

# CHARTER TOWNSHIP OF WHITE LAKE

## Approved Minutes of the Board of Trustees Special Meeting

June 7, 2016

Supervisor Baroni called the meeting to order at 7:00 p.m. He led the Pledge of Allegiance.

Clerk Lilley called the roll:

Present: Gregory Baroni, Supervisor  
Terry Lilley, Clerk  
Mike Roman, Treasurer  
Rik Kowall, Trustee  
Mike Powell, Trustee  
Scott Ruggles, Trustee  
Andrea Voorheis, Trustee - Late Arrival

Also Present: Lisa Hamameh, Attorney  
Howard Shifman, Attorney  
Jeanine Smith, Assessor  
Cathy Derocher, Deputy Clerk  
Amy Bertin, Recording Secretary

**It was MOVED by Clerk Lilley, SUPPORTED by Trustee Ruggles to approve the Agenda as presented. The MOTION PASSED by a voice vote (6 yes votes).**

### **PUBLIC COMMENTS:**

Clerk Lilley recognized Cub Scouts Troop 316 are present at the meeting tonight. They came in a bit early to question him regarding his background, experience and role in the Township. It is his hope their attendance at tonight's meeting will be an educational and enjoyable experience.

Trustee Kowall added it is a great idea to expose them to the workings of government at an early age. It is important to witness how the decisions made will affect them now and in the future.

### **OLD BUSINESS**

#### **A. CONTRACTS 5, 6 & 8**

Treasurer Roman suggested Item 6A be moved to later in the Agenda after the New Business items as it will likely be a lengthier topic.

**It was MOVED by Treasurer Roman, SUPPORTED by Trustee Powell to amend the Agenda, move Item 6A to Item 7D. The MOTION PASSED by a voice vote (6 yes votes).**

**NEW BUSINESS**

**A. PURCHASE OF 2013 FORD POLICE INTERCEPTOR FOR FIRE DEPARTMENT**

It was **MOVED** by Treasurer Roman, **SUPPORTED** by Trustee Kowall to approve Purchase of 2013 Ford Police Interceptor for Fire Dept. in the amount of \$8700. The **MOTION PASSED** by a voice vote (6 yes votes).

**B. FIRE STATION #3 IMPROVEMENTS, CONCRETE, LIGHTING AND BAY DOORS**

Trustee Powell would prefer Chief Gurka follow the Procurement procedure and obtain three competitive bids for each individual item. Once the bids are compiled he should then return and present the items to the Board.

Trustee Kowall suggested Chief Gurka contact Detroit Edison regarding the lighting item as they have a special program wherein they do an analysis, recommend a qualified vendor and provide a voucher for savings.

It was **MOVED** by Trustee Powell, **SUPPORTED** by Trustee Kowall to request the Fire Department to obtain bids in accordance with the Procurement Ordinance on each item and re-present this Item to the Board. The **MOTION PASSED** by a voice vote (6 yes votes).

**C. CASTLEWOOD AND NORDIC DRIVE DISCUSSION**

It was **MOVED** by Clerk Lilley, **SUPPORTED** by Trustee Kowall to approve the use of funds from the Improvement Revolving Fund to proceed with the construction of both the Castlewood and Nordic Drive projects until such time as we can be reimbursed from the bond sale proceeds, and authorize J&A to proceed with the projects. The **MOTION PASSED** by a voice vote (6 yes votes).

It was **MOVED** by Clerk Lilley, **SUPPORTED** by Trustee Powell to authorize the Township Supervisor to sign the engagement letter of Benzinski & Co. dated 4-21-16 and any other construction documents to allow construction to begin as soon as possible. The **MOTION PASSED** by a voice vote (6 yes votes).

Treasurer Roman questioned if anyone had an idea of how many people were interested in hooking up at this point.

John Campbell, 1218 Castlewood. A lot of neighbors are asking about the \$650 for the design fee. They came up to pay it and were told not to. Many people want to hook up but need to know what to do regarding that fee. Also, what is the next step to connect? Does another petition need to be circulated to initiate a hook-up SAD?

Jeanine Smith, Assessor, advised the residents to see Mike McAdams in the Water Dept. to pay that fee. Also, contact her and she will provide Mr. Campbell with a petition for those interested in hooking up.

Alan Kovak, 1329 Castlewood. He already came in and paid his \$650. He would like it to be noted on record that he has paid.

Treasurer Roman invited the Cub Scouts in attendance at the meeting tonight to ask any questions they might have at this point.

Brady Hollowell, 6605 Ellinwood. Do the meetings always go this fast?

Supervisor Baroni responded that this is a Special Meeting and so there are fewer items to discuss. Usually, a Regular Meeting has many more items on the Agenda and can go much longer.

#### **D. CONTRACTS 5, 6 & 8**

Attorney Hamameh provided a brief overview as to why we are here tonight to discuss this item. Public Act 188 is a law that allows the Township to take on public improvements that benefit the public health, safety and welfare. The Township Board can then determine who pays for that public improvement. The Township can pay for it all themselves or they can require everybody who benefits from the improvement to pay or a combination of both. The previous administration established three separate water SADs which will be referred to as Contracts 5, 6 & 8. A previous Township Board decided that extending the water main in the Township was a public improvement that was beneficial and decided to assess the cost to the property owners that are benefiting from the extension.

All three contracts were created differently and treated differently. It had recently come to the Board's attention that some of these contracts have been accruing interest, which is significant in relation to the cost of the improvement. This Board started having discussions on what to do with these different projects and how to handle them. If you were affected by any of these contracts you received a letter. Each letter was crafted differently for each specific contract. The purpose of this Special Meeting is for the Board to evaluate each contract and determine how best to handle the significantly accrued interest for properties that have not yet connected to the water system.

Clerk Lilley became involved with this process last June. Mr. Caswell called to advise that he had a problem with the water connection fees. After looking at his situation, it was further investigated how many other people were affected by the same circumstances. This meeting is being held to decide what we are going to do to help alleviate the burden being experienced

by the people under these contracts. The original SAD was begun almost 10 yrs. ago. It is prudent to try to come to some reasonable and amicable resolution of what these people owe the Township. There is a large amount of money outstanding. If there is anyone who feels they have already paid their obligation please contact us so we can research it and eliminate them from this process.

Treasurer Roman is certain that if anyone knew 10 yrs. ago what interest rates would be today, they wouldn't believe it. One thing the Board could consider is reducing the interest on Contracts 5 & 6 down to the same rate as 8 which is 3.5% and possibly freeze that interest at some point in time.

Clerk Lilley addressed Contract 5. He would like the Board to consider a reduction in the amount of interest for three reasons. One, to allow people to pay it off within a certain period of time, 30, 60 or 90 days. Two, provide a 10 yr. opportunity to pay off the balance. Or a starting point as of today, if you chose to do nothing you know you'll have reoccurring interest on the amount owed.

**It was MOVED by Trustee Kowall, SUPPORTED by Clerk Lilley to provide the participants of Contract 5 three options for paying their balance due: 1. Have up to 90 days to pay the original balance of the capital recovery fee in full, eliminating all accrued interest. 2. A 10 yr. contract agreement to pay off the balance due based on 3.5% interest rate effective as of the signing date. 3. Those choosing to not take advantage of Options 1 or 2 will have the balance as it sits today (principal plus accrued interest) but going forward interest will accrue at 3.5%. Also, authorize the Township Attorney to draft the necessary documentation to move forward with this action.**

(Trustee Voorheis arrived to the meeting at approximately 7:40 p.m.)

Attorney Hamameh offered an alternative. The interest has already accrued for all of these parcels and the SAD that was created for those who wanted to participate in the 10 yr. process was paid off in December 2015. Rather than having interest accrue from today going forward without having any resolution or ordinance amendment authorizing the accrued interest going forward, you cap the interest so you reduce it to the maximum paid by those in the 10 year plan and that is their new balance because that is what was created back when the SAD was established. In other words, take that total dollar amount of interest they paid over the 10 yrs. and reduce accrued interest to that amount or the equivalent of that amount based on the assessment and then cap it.

Clerk Lilley questioned what the Township can do to properly inform a business owner they have a financial obligation to the Township. They need to understand that if they do nothing and come into the Township 10 years from now they have the obligation to pay the accrued

interest. He is not convinced everybody fully understands they were accruing interest.

Attorney Hamameh stated depending on which option the Board chooses to address this situation, she would request they direct the township attorney to prepare and assemble the necessary documents to accomplish the motion. After the method is determined, each property owner affected will be notified.

Treasurer Roman suggested another option to avoid creating a SAD. The property owner would have the option to pay off the balance within 90 days, eliminating all interest. If they don't choose that, we re-accrue the interest at 3.5% and cap it.

Trustee Powell clarified the stated motion on the table has nothing to do with hook up costs. This is just a utility repayment cost. When they want to hook up, that is an additional tap fee.

**The MOTION PASSED by a voice vote (7 yes votes).**

Joe LaFlamme. The Township decides to run a pipe, says it is in your best interest, you have no choice as to where it is put but it is getting done and you're going to pay. That is like me building a house and saying I'll put you in a \$30,000 kitchen instead of a \$10,000 one because it is better. How does that work?

Trustee Powell stated the money has been owed since 2005 but people haven't paid it. We are trying to give them incentive to pay for an obligation they had over 10 years ago.

Joe LaFlamme, Sr. The problem is there are only two people on this Board who were actually originally involved in it. There were many different statements made. He was told verbally he didn't have to pay a dime until he hooked up, no interest, no nothing. A lot of people aren't aware of this. This is a bad situation.

Clerk Lilley did originally take part in one of the contracts. Back then, the Board voted for this project in the public interest to have water all the way down M-59 and connect two systems together. If the M-59 corridor was to continue to develop, water would be essential for most of the applications, particularly the big box stores to provide fire suppression. You are correct, nobody ever said you had to pay this until you made a connection to the system. That is a correct statement. But what people didn't understand is this project was incurring interest at a rate of 8% every year on that original principal balance. I didn't know or understand that myself until Mr. Caswell brought it to light. I am here to admit the fact I made a mistake in not realizing the amount of interest that would accrue. Many business owners have said they didn't feel they were given the appropriate notification to understand the impact. We need to fix this problem.

Brett Overall. You made a key point about properly informing people. He was never informed. He had several conversations at that time ten years ago about widening easements or needing more easement to run the lines. Never was there any mention of cost. Some might say you should have known. He has other properties in the Township that have had utilities run through and he hasn't seen a bill as someone else was paying it. How were we to assume we were going to get a bill and this was accumulating all this time? None of us would have agreed to 8% over that many years. It infers we are dead beats, like we didn't pay our share. We just didn't know we were being charged all this time.

Trustee Powell stated he was called by Tim Brendel as well who concurred exactly with what Mr. Overall stated. He never received any information. He was shocked. This letter was the first information he received. If he had known, he would have paid it off immediately. That is what is being offered tonight. To reset the clock, start over and do it the way it should have been done in the first place.

Seth Wiles. The Township is actually being more than generous in their offer because 10 years ago our dollar was worth more than it is today. You are actually getting about a 30% discount if you pay the full balance now than from 10 years ago.

Treasurer Roman stated the one difference between Contract 5 and 6 is a SAD has been created for 6. If we look at similar options for 6, he's not sure how it would work with the existing SAD.

**It was MOVED by Clerk Lilley, SUPPORTED by Trustee Ruggles to provide the participants of Contract 6 three options for paying their balance due: 1. Have up to 90 days to pay the original balance of the capital recovery fee in full, eliminating all accrued interest. 2. A 10 yr. contract agreement to pay off the balance based on a 3.5% interest rate effective as of the signing date. 3. Those choosing to not take advantage of Options 1 or 2 will have the balance as it sits today (principal plus accrued interest) but going forward interest will accrue at 3.5%. Also, authorize the Township Attorney to draft the necessary documentation to move forward with this action.**

Treasurer Roman clarified that these options apply whether the property owners do or don't hook up. If they do want to hook up, it will take place as outlined in the current ordinance.

Mr. Wiles questioned how the costs were determined. He has three parcels but one does not have frontage on M-59 and he is still being charged \$8700. He is confused as it sounded like costs were determined based on frontage.

Attorney Hamameh stated the project costs were determined 10 years ago by a different engineering firm. It was based on REUs. The numbers were based on the whole project. It is not something that can be changed at this late stage.

**The MOTION PASSED by a voice vote (7 yes votes).**

Attorney Hamameh stated Contract 8 is different in the sense that the Township Board approved a resolution confirming a SAD. It also had to bond this contract so the Township is bound by the terms of the bond in addition to a 40% loan forgiveness. The state of Michigan gave a grant to the Township of 40% with conditions attached. This has not been reviewed by her office. She would be concerned with any modifications to the SAD because you don't want to jeopardize losing that 40%. Also, rather than a resolution, an ordinance was passed. There is actually a section in the current Water Ordinance that says, as it relates to Contract 8, all of the language about capital recovery charge doesn't apply, this is what applies. And it lays out the capital recovery charge stating that if you do not sign an agreement, interest will accrue as of the date of this ordinance which I believe was in 2010. To change this, it would require an amendment to the ordinance.

**It was MOVED by Clerk Lilley, SUPPORTED by Trustee Powell to provide the participants of Contract 8 three options for paying their balance due: 1. Have up to 90 days to pay the original balance of the capital recovery fee in full, eliminating all accrued interest. 2. A 10 yr. contract agreement to pay off the balance due based on 3.5% interest rate effective as of the signing date. 3. Those choosing to not take advantage of Options 1 and 2 will have the balance as it sits today (principal plus accrued interest) but going forward interest will accrue at 3.5%. Also, authorize the Township Attorney to draft the necessary documentation to move forward with this action and investigate the impact of the terms of the bond and the State's 40% forgiveness. The MOTION PASSED by a voice vote (6 yes votes, 1 no vote - Roman).**

Mary Earley, 5925 Pine Ridge Court. You said in Contract 5 there were five properties. How many were there in Contracts 6 and 8? She was informed there were 26 participants in Contract 6 and 22 in Contract 8.

Merrill Taylor, Woodlands of White Lake. He questioned which contract he was a part of and was informed his property was listed under Contract 8.

**It was MOVED by Treasurer Roman, SUPPORTED by Trustee Powell to add Trustee Comments to the Agenda.**

Peter Picciano. If you create a SAD, how does it not get on the tax roll of someone's property? It is up to this Township, our assessor, to make sure it gets on our taxes.

Trustee Powell stated once a SAD is created, we have to rely on staff and the administration to carry out the orders of the Board and that wasn't done under the previous administration.

Treasurer Roman added the way these SADs were done, there were different options given to property owners. Some of the options were to pay at the time of hook-up, some were to pay over 10 years.

Mr. Picciano. Were these options verbal or in writing?

Atty. Hamameh stated Contracts 5 & 6 were by resolution. 8 was by ordinance and the options are laid out in Ordinance No. 22.

Mr. Picciano. The ordinance in Contract 8 that is law. That is what they should be paying. Why isn't it on their taxes?

Atty. Hamameh. One of the options in the ordinance was to pay interest as it accrued at the time of connection. One of the options in the current water ordinance says, if you don't pay over time, when you need or want to connect, you will pay the assigned capital recovery charge plus interest that accrues from the date this ordinance is adopted.

Resident. Why isn't that a lien on our property?

Atty. Hamameh. It isn't a lien, it is an ordinance. When you want to connect, you would have been directed to that section of the ordinance and told, this is what you owe. There are copies of letters that went out to all the property owners at the time, although some have stated they didn't receive them.

John Earley. What is the interest compounded at? Was it simple or annual? He was informed the issue had to be researched.

**The MOTION PASSED by a voice vote (7 yes votes).**

Carl Latin, 10031 Highland Road. He got the list of properties included in the Contracts but his is missing numbers.

**TRUSTEE COMMENTS**

Trustee Powell advised there was an in-house meeting regarding the ITC easements. We were going to ask the Board to consider a scenario regarding those easements.

Treasurer Roman added this is just an FYI. Just to let the Board know we talked to Redwood regarding the ITC issues. What we are looking at is, they will come back to us with a proposal as to how they want to satisfy our concerns. That should be coming soon.

Trustee Ruggles stated at a recent meeting it was discussed there was a need within the



Township for a light industrial area. A number of business owners would like to come to White Lake but can't find anywhere to go with proper zoning. It needs to be addressed of how we can accommodate them and encourage growth. On a personal note, last year he had organic fertilizer brought onto his farm. It was commented that nothing would grow there but he has successfully planted 50 acres of corn which is currently knee high.

Supervisor Baroni announced this coming Saturday, June 11<sup>th</sup> from 9 a.m. to 2 p.m. will be a Hazardous Waste Day taking place at Kohl's parking lot. This is strictly for White Lake residents. You will be required to present your driver's license or some form of ID. All information is listed on flyers that have been distributed and it is also posted on the web site. On Sunday, June 12<sup>th</sup> from 12 to 3 p.m. there will be an Open House at the Police Department. There will be free refreshments, a rock wall, water slide and many other activities.

Treasurer Roman would like the Board to look at the current Bereavement Policy. The policy covers the time off for employees for the death of immediate family. The way it is written you get five days off but they have to be used in a row. There are some instances where it is impractical to take the five days off in a row.

Trustee Kowall reported the recent Planning Commission Meeting was held at Lakeland High School. The issue of rezoning for Calvary Church was addressed. There was a four to three approval to rezone. The issue will now be brought in front of this Board.

Supervisor Baroni stated because of this issue, the June 21<sup>st</sup> Regular Board Meeting will be held over at the golf course.

Trustee Voorheis apologized for arriving late to the meeting. It was unavoidable due to her work schedule. She will be volunteering at the Police Dept. Open House and would encourage everyone to come.

#### **EXECUTIVE SESSION**

##### **A. APPROVAL TO RECESS INTO CLOSED SESSION TO CONSIDER LABOR/CONTRACT NEGOTIATIONS PURSUANT TO SECTION 8 OF THE OPEN MEETINGS ACT.**

It was **MOVED** by Treasurer Roman, **SUPPORTED** by Trustee Kowall to approve adjourning into Executive Closed Session to Consider Labor/Contract Negotiations Pursuant to Section 8 of the Open Meetings Act. The **MOTION PASSED** by a roll call vote (Ruggles-yes/Voorheis-yes/Kowall-yes/Powell-yes/Roman-yes/Lilley-yes/Baroni-yes).

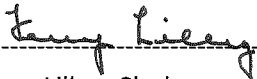
It was **MOVED** by Trustee Powell, **SUPPORTED** by Trustee Kowall to return to open session. The **MOTION PASSED** by a roll call vote (Ruggles-yes/Voorheis-yes/Kowall-yes/Powell-

**yes/Roman-yes/Lilley-yes/Baroni-yes).**

**It was MOVED by Treasurer Roman, SUPPORTED by Trustee Voorheis to adjourn the meeting.  
The MOTION PASSED by a voice vote (7 yes votes).**

Adjournment of meeting 9:55 p.m.

I, Terry Lilley, the duly elected and qualified Clerk of the Charter Township of White Lake,  
County of Oakland, State of Michigan, herby certify that the foregoing is a true copy of the June  
7, 2016 special board meeting minutes.

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Terry Lilley, Clerk  
White Lake Township  
Oakland County, Michigan