as to increase the open space in the middle. The Trustees expressed support for this idea.

A resident on Chubb Road also expressed support for the stub road to the east.

Mr. Michael stated that the main thing they talked about this property is that they provided a much wider strip than would be necessary. That piece of open space they consider usable open space. He would like to know what the Board would like in that area. Mr. Michael confirmed that there are 143 homes in this proposal. Homes starting at \$400,000.

Supervisor Young asked for a rendering in the preliminary review.

Trustee Dolan asked if they could provide an overlay for all 5 developments. Mr. Michael stated that they would be happy to provide that.

Ms. Zawada confirmed that the sewer has to be provided to the limits of their property, they are not providing it all the way down Napier or around Eight Mile Road, just through their developments.

Trustee Adams commented that he didn't like the north side where the homes are just plopped down in that area. Trustee O'Neil agreed and asked if they looked at any alternate plans. Mr. Michael stated that they would look at it.

G. Fire Station Security System Proposal

Deputy Chief Berry reviewed the bids for the station entry and camera systems. He recommended A.S.C. for the project, based on the lowest bid and has far more experience.

Deputy Chief Berry confirmed that the amount is in the budget.

Motion by O'Neil, second by Dolan

To approve the purchase of the Fire Station Security System proposal to go with A.C.S. bid of \$43,812.09 with a not to exceed \$45,000 for any contingencies that may arise to be taken out of the Capital Outlay budget line item as recommended by the Fire Department.

**Roll Call Vote: Ayes: Carcone, O'Neil, Hicks, Cash, Adams, Young, Dolan
Nays: None**

MOTION APPROVED

H. Recommended Revisions to the Zoning Ordinance Concerning the New Hudson Zoning District; 1st Reading Ordinance 07-15

Mr. Doozan explained that the New Hudson Zoning District was adopted by the Township Board just over a year ago. As a result of the activity, they see the need for some fine tuning to match the regulations with actual conditions that they are dealing with in the District. He briefly reviewed the McKenna Associates memo dated April 14, 2015.

**Motion by O’Neil, second by Carcone
To Approve Ordinance number 07-15 New Hudson Zoning District to second reading.**

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

MOTION APPROVED

I. Consider Amendments to the Text of the Zoning Ordinance Definition of Holidays

Mr. Doozan reviewed the McKenna Associates memo dated April 14, 2015. He recommended too be consistent with the Planning Commission’s recommendation, it is recommended to approve the definition of “holiday”, which would be an addition to Section 3.02 of the Zoning Ordinance. The Planning Commission would like Christmas Eve to be added to the list of holidays and would like noise disturbances within a noise sensitive zone to be prohibited between the hours of 7:00 p.m. and 7:00 a.m., rather than 8:00 p.m. and 7:00 a.m. This amendment would affect Section 20.02.A.2 of the Zoning Ordinance. Defined as the following legal public holidays: New Year’s Day (January 1); Memorial Day (last Monday in May); Independence Day (July 4); Labor Day (first Monday in September); Thanksgiving Day (fourth Thursday in November); and Christmas Day (December 25).

**Motion by Cash, second by Carcone
To approve Ordinance 08-15 Zoning Legal Holiday Definition.**

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

MOTION APPROVED

The Board was in consensus with the Planning Commission’s recommendations as well.

J. Windridge Planned Development – Conceptual Review; AP-15-24

Mr. Doozan reviewed the McKenna Associates memo dated April 28, 2015. He recommended that the Township Board review the conceptual plan for Windridge and offer constructive comments so that the applicant can refine the plans before submitting them for preliminary plan review.

Mr. LaVanway gave an overall review of the proposed project. He confirmed that they heard the comments from the Planning Commission regarding the setback and they are taking that into consideration. They are also evaluating the idea about not having a boardwalk.

Supervisor Young commented that he liked the layout but he was also concerned with the 15' between homes. Mr. LaVanway stated that it is side entry garages so it will be larger than 15'.

Trustee Adams also liked the layout but felt that 100' would be better than 90'. Treasurer Carcone stated that she really likes this plan. She questioned lot number 1.

Trustee O'Neil thought this was also the best plan that they have seen tonight. He stated that there needs to be second access point.

Mr. LaVanway explained that they are planning on 3 phases to the development.

Trustee O'Neil explained that he is concerned regarding the 5 developments and if some were approved and some developments were not.

ADJOURNMENT

Motion by Carcone, second by Cash

To adjourn the regular meeting at 11:01 p.m. and move into closed session.

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

MOTION APPROVED

The Board of Trustees meeting was adjourned at 11:01 p.m. due to no further business.

Respectfully Submitted,

Kellie Angelosanto

Michele Cash

Kellie Angelosanto
Recording Secretary

Michele Cash
Lyon Township Clerk