

**BOARD OF TRUSTEES**

**MINUTES - JANUARY 8, 2004**

**MEMBERS PRESENT: Bob Hanvey, Sue Lingle, Dan Lowe, Myrna Schlittler and Dave Hamann**

**MEMBERS ABSENT: None**

**OTHERS PRESENT: Mike Kehoe, Township Attorney (part of meeting)**

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**CALL TO ORDER**

Bob Hanvey called the meeting to order at 7:33 p.m.

**PLEDGE TO FLAG**

**MEMBERS PRESENT**

Bob Hanvey asked the township Board members to introduce themselves.

**APPROVAL OF AGENDA**

Bob Hanvey asked to have the Norton Road paving payments under Old Business, and pay requests from the architect and builder. Dave Hamann motioned to approve the agenda as amended. Sue Lingle seconded. **Motion carried 5-0.**

**CALL TO THE PUBLIC**

Mike Boss, Boss Engineering, asked if the Board is considering reviewing the fee schedule and payments for sewer taps. Mr. Hanvey said yes, he would like to make that part of the general review of the sewer and water ordinance. His suggestion is for a pro ration of the payment, with half up front and half when the land use permit is issued. This review of the ordinance will be done within the next month or so.

**APPROVAL OF MINUTES**

**Board of Trustees, December 11, 2003**

Sue Lingle motioned to approve the minutes of the December 11, 2003 meeting as presented. Dave Hamann seconded. **Motion carried 4-0 (Myrna Schlittler abstained.)**

**Special Board of Trustees Meeting, December 22, 2003**

Dave Hamann motioned to table this item. Sue Lingle seconded. **Motion carried 5-0.**

**Ways & Means Meeting, January 5, 2004**

Sue Lingle motioned to approve the minutes of the January 5, 2004 Ways & Means meeting. Dave Hamann seconded. **Motion carried 4-0 (Dan Lowe abstained.)**

**OLD BUSINESS**

**St. Onge Rezoning**

Mike Boss, Boss Engineering, was present to follow-up on additional information the township had requested. This included information from the Livingston County Road Commission (LCRC), and what the existing zoning would permit versus the proposed zoning (sketches submitted). Mr. Boss said without repeating the entire thing, because everyone is very familiar with the request, he feels it boils down to two issues. The township master plan clearly designates this area for the zoning requested—that's not in question. What is in question breaks down to two issues, one being whether Francis Road is adequate for this zoning, and is there adequate sewer and water for the proposed zoning. Mr. Boss read from the comprehensive master plan that "residential developments of greater density will be allowed in the mixed urban area." "...the adequacy of the roads, sewers, water, storm water, police and fire services will be the controlling factors as to the maximum density of the development permitted." The issues of sewers and roads are site plan review issues. In support, Mr. Boss also referred to the township planner's review letter for this proposal. The planner's review stated, "the proposed rezoning is consistent with the existing land use patterns found in the general location of subject request. The proposed rezoning would be in harmony with the existing zoning pattern that would be east, south and west of the subject site. The proposed rezoning request is in keeping with the township master plan and the planned land uses that have been adopted by the township. The proposed rezoning and potential resultant land use would provide an excellent land use buffer from the I-96 corridor to the north and from the commercial zoning and development located to the west." The planner also included the caveat that "this rezoning recommendation does not imply that the attached

site plan for a proposed attached condominium project meets the requirements of the township zoning. The Planning Commission need only consider the proposed rezoning and the potential uses allowed in the UR district. If the subject site is rezoned to UR, the applicant will need to submit for both site plan approval and special use." Mr. Boss said what he is asking for is a zoning issue, and the issues of roads, sewers, density, etc. are special use and site plan issues. There are two alternatives for access that could be pursued if the rezoning is granted: one is access to a private road easement and the other is the paving of Francis Road. A cost analysis has not been done. Mr. Boss added that he provided a copy of an easement agreement granted to Mr. St. Onge to ensure access to a paved road. In conclusion, Mr. Boss stated that if the township board will just look at the zoning issue and the master plan, this is the proper zoning for this parcel.

### **Call to the Public**

**Dave Smith, 328 Francis Road:** Mr. Smith said that no place on the south side of that property is it zoned Urban Residential. The UR is all to the southeast, north, but there's no place south of there.

**Tom Beauvais, Fox Ridge Drive:** Mr. Beauvais believes strongly that someone has the right to develop his or her property and government should not get involved, unless it's to the detriment of the community. In this particular case, the only detriment he can see is the paving of Francis Road. The Forest either has or will have 75 homes, and there's been quite a deterioration of Francis Road in the past year. Mr. Beauvais said he has talked with the LCRC about paving Francis Road, and because of the cost (approximately \$1 million per mile), it wouldn't happen. Mr. Beauvais doesn't feel that Schroeder Park Drive should be the only access. Mr. Beauvais would like the board to consider some means of paving Francis Road. Any more traffic on Francis Road at this point would be detrimental to the people who currently live there.

**Horace Cole, Francis Road:** Mr. Cole said that at the last meeting Mr. Boss stated that Francis Road would only be paved to the entrance of the new site and that concerns him. Also, he asked Mr. Boss to clarify his statement that the south, east and west is all the same zoning. Mr. Boss said the planner's letter said, "...the proposed rezoning would be in harmony with the existing zoning pattern that would lay east, south and west of the subject site." Mr. Boss said the road easement that was granted to Mr. St. Onge would come out to D-19, not Schroeder Park. Mr. Boss said that the property contiguous on the south and west corner is the same zoning being requested. The Forest, although zoned SR, has lots smaller than allowed in UR, because it's an open space development. He believes that is what the planner means by "patterns."

**Tom Beauvais, Fox Ridge Drive:** Mr. Beauvais asked Mr. Boss to clarify his statement that the access road to the development runs north and south off of Francis Road. Mr. Boss said the alternative access easement runs between the church and the old Marion House.

**Horace Cole, Francis Road:** Mr. Cole pointed out that the LCRC survey indicated Francis Road is the highest traveled gravel road in the township. Mr. Hanvey said that Cedar Lake Road is close, and both Cedar Lake Road and Francis Road are limestone.

**Sandy St. Onge, 693 Francis Road:** Ms. St. Onge said she counted cars from 7:00-9:00 am the previous day and there were 25 cars leaving Francis Road. Between 5:00-8:00 (pm?), she counted 35. That's not a lot of traffic.

**Kyle Smith, 1104 Elk Run:** Mr. Smith asked where he could find a legal description of the easement. Mr. Hanvey said at the Register of Deeds office.

**Tom Beauvais, Fox Ridge Drive:** Mr. Beauvais asked if they wanted access to this development off of Francis Road, under the current zoning and regulations, the road would have to be paved? Mr. Hanvey said yes.

**Denise and Glenn Mitchell, 710 Francis Road:** Mrs. Mitchell asked Mr. Boss if he would be absorbing the cost of paving. Mr. Boss said he wasn't prepared to answer that. Of the two choices, the Francis Road access is probably first. If the developer picked up the entire cost of paving, it wouldn't go beyond the development. However, if enough interest could be generated in the area, an SAD could be set up, with the developer being the major contributor.

**Tom Beauvais, Fox Ridge Drive:** Mr. Beauvais said he and his neighbors have discussed paving Fox Ridge Drive. Many people want it paved, but they don't want to do it if Francis Road isn't paved. Mr. Hanvey asked if Fox Ridge is a private road. Mr. Beauvais said yes.

Mr. Hanvey asked Mr. Boss if the access from Schroeder Park Drive were to be utilized, that doesn't mean a second entrance wouldn't be made at The Forest. Mr. Boss said a second access would be there, but it wouldn't be considered the main entrance.

Dan Lowe stated he believes a second entrance would be required based on the number of units. Dave Hamann said if it stayed private, they would need a variance for the distance and a variance for the number of units on a private road.

Myrna Schlittler asked Mike Kehoe, township attorney, whether a special assessment could be put on a county road. Mr. Kehoe said it takes an entirely different process than the township has dealt with in the past. Mr. Boss said he has worked a number of SADs through the LCRC and depending on how they consider the value, they will even contribute engineering costs for the design and supervision of having the road built. On rare occasions, they have contributed funds, but they do contribute services.

Sue Lingle asked Mr. Kehoe if access if through a private road, isn't permission required from all parties? Mr. Kehoe said it could get real sticky. Someone along the private road might argue that they're trying to extend the grant of the easement, but because the easement's established as a private road, that's one of the factors that would be looked at. They would also look at the legal description of the various properties that would benefit from the private road. Ms. Lingle said with a private road, there is also a maintenance agreement. She wonders who would be responsible for the maintenance and upkeep of the road. Mr. Boss said Mr. Adler's attorney has some concerns about that, and he would not ever propose a road until he got the owners of the road to agree to a permanent maintenance agreement.

**Tom Beauvais, Fox Ridge Drive:** Mr. Beauvais said according to the township's attorney, the existing property owners would have to give written permission in perpetuity for the easement.

Ms. Lingle asked to have the letter that the township just received from Mrs. St. Onge read into the record.

**Denise Mitchell, 710 Francis Road:** Mrs. Mitchell asked if all letters received would be read into the record. Mr. Hanvey indicated previous letters had already been made part of the Planning Commission's record, and he wasn't sure they needed to be read again. Mr. Kehoe said they did not need to be read again. Mr. Hanvey read the letter from Mrs. St. Onge (copy attached).

Dave Hamann motioned to deny the request for rezoning application #3-03 for tax codes #4710-01-300-030, 031, 032 for the following reasons:

1. The eight items referenced in the Planning Commission recommendation of denial from the minutes of the regular meeting of October 23, 2003 at 7:30 p.m., page 4 of 7.
2. The large amount of negative feedback from public hearing referenced in minutes dated October 28, 2003 at 7:15 p.m. and the concerns from local residents.
3. LCPC staff recommendation of disapproval with the following comments: "Although the proposed UR zoning is consistent with UR zoning at the southeast corner of D-19 and Francis Road, it is inconsistent with the zoning immediately adjacent to the site. The UR zoning request is also inconsistent with the guidance recommendations of the Marion Township Comprehensive Plan due to the inadequacy of the access road to this proposed site development. Residential development of various forms are still a viable option for this site under the current SR zoning and development can be planned in a manner where residences are sited away from steep slopes and wetlands on-site."
4. The build-out analysis completed by the County Planning Department used the existing zoning in the proposed sewer service district and this analysis showed that the number of potential users with the existing zoning closely matches the projected total capacity of the Howell City sewer plant allocated to Marion Township. Rezoning this property to UR would present an opportunity for future development that would upset the balance between demand and available capacity.

Sue Lingle seconded the motion. Discussion: Ms. Lingle said this is a very touchy subject. In a way, it could be UR. She has great fear of having something pushed on to the township that would require others in the area to have a special assessment. Mr. Hanvey clarified that the motion is to deny the request, so a yes vote is to deny. Roll call vote: Dan Lowe, Myrna Schlittler, Bob Hanvey, Sue Lingle, Dave Hamann—all yes. **Motion carried 5-0.**

Mr. Hanvey explained that according to the township ordinance, the application can be resubmitted in 12 months or if conditions change before 12 months, it can be resubmitted.

Mr. Boss asked if the motion was written and distributed prior to the meeting. Ms. Lingle said it wasn't distributed. Mr. Boss said the record keeper has a copy. Mrs. Mitchell said Mr. Lowe has a copy. Mr. Boss asked how a motion could be made after hearing public comment and distribute it before the meeting occurs. Mr. Hanvey said the motion was available prior to the meeting. Ms. St. Onge asked whether the decision was made prior to the meeting. Mr. Boss said not the decision, but the motion. Ms. Lingle said she often writes up her motions prior to the meeting. Mr. Hamann said the motion was only given to the record keeper. Mr. Boss said that Mr. Hanvey indicated he also read it. Mr. Hanvey clarified that he was referring to reading his notes. Mr. Hanvey said this was not something the board took lightly, and is possibly one of the most painful issues that the board's been faced with. Ms. Lingle assured Mr. Boss that the board members had no knowledge of how the other board members would vote. Ms. Lingle said one of her concerns is the slope on the property that is a natural barrier between what is currently there and what the SR is. If it was zoned UR beyond that, it would continue east. Mr. Hanvey said one of the things that struck him in Mrs. St. Onge's letter was that she said the board shouldn't listen to people outside the township. Of the various people who have supported this, there was no one within the township. Mr. Boss said 10 people talked at the public hearing, 7 of 10 were new residents, and 4 live in exactly the same type of community. Mr. Boss said the reasons the board has used to deny the rezoning are inappropriate.

**Horace Cole, Francis Road:** Mr. Cole said he was one of the 10 people, and he's lived at his residence since 1965. Mr. Boss said that Mr. Cole is one of the 3 longer-term residents. Mr. Hamann said that's noted in the PC minutes.

Mr. Boss said he believes the township has jeopardized its own Master Plan by denying this rezoning.

**Sandy St. Onge, 693 Francis Road:** Ms. St. Onge asked if she could get a copy of Mr. Hamann's motion through the Freedom of Information Act (FOIA). Mr. Kehoe said a written request must be filed. Ms. St. Onge asked if Mr. Hamann was opposed to her looking at it. Mr. Hamann said no. Ms. St. Onge provided the clerk with a written request and was given a copy of Mr. Hamann's motion to read.

#### **OHM Agreement**

A copy of the township attorney's comments has been given to OHM and it's being reviewed. Phil Westmoreland thought the agreement would be ready next week. Sue Lingle motioned to table this agenda item. Dave Hamann seconded. **Motion carried 5-0.**

#### **Litter Ordinance**

Sue Lingle motioned to table this agenda item. Dan Lowe seconded. **Motion carried 5-0.**

#### **Fire Authority Budget & Amendments**

The fire authority requires that the township board approve the amended budget and next year's budget. Sue Lingle motioned to approve the budget amendments for fiscal year 2003-04. Myrna Schlittler seconded. Roll call vote: Dave Hamann, Sue Lingle, Bob Hanvey, Myrna Schlittler, Dan Lowe—all yes. **Motion carried 5-0.**

Myrna Schlittler motioned to approve the proposed budget for fiscal year 2004-05. Sue Lingle seconded. Roll call vote: Dan Lowe, Myrna Schlittler, Bob Hanvey, Sue Lingle, Dave Hamann—all yes. **Motion carried 5-0.**

Mr. Hanvey said there would be an amendment presented to the township to alleviate the need to do this in the future because the fire authority will no longer be funded from the General Fund, but will be funded from millage money.

#### **Norton Road Repairs**

The Norton Road committee, comprised of Jack Lowe, Dan Lowe, Tom Klebba, Phil Westmoreland, and Bernie O'Brien from Allied, met and it was decided to have the repairs done. Bids will be obtained for milling and the work will be done in the spring. Mr. O'Brien asked the township to pay half of the bill, \$6,200, as good faith money. Dan Lowe motioned to approve \$6,200 invoice for Allied Construction for the Norton Road project with the understanding that repairs will be completed by June 1. If not completed by June 1, the township will take the remainder of the original invoice amount to pay for repairs, to be completed to specifications provided by the township engineer. Myrna Schlittler seconded. Roll call vote: Myrna Schlittler, Bob Hanvey, Sue Lingle, Dave Hamann, Dan Lowe—all yes. **Motion carried 5-0.**

## **NEW BUSINESS**

### **Zoning Administrator**

Annette McNamara presented the board with a corrected copy of the handout she had previously provided. Myrna Schlittler motioned to increase the Zoning Administrator's wage by \$2 per hour, effective January 1, 2004. Sue Lingle seconded. Roll call vote: Bob Hanvey, Myrna Schlittler, Sue Lingle, Dave Hamann, Dan Lowe—all yes. **Motion carried 5-0.**

### **Permission to Use Parking Lot**

Tom Klebba had requested to use the township parking lot as a testing site for driver licenses. The township attorney suggested there might be a problem with allowing a private company to use township facilities for private revenue. The attorney would like to investigate further. Mr. Hanvey hopes to have this item resolved prior to Mr. Klebba's return from vacation. Sue Lingle motioned to table this item. Dave Hamann seconded. **Motion carried 5-0.**

### **Mileage**

Sue Lingle motioned to increase the mileage rate to 37.5 cents to remain consistent with the IRS guidelines. Dave Hamann seconded. Roll call vote: Dave Hamann, Myrna Schlittler, Sue Lingle, Bob Hanvey, Dan Lowe—all yes. **Motion carried 5-0.**

### **Final Pay Request—Georgetown**

Mr. Hanvey said the request is the final pay request for the contractor, not for Tetra Tech. The general contractor has completed the work. The total amount is \$11,002.64. The new bottom line total (excluding the pump) is \$82,936.40. They've already been paid \$71,933. Dan Lowe asked if the problem with too much pressure has been resolved. Mr. Hanvey said to his knowledge, the problem hasn't occurred again. Jack Lowe stated his concerns that it's not operational. Mr. Hanvey said a field test was conducted, and OMI accepted the results. Jack Lowe also had concerns about the amount charged for clean and grub, and whether the work was done to an acceptable level. Myrna Schlittler motioned to approve the final pay request for Davis Construction for the Georgetown pump station installation. Sue Lingle seconded. Roll call vote: Dan Lowe, Myrna Schlittler, Bob Hanvey, Dave Hamann, Sue Lingle—all yes. **Motion carried 5-0.**

### **Klebba Replacement**

Dan Lowe motioned to contract with Joe Vellardita to monitor the new building addition at the rate of \$30 per hour. Sue Lingle seconded. Roll call vote: Dave Hamann, Myrna Schlittler, Sue Lingle, Bob Hanvey, Dan Lowe—all yes. **Motion carried 5-0.**

### **Multiple Users on One Meter**

Mr. Hanvey said Mrs. Rodrigues has a duplex structure that was built prior to the installation of the water line. The structure was not set up for two meters. The plumbing is in the concrete. The township sewer and water ordinance provides an allowance for this type of situation. Dan Lowe moved by resolution to allow the Rodrigues property to operate on a single meter and to refund the cost of the second meter. Dave Hamann seconded. Roll call vote: Bob Hanvey, Sue Lingle, Myrna Schlittler, Dave Hamann, Dan Lowe—all yes. **Motion carried 5-0.**

Discussion: Ms. Lingle had a question on the billing. She feels the property owner should pay the two ready to serve fees. Mr. Hanvey suggested that Ms. Lingle handle that administratively with the DPW Coordinator.

### **Sewer & Water Rate Increase for 2004**

Ms. Lingle prepared a handout for the board. She is suggesting a 3% increase for water, which would increase the amount to \$7950, and a 3% increase for sewer, which would increase the amount to \$9,270. Mr. Hanvey indicated that he didn't feel it should be raised. Ms. Lingle said that any time there is an expansion, today's dollar isn't going to be the same ten years from now, and this is somewhat in line with the cost of living increases. Dan Lowe said absolutely not, it's not necessary. It's been raised enough and we'll worry about the expansion when the time comes. Mr. Lowe feels at the very least, the township accountant should review this item.

Dan Lowe motioned to have Ken Palka, township accountant, review and make recommendations on this item. Sue Lingle seconded. **Motion carried 5-0.**

Discussion: Mr. Hamann would like to understand how an expansion would be funded in the future based on those economics. You can't go back to any of the SADs. Would it be raised to whatever the

number of REUs divided by what it would cost to expand the plant? Mr. Hanvey said that's one way, but that would require some assumed number of REUs, and the township doesn't have that information now. The township has a contract that allows it to deliver 3400 REUs, which is 3400 times 260 gallons per day to the plant. There are two more payments on the balance to get to 3400 REUs. The full build-out is projected to be very close to what the SR/UR zoning sewer service district would be. The cost of increasing the plant to that capacity is a number that can't be predicted; even harder to predict is when this will be needed. Jack Lowe asked if the township accountant had ever made a presentation to the Board on this issue.

#### **Architect and Builder Pay Requests**

Bob Hanvey questioned line item 5 (demolition) and item 30 (\$8,250 for Phase 2 work). The architect has approved payment as requested by the contractor. Sue Lingle indicated the township has paid \$176,000+ and this is the third pay request. Dan Lowe motioned to table this item for further clarification, and hold a special meeting on Tuesday, January 13, 2004. Dave Hamann seconded.

#### **Motion carried 5-0.**

Mr. Hanvey will contact the builder on Monday to get additional information for the Tuesday meeting. Dan Lowe motioned to approve the architect pay request for \$385. Myrna Schlittler seconded. Roll call vote: Dave Hamann, Sue Lingle, Bob Hanvey, Myrna Schlittler, Dan Lowe—all yes. **Motion carried 5-0**

#### **PLANNING COMMISSION REPORT**

Dave Hamann said the Planning Commission held a public hearing on December 15 for Darakjian rezoning #7-03. At the regular meeting, Jim Barnwell from Desine Engineering brought up several issues regarding Sundance and Wolf Ridge. A special meeting for January 12, 2004 was set for Cascade Development. A public hearing was set for February 3, 2004 at 7:00 p.m. for Gronow's rezoning #8-03, provided payment for the meeting is paid in advance.

#### **PARKS & RECREATION REPORT**

Sue Lingle said the Parks & Recreation meeting will be held on Tuesday, January 13, 2004.

#### **CONSULTANT'S REPORT**

None.

#### **ZBA REPORT**

No meeting was held in January.

#### **ZONING ADMINISTRATOR REPORT**

Provided in packets.

#### **DPW REPORT**

Provided in packets.

#### **FOR THE GOOD OF THE TOWNSHIP**

Dan Lowe mentioned Tom Klebba's letter in the Livingston County Daily Press & Argus regarding dead animal removal. Sue Lingle said a resident on Sexton Road suggested a volunteer clean-up day in the township to clean up roadsides. Mr. Hanvey said the township should provide safety guidelines. Mr. Hamann said that Jack Lowe offered to contact the Livingston County Jail.

#### **CALL TO PUBLIC**

None.

#### **TREASURER'S REPORT**

Sue Lingle indicated that bank statements hadn't been received yet due to the holidays. Expenses for the month of December were \$165,716.07.

Dave Hamann motioned to accept the treasurer's report with expenses of \$165,716.07. Myrna Schlittler seconded. **Motion carried 5-0.**

#### **ADJOURNMENT**

Dave Hamann motioned to adjourn the meeting at 9:30 p.m. Sue Lingle seconded. **Motion carried 5-0**

### **SPECIAL MEETING - TOWNSHIP BOARD MINUTES - FEBRUARY 9, 2004 @ 4:00 PM**

Meeting called to Order @ 4:03 PM

**Members Present:** Harvey, Lingle, Schlittler, Lowe, Hamann

**Members Absent:** None

**Approval of Agenda:** Motion by Hamann, second by Lingle to approve the Amended Agenda.

**New Business**

**Allstar Alarm Bid:** Motion by Lingle, Second by Schlittler to engage Allstar Alarm for the Alarm System. **Motion Carried 5-0.**

**Comm-Tech Services:** Motion by Lingle, second by Schlittler for the engagement of Comm-Tech for the Phone and Computer Service not to exceed \$5000.00. Roll Call Vote: 5-0, Motion Carried.

**Federal Guidelines:** Resolution offered by Lingle, seconded by Hamann to adopt the Federal Poverty Guidelines. Motion Carried 5-0.

**Board of Review Appointment:** Motion by Lingle, Second by Lowe to appoint Cindy Hodge to finish out the term of Robin Love on the Board of Review. Motion Carried 5-0.

**Building Excavation Work:** Motion by Lingle, second by Hamann for the pay request of Eric Lowe for excavation work done on building addition in the amount of \$5,265.00. Roll Call Vote 4-0, Lowe abstained.

**CALL TO THE PUBLIC:** None

**ADJOURNMENT:** Motion by Hamann, Second by Lingle to Adjourn @5:55 PM

**MINUTES - FEBRUARY 12, 2004**

**MEMBERS PRESENT:** Bob Harvey, Sue Lingle, Dan Lowe, Myrna Schlittler and Dave Hamann

**MEMBERS ABSENT:** None

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**CALL TO ORDER**

Bob Harvey called the meeting to order at 7:30 p.m.

**PLEDGE TO FLAG**

**MEMBERS PRESENT**

**APPROVAL OF AGENDA**

Bob Harvey asked to have some items that were tabled from a previous meeting added at the end of the agenda: OHM Cost, Litter Ordinance, and Sewer/Water Rates, as well as a new business item on Fire Run Billing. Dave Hamann motioned to approve the agenda as amended. Sue Lingle seconded.

**Motion carried 5-0.**

**CALL TO THE PUBLIC**

None.

**APPROVAL OF MINUTES**

**Board of Trustees, January 8, 2004**

Bob Harvey asked to have two corrections made. Sue Lingle motioned to approve the minutes from the January 8, 2004 Board of Trustees meeting as corrected. Dave Hamann seconded. **Motion carried 5-0**

**Special Board of Trustees Meeting, December 22, 2003**

Sue Lingle motioned to approve the minutes from the December 22, 2003 Special Board of Trustees Meeting as presented. Dave Hamann seconded. **Motion carried 5-0.**

**Special Board of Trustees Meeting, February 9, 2004**

Bob Harvey pointed out an error in the first motion made by Ms. Lingle. The amount not to exceed should apply only to the Comtech part, not to both parts. The final version of the February 9, 2004 Special Board of Trustees Meeting will reflect the corrected language. Also, in the next resolution, it should read "Federal Poverty Guidelines." Additional language is also needed in the motion by Lingle, seconded by Hamann, to pay the request made by Eric Lowe for excavation work. Dan Lowe motioned to approve the minutes as corrected. Dave Hamann seconded. **Motion carried 5-0.**

**Ways & Means Meeting, February 9, 2004**

Bob Harvey asked to have the second item regarding permission to use parking lot removed. The date in the heading also needs to be changed. Sue Lingle motioned to approve the February 9, 2004 Ways & Means Meeting minutes as corrected. Dave Hamann seconded. **Motion carried 5-0.**

**OLD BUSINESS**

### **Request to Use Parking Lot**

Mr. Hanvey said the attorney suggested that this would be a little different from the township's policy regarding hall rental because this would provide a service to the community. The attorney feels that as long as the township is named properly in the insurance and it isn't made as an exclusive arrangement, this should be allowed. Sue Lingle pointed out that the township doesn't have a hall rental policy. Myrna Schlittler motioned to allow Tom Klebba to use the parking lot for driving training and testing, with the condition that all insurance policies are provided, with the understanding that this is not an exclusive arrangement and is not permanent. Dave Hamann seconded. **Motion carried 5-0.**

### **NEW BUSINESS**

#### **Clark Hill Bill**

Myrna Schlittler motioned to pay the Clark Hill invoice in the amount of \$4,600. Dave Hamann seconded. Roll call vote: Dan Lowe, Myrna Schlittler, Bob Hanvey, Sue Lingle, Dave Hamann—all yes. **Motion carried 5-0.**

#### **Richland Pay Request #4**

The construction consultant, Joe Vellardita, reviewed the pay request and provided the board with some notes. The plumbing and HVAC items are the two items of concern. The plumbing request is for \$6,100 (line 14) and the HVAC request is for \$6,000 (line 16). Mr. Vellardita feels the amount required to complete the plumbing would probably exceed \$4,400. Mr. Hanvey pointed out that the line item for HVAC from Four Seasons is \$23,000 total. The proposal received today from Four Seasons is for \$24,000, for a brand of furnace different than in the specifications. Mr. Lowe feels the township should require what was specified. The proposal received today from Four Seasons includes fall and spring tune-ups on the Goodman roof units for two years. The board feels that the change in brands should be between the general contractor and Four Seasons. Dave Hamann said that the rough plumbing inspection should be approved prior to payment. Dan Lowe said there were only two minor issues on the inspections. Mr. Hanvey asked if the township has a recommendation from the architect to pay, and the board chooses not to, is it necessary to report back to the architect. Phil Westmoreland said that if the contract follows general AIA specifications, typically once the architect certifies it, the request must be paid. Myrna Schlittler motioned to reduce the amount paid for plumbing (line 14) and HVAC (line 16) to \$3,000 each, and pay the request in the amount of \$36,217.50. Dan Lowe seconded. Roll call vote: Dave Hamann, Sue Lingle, Bob Hanvey, Myrna Schlittler, Dan Lowe—all yes. **Motion carried 5-0.**

#### **Bruce McCullen Pay Request**

Sue Lingle motioned to approve the pay request from Bruce McCullen, architect, for \$455 for services from January 9, 2004 through February 10, 2004. Dave Hamann seconded. Roll call vote: Bob Hanvey, Sue Lingle, Myrna Schlittler, Dave Hamann, Dan Lowe—all yes. **Motion carried 5-0.**

#### **Final Tetra Tech Pay Request for Georgetown**

Bob Hanvey indicated that everything appears to be working okay. Sue Lingle motioned to approve the final Tetra Tech pay request for Georgetown in the amount of \$1,675.31, and forward to DPW for payment. Dave Hamann seconded. Discussion: Ms. Lingle asked if this is the last payment. Mr. Hanvey said yes, with regard to Marion Township as an independent body. Roll call vote: Dan Lowe, Myrna Schlittler, Bob Hanvey, Dave Hamann, Sue Lingle—all yes. **Motion carried 5-0.**

#### **Rainbow Final Payment**

Mr. Hanvey asked for help from the board to talk with Brian Jonckheere regarding issues with the Rainbow payment. At the last DPW meeting, Mr. Hanvey stated the township hadn't approved payment of the final pay request for a list of reasons. Mr. Hanvey asked the DPW board what the proper forum would be to discuss the issue, and it was suggested that Mr. Markstrom and Mr. Jonckheere meet with the township representatives to go through the items. Mr. Hanvey will volunteer, along with Dan Lowe.

#### **Resolution on Darakjian Property**

Sue Lingle explained that Darakjian was selling a portion of the property to the City of Howell for the loop road. There were boundary changes made, parcel numbers were changed, and corrections were made on summer tax bills; however, the REUs that the township took on a mortgage should have been taken out. Ms. Lingle needs to do another corrected tax bill, and she needs a resolution to allow her to make changes on the taxes. Discussion was held about changing the taxable value. Mr. Hanvey will discuss this with Dianne Hardy, Livingston County Treasurer.

Sue Lingle moved by resolution to allow the township to change REUs for water and sewer on any involved parcels: 4710-01-200-001, 4710-01-200-002, 4710-01-200-022, and 4710-01-200-023, and, if approved by the county, to change taxable values on summer 2003 tax bill. Myrna Schlittler seconded. Roll call vote: Bob Hanvey, Sue Lingle, Myrna Schlittler, Dan Lowe, Dave Hamann—all yes. **Motion carried 5-0.**

#### **Tentative Preliminary Approval—Sundance 3 & 4**

Jim Barnwell, Desine, Inc., presented information on this agenda item. An access point has changed, the number of lots remains the same, and Mr. Barnwell is asking for tentative preliminary plat approval due to the change. Dave Hamann stated the Planning Commission recommended approval.

Sue Lingle motioned to approve, per the Planning Commission's recommendation, tentative preliminary plat approval for Sundance Meadows Phase 3 & 4 subject to verification of adequate lot frontage. Dan Lowe seconded. **Motion carried 5-0.**

#### **Moving/Refunding REUs**

Mr. Hanvey said he talked with Katie Kaufman from Bauckman & Sparks, and she will be gathering more information from the firm's sewer and water attorney, and will perhaps talk with Mr. Axe and Mr. Goodman about the procedures. Mr. Hanvey provided Ms. Kaufman with the recommendation from Mr. Axe. At this time, there is only one parcel that requires immediate attention. Mr. Adler has three REUs on the common space, which are past due. Mr. Adler would like to have them removed. Dave Hamann motioned to table this item for more information. Dan Lowe seconded. **Motion carried 5-0.**

#### **MHOG Engineer**

Mr. Hanvey indicated the water authority has been approached by Tetra Tech Engineering with a proposal to be the sole engineer for all construction inspections for all four townships. Some of the MHOG board members feel that's not a good idea. Mr. Lowe would like the township board's support in saying that Tetra Tech will not work in Marion Township. Mr. Hanvey feels that as part of the authority, the township can't do that. Mr. Lowe feels that a precedent has already been set that would allow the township to veto. Mr. Hanvey said there are veto issues and majority vote issues, and the township doesn't have a list of those. Ms. Lingle asked why the township can't choose its own engineer. Mr. Lowe said that MHOG wants one engineer to oversee. Ms. Lingle also asked why it wasn't open up for bid. Mr. Lowe said that the MHOG board said it doesn't have to do that. Mr. Hamann stated that another issue is that if a township has its own engineer, and another engineer for MHOG, the developer is stuck paying for its own engineer, the township engineer and the MHOG engineer. Barney Cole asked if Howell Township supports this idea. Mr. Hanvey said Howell Township supports the idea of a single engineer for all four townships; however, they have an objection to the contract. At the very least, Mr. Hanvey would like another engineering company to make a proposal to provide another option to the MHOG board. Mr. Hanvey questioned whether the statute that creates authorities might include the provision to veto. Mr. Hamann asked if the township's attorney had reviewed the articles, or this whole issue of a single engineer. Mr. Hanvey said no. Myrna Schlittler would like the attorney to review. Phil Westmoreland asked how MHOG is financially supported, and Mr. Hanvey explained. Mr. Barnwell said the system operator charged with doing inspections (OMI) should verify all valves are open and all hydrants are working. Mr. Hanvey said the next MHOG board meeting is February 25, 2004.

#### **New Building**

**Furnace:** Sue Lingle motioned to table selection of HVAC system for the new building. Dave Hamann seconded. **Motion carried 5-0.**

**Alarms:** Mr. Hanvey said at the special board meeting held on February 9, 2004, the board approved \$1,374, but didn't approve the item for additional alarm keypad and 12 smoke detectors for an additional \$1,700. Sue Lingle motioned to amend the motion made at February 9, 2004 Special Board Meeting for All Star Alarm for \$1,374, plus an additional \$1,740 for additional smoke detectors and heat detectors, the keypad at \$125, and \$5 per month for monitoring. Dave Hamann seconded. Roll call vote: Dan Lowe, Myrna Schlittler, Dave Hamann, Sue Lingle, Bob Hanvey—all yes. **Motion carried 5-0.**

**Communications Bid Change Request:** Communication was received from CommTech explaining the reason for the additional \$200 charge. Due to the age of the main system, the cable needs to be increased. Sue Lingle motioned to amend the CommTech contract approval of February 9, 2004 to not

exceed \$5,300 to include 50 pair cable. Dave Hamann seconded. Roll call vote: Dave Hamann, Sue Lingle, Bob Hanvey, Myrna Schlittler, Dan Lowe—all yes. **Motion carried 5-0.**

#### **OHM Contract**

Mr. Hanvey said the response was received from OHM and it needs to be reviewed by the attorney. This should be brought back to the board at its next meeting. Dave Hamann motioned to table this item. Sue Lingle seconded. **Motion carried 5-0.**

#### **Litter Ordinance**

Dan Lowe motioned to postpone this item until complete. Sue Lingle seconded. **Motion carried 5-0.**

#### **Sewer and Water Rates**

Mr. Hanvey spoke with Ken Palka and more work is needed on this item. Myrna Schlittler motioned to postpone this item. Dan Lowe seconded. **Motion carried 5-0.**

#### **Fire Run Billing**

Dan Lowe motioned to waive the \$500 fire run fee for Mark Bergin, but still collect court costs and attorney fees. Sue Lingle seconded. **Motion carried 5-0.**

#### **PLANNING COMMISSION REPORT**

The Planning Commission held a public hearing on January 27, 2004 for two rezoning requests and three proposed Zoning ordinance amendments. At the January 27, 2004 regular meeting, the PC recommended approval of the Darakjian northern parcel rezoning; recommended approval of the Sundance Meadows Phase 3 & 4 tentative preliminary plat approval; Wolf Ridge final site plan was approved with conditions; Knolls of Grass Lake was tabled.

A special meeting was held on February 3, 2004 for Chestnut Development rezoning. This item will be followed up on at the March PC meeting.

#### **PARKS & RECREATION REPORT**

Sue Lingle provided the board with three reports. The skate park will be on the grounds of the high school. The budget was reviewed. The Genoa Township representative said at the last meeting that they thought they would be able to participate. At the most recent meeting, Mark Swanson, the director of the Senior Center, talked about how many people in the area are impoverished. Ms. Lingle said it's unfortunate that with a community this rich, there are so many people who need to be looked after.

#### **CONSULTANT'S REPORT**

None. Myrna Schlittler will remove this item from future agendas.

#### **ZBA REPORT**

No meeting was held in February.

#### **ZONING ADMINISTRATOR REPORT**

Provided in packets.

#### **DPW REPORT**

Provided in packets.

#### **FOR THE GOOD OF THE TOWNSHIP**

None.

#### **CALL TO PUBLIC**

Sen. Valde Garcia updated the Board on the governor's budget proposal. Revenue sharing will be cut by \$7.5 million out of a total of \$1.1 billion, which amounts to a .68% cut, if the proposal goes forward the way it is. The governor wants to suspend all revenue sharing payments to counties, and in return, the counties will be allowed to fast forward collection of taxes from December to July beginning next summer. One of the proposals is to allow people to pay taxes in monthly installments. There is a \$1.3 billion shortfall. Of that, \$400 million is the difference between the amount of money projected to come in and the amount of money spent this year. The rest of the money is spending pressures. The governor intends to make about \$494 million cuts. We're not sure if they'll all go through. The governor is looking for between \$400-500 million tax increases.

Mr. Hanvey said the township has some concerns with the Open Space legislation.

Ms. Lingle expressed concern with the suggestion that municipalities collect taxes on a monthly basis. Additional staff would be required to process payments. Sen. Garcia said the intent is to help homeowners and allow them the opportunity to pay installments. Mr. Hanvey pointed out that it would increase the township's postage costs. Sen. Garcia said perhaps payments could be made electronically.

Ms. Lingle said there is too much room for error if the bank processes the payments. Mr. Hanvey asked how the bank would know which property to apply the payment to. Mr. Hanvey also pointed out that nothing is preventing the homeowner from putting the monthly amount in an account. Also, Myrna Schlittler provided information in the Board packets regarding adding additional trustees.

**TREASURER'S REPORT**

Sue Lingle provided the board with reports for December 2003 and January 2004.

Dave Hamann motioned to accept the treasurer's report with expenses of \$102,177.53. Myrna Schlittler seconded. **Motion carried 5-0.**

**ADJOURNMENT**

Dave Hamann motioned to adjourn the meeting at 9:35 p.m. Sue Lingle seconded. **Motion carried 5-0**

**MINUTES - FEBRUARY 26, 2004**

**Members Present:** Hamann, Lingle, Hanvey, Schlittler, Lowe

**Members Absent:** None

**Call to the Public:** None

**Approval of Agenda:** Motion by Hamann, second by Lingle to approve amended agenda.

**Old Business:** None

**New Business:** Motion by Lingle, second by Schlittler to pay the remaining portion of pay request #4 in the amount of \$6100.00. Roll Call Vote: all yes. **Motion passed 5-0.**

Motion by Lowe, second by Lingle to pursue easements for the River Walk. Motion by Schlittler, second by Lowe to not go out for Lawn Bids and have Schlittler contact PE Lawn Service to renew Contract at the same price as last year.

**Call to the Public:** None

Motion by Lingle, Second by Schlittler to Adjourn at 5:50 PM. **Motion Passed 5-0.**

**BOARD OF TRUSTEES  
MARCH 11, 2004**

**MEMBERS PRESENT:** Bob Hanvey, Sue Lingle, Dan Lowe, Myrna Schlittler and Dave Hamann

**MEMBERS ABSENT:** None

**OTHERS PRESENT:** Annette McNamara, Zoning Administrator

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**CALL TO ORDER**

Bob Hanvey called the meeting to order at 8:00 p.m.

**PLEDGE TO FLAG**

**MEMBERS PRESENT**

**APPROVAL OF AGENDA**

Bob Hanvey asked to have the Clark Hill invoice added under New Business. Mr. Hanvey also asked to have the agenda rearranged to accommodate meeting attendees. Sue Lingle motioned to approve the agenda as amended. Dave Hamann seconded. **Motion carried 5-0.**

**CALL TO THE PUBLIC**

None.

**APPROVAL OF MINUTES**

**Board of Trustees, February 12, 2004**

Myrna Schlittler motioned to approve the minutes as presented. Sue Lingle seconded.

**Motion carried 5-0**

**Special Board of Trustees Meeting, February 26, 2004**

Dave Hamann motioned to approve the minutes as amended. Dan Lowe seconded.

**Motion carried 5-0.**

## **Ways & Means Meeting, March 8, 2004**

Dave Hamann motioned to approve the minutes as presented. Sue Lingle seconded. **Motion carried 5-0**

### **OLD BUSINESS**

#### **Litter Ordinance**

Sue Lingle provided the board with pictures taken of a lot on the northwest corner of Pingree and Coon Lake Road (the Baldwin property). The project has been abandoned at this point, and there's debris left and now other people are dumping. Ms. Lingle suggests the township contact the attorney to find out what can be done to have the property cleaned up. Mr. Hanvey said that with the ordinance as it's written right now, it's not real clear. Ms. Lingle said it needs to be addressed soon. Dan Lowe said that the attorney would contact the mortgage company to see what can be done. Mr. Lowe asked if Waste Management has been contacted. Annette McNamara said they wouldn't take it because there's concrete in it. There's no one for the zoning office to contact. Mr. Hanvey said the litter ordinance might be a way to take care of the "driveway paper" situation. He also informed residents that there's information on the township website and local cable channel to have delivery stopped. Dan Lowe motioned to appoint Sue Lingle to work on the litter ordinance. Dave Hamann seconded. **Motion**

**carried 5-0.**

### **NEW BUSINESS**

#### **Land Split**

Bob Bloomquist presented an update on this issue. Mr. Bloomquist has talked with several contractors who would be interested in putting single-family homes on the parcels. To his knowledge, he's done everything that is required. Mr. Hanvey said it's his understanding that the board has the option of granting the split with the footnote that because the split is granted doesn't guarantee land use permits, driveways permits, etc. Ms. Lingle said she talked with the attorney regarding this issue. Mr. Lowe said he didn't see any documentation that this park has been vacated. Mr. Bloomquist said it's filed with the state as part of the plat, as well as the Register of Deeds. The information on platted subs is also available online at [www.michigan.org](http://www.michigan.org). Ms. Lingle motioned to approve the granting of a land division for parcel #4710-20-300-009 into four lots because each lot meets the minimum lot size, 4:1 width to length ratio, and has frontage on an approved road, but this split approval is not an approval of any of the parcels for issuance of a land use permit under the zoning ordinance. The Board also requests that Mr. Bloomquist provide a copy of the recorded plat for the vacating of the park. Mr. Bloomquist said he has the official plat at home and he can also provide a copy of the court judgment to vacate the property. Myrna Schlittler seconded. Roll call vote: Dan Lowe, Myrna Schlittler, Bob Hanvey, Sue Lingle, Dave Hamann—all yes.

**Motion carried 5-0.**

Mr. Bloomquist asked about land use permits. Mr. Hanvey said the main concerns are setbacks and driveway issues.

#### **Richland Pay Request #5**

A copy is provided in the packets. There are also letters from the architect and the township consultant, Joe Vellardita. Ms. Lingle provided a spreadsheet detailing this information. Mr. Hanvey said the suggestion is that on line items 6 and 8 there is a reduction of \$1000 each. The architect agrees with this. Mr. Richardson feels this is fair. The total request will be for \$63,557.50. Mr. Richardson indicated he would resubmit the pay request showing the revisions. Mr. Richardson said he reviewed the AIA contract and the financing was set up through the bank. Is the project at the point where it will go through First National Bank? Ms. Lingle said she will have to investigate and will let him know. Myrna Schlittler motioned to approve payment to Richland Construction of \$63,557.50. Dan Lowe seconded. Roll call vote: Dave Hamann, Sue Lingle, Bob Hanvey, Myrna Schlittler, Dan Lowe—all yes.

**Motion carried 5-0.**

#### **Change Order Request**

A summary page was provided along with comments. Mr. Richardson went through the items the board had questions on.

Item #2, Dependent Foundations—charges are for soil bearing capacity testing and changes that needed to be made in some of the footings. The amount includes a credit of \$1000 for not underpinning existing footings. Mr. Richardson is requesting that the township to pay the added cost for changes to

the footings, less the \$1000 credit. Dan Lowe tried to talk with Dependent Foundations, but wasn't able to get answers to his questions. Mr. Lowe said there's \$16 per foot difference between trench and pour and what was done. Basically, they are charging \$44 per foot to put the wall in. What they didn't do is give credit for what the print called for. Mr. Richardson said he provided the architect with a detailed breakdown. Mr. Lowe questioned the charge of \$6000 for 70 feet of footing. Mr. Richardson suggested a separate meeting be held to review the detailed breakdown for this line item.

Item #3, Ideal Steel and Item #4, Stock Building Supply, are items that reflect the changes in price from the time of the bid to the time of the contract. Mr. Richardson said he bid the job on May 19, 2003, and the contract was signed on September 16, 2003. Throughout last summer, there was a substantial change in market conditions for lumber prices and steel. After the contract was signed, Mr. Richardson went to his lumber supplier and the price had increased 35%. Mr. Richardson reviewed the contract with his attorney and both feel this is a legitimate request. Mr. Richardson is already over \$10,000 on lumber without the 35% increase. Mr. Hanvey read a letter from attorney Ray Toma to Mr. Richardson, dated March 5, 2004, justifying the request. Mr. Richardson feels he shouldn't have to bear the full expense of a severe change in market conditions, and is asking the board to consider his request.

Item #5, Dave Taylor Trucking—this item seems to be okay.

Item #6, Concrete Connections—Mr. Lowe feels this one has a problem with the labor for installing the pea gravel and the winter charges. Mr. Hanvey stated the architect said taking \$720 out of the \$1842 would be appropriate. Mr. Richardson said four feet of fill was needed to bring the basement storage area up to grade. Mr. Lowe said the crawl space area should have been part of the contract. Mr. Richardson said the contract specifically excludes fill materials.

Item #7, All Star Alarm—Mr. Hanvey said the only question is who will write the checks. Mr. Richardson said he would. Ms. Lingle asked if the township has a copy of the bids from CommTech and All Star Alarm. Mr. Richardson said yes.

Item #9, CCM Electric—this item is okay.

Item #10, Four Seasons—this item is okay.

Items #2, 3, 4 and 6—Mr. Lowe suggested a motion approving the other items and arrange a meeting to discuss these items. Mr. Richardson said these items total \$14,400, and he's already paid \$12,000. Dan Lowe motioned to approve billing for revised change order #1 for items #1, #5, #7, #8, #9, and #10 in their entirety. Sue Lingle seconded. **Motion carried 5-0.**

Mr. Richardson asked to have another meeting scheduled. The meeting will be on Monday, March 15, 2004 at 5:00 p.m. with Dan Lowe, Bob Hanvey, Cindy Hodge, and Bill Richardson. Mr. Lowe asked Mr. Richardson to bring the breakdown for item #2.

Mr. Richardson said Phase I should be done in six weeks.

### **Bruce McCullen Pay Request**

Sue Lingle motioned to approve March 8, 2004 pay request for \$980. Dave Hamann seconded. Roll call vote: Dan Lowe, Dave Hamann, Sue Lingle, Myrna Schlittler, Bob Hanvey—all yes. **Motion carried 5-0.**

### **Rezoning #RZN 7-03**

Richard Hartigan from Schonscheck, Inc. gave a presentation on this rezoning request. The township Planning Commission recommended approval. The Livingston County Planning Department (LCPD) recommended denial based on the fact that the majority of the surrounding area is industrial. Mr. Hartigan says they differ in that opinion in that the property to the north is residential, the property to the west is residential, and the property to the east and south is industrial. You need to evaluate what's there and what can be done with it. This property is not appropriate for industrial buildings because of the terrain. Discussion ensued regarding access roads. Mr. Hartigan said people will know what they're getting into. Mr. Hartigan said the hope is to create "affordable housing." The Planning Commission reviewed and approved; John Ambrose reviewed and approved. Mr. Hanvey said it's not a risk-free venture, but feels it's to the benefit of the township to have the property be residential.

**Dave Miechials, National Street:** Mr. Miechials feels it isn't fair to allow residential property in what is an industrial area. Mr. Hanvey pointed out that Mr. Miechials is the only industrial parcel in this area. Mr. Lowe said there's a lot of truck traffic up and down the road.

**Violet Dryer, National Street:** Ms. Dryer would like to see what's going to be done and how many houses will be around her. Ms. Dryer said Regal's and Miechials is very loud and people will complain.

Mr. Lowe asked if the property is rezoned, would they have to come back for a Special Use Permit for multi-family dwellings. Mr. Hartigan said they would have to have a means of ingress and egress at the site plan approval. Mr. Hartigan explained the situation with the financing. Ms. Lingle asked Mr. Hartigan if he and Mr. Schonscheck had an investment in this project. Mr. Hartigan said yes.

Mr. Lowe asked how many REUs are on the property. Mr. Hanvey said 400 sewer REUs and approximately 150 water REUs. Mr. Lowe asked for an estimate on the number of housing units. Mr. Hartigan said probably in the low 200s. A portion would be 12-plex condominiums.

Mr. Miechials restated that he doesn't want to stop this rezoning; he just wants to preserve his business. Myrna Schlittler motioned to approve RZN #7-03 for parcel #4710-01-200-018 from Light Industrial to Urban Residential. Sue Lingle seconded. Roll call vote: Dave Hamann, Sue Lingle, Bob Hanvey, Myrna Schlittler, Dan Lowe—all yes. **Motion carried 5-0.**

#### **Resolution—Darakjian Property**

Sue Lingle moved by resolution that the township subordinate the mortgage on property owned by Mr. Darakjian, parcels #4710-01-200-018 and #4710-01-200-022, provided that the liens are all released, other than the two mortgages. Dave Hamann seconded. Roll call vote: Myrna Schlittler—yes, Dave Hamann—yes, Dan Lowe—no, Bob Hanvey—yes, Sue Lingle—yes. **Resolution passed 4-1.**

#### **Text Amendments**

Dave Hamann presented information on the text amendments. Bob Hanvey said that the LCPD recommended approval of all three.

Myrna Schlittler motioned to approve Z-15-04. Dave Hamann seconded. **Motion carried 5-0.**

Sue Lingle motioned to approve Z-16-04. Dan Lowe seconded. **Motion carried 5-0.**

Sue Lingle motioned to approve Z-17-04. Dan Lowe seconded. **Motion carried 5-0.**

#### **Home Occupation**

Tom and Judy Lyons, 3498 Cedar Point Drive, were present to discuss the rules for home occupations, specifically Section 6.14 of the zoning ordinance. Dave Hamann said this item should be addressed with the township Planning Commission prior to board approval. Mr. Hamann said there is an ongoing project to revise the Home Occupation ordinance as requested by the township board approximately one year ago. Mr. Hanvey asked Mr. Lyons what his suggestions are. Mr. Lyons said item E states no changes to exterior of building. He feels some change should be expected with a business. Mr. Hanvey said there are zoning districts established for businesses and zoning districts for residential. The township is attempting to keep those districts separate, although some people have been grandfathered in. As far as the outward appearance, one sign placed against the side of the building is allowed. Mr. Lyons said you can't have retail sales as the main occupation from the home, yet there are provisions to have retail sales if you provide a service. Mr. Hanvey said that once the Planning Commission completes work on the new master plan, the group will be meeting twice a month to discuss ordinance issues. Mrs. Lyons said their neighbor had a sign out and was selling items out of the home. Mr. Hamann suggested that the Lyons attend the March 23, 2004 Planning Commission meeting and address this issue during the Call to the Public. Ms. McNamara asked the board if she could provide the Lyons with a copy of the draft proposal of the Home Occupation ordinance, and board members said yes.

#### **Water System Construction & Inspection**

Myrna Schlittler said this item doesn't need to be voted on. With regarding to MHOG, Dan Lowe said the attorney is working on this issue in terms of this item being unnecessary.

#### **Resolution for Grant Application**

Sue Lingle needs a resolution to approve the grant application to the State of Michigan DNR for development of outdoor recreation facilities.

Myrna Schlittler made the following resolution: Whereas Marion Township has approximately nine acres located off of Triangle Lake Road south of West Coon Lake Road, whereas the Township Board has plans to develop this land for community recreation, now therefore it be resolved that an application to the DNR for grant purposes be made for the year 2004. The foregoing resolution offered by Board of Trustee Member Myrna Schlittler, and supported by Dave Hamann. Roll call vote: Dave Hamann, Sue Lingle, Bob Hanvey, Myrna Schlittler, Dan Lowe—all yes. **Resolution passed 5-0.**

#### **Lawn Mowing Contract**

Myrna Schlittler indicated the PE's Lawn Care is willing to provide services at last year's prices. Sue

Lingle motioned to accept the lawn mowing contract from PE's Lawn Care for the 2004 season at last year's prices. Dave Hamann seconded. Roll call vote: Dan Lowe, Dave Hamann, Sue Lingle, Myrna Schlittler, Bob Hanvey—all yes. **Motion carried 5-0.**

#### **Resolution for Summer Tax Collection**

Myrna Schlittler moved by resolution for the treasurer to collect summer taxes for Howell Public Schools at the rate of \$4 per parcel. Dave Hamann seconded. Roll call vote: Bob Hanvey, Sue Lingle, Myrna Schlittler, Dave Hamann, Dan Lowe—all yes. **Motion carried 5-0.**

#### **Solid Waste Challenge Grant Application**

Bob Hanvey said the township was approached by Recycle Livingston to see if the township is interested in joining with the City of Howell, Oceola Township, and Howell Township to collect electronic recyclables. This is done once a year. At a minimum, the township would provide the information on the website and cable channel. Mr. Hanvey would also like to offer to Marion Township residents to pay for recycling of electronic materials they bring in. Last year, there was \$298 worth of recycling materials brought to the center by Marion Township residents. Mr. Hanvey is asking the board to approve \$500, and anything over \$500 would be absorbed by Recycle Livingston.

Myrna Schlittler motioned to approve \$500 for residents to recycle electronic equipment on the Recycle Livingston's electronic recycling day. Dan Lowe seconded. Roll call vote: Dan Lowe, Myrna Schlittler, Bob Hanvey, Sue Lingle, Dave Hamann—all yes. **Motion carried 5-0.**

#### **Clark Hill Invoice**

Mr. Hanvey said most of this amount was for the rebuttal to the 38-page rebuttal provided by Mr. Bisio to the tax tribunal's recommendation that the case be dismissed. Myrna Schlittler motioned to pay the Clark Hill invoice in the amount of \$9840. Sue Lingle seconded. Roll call vote: Bob Hanvey, Sue Lingle, Dave Hamann, Dan Lowe, Myrna Schlittler—all yes. **Motion carried 5-0.**

#### **PLANNING COMMISSION REPORT**

Dave Hamann reported that three rezonings were on the February 24, 2004 agenda. Approval was recommended for Coddington, denial was recommended for Marion Oaks, and Family Golf was tabled until March 23 meeting. Proposed text amendments were reviewed. New business discussed was a proposed private sewer/water waste treatment facility. A special meeting was held on February 26, 2004 for the Comprehensive Plan. A follow-up comprehensive plan meeting is scheduled for April 7.

#### **PARKS & RECREATION REPORT**

Sue Lingle provided a report in the packets. One item of interest is the "Love Your Pet" contest, and the third place winner is from Marion Township. Ms. Lingle shared pictures of the winners with the board.

#### **ZBA REPORT**

Dan Lowe reported a meeting was held on March 1, 2004. Two variance requests were heard: BeDen on Cedar Point Court was approved, and Bandy was tabled. The attorney is drafting a letter to be sent to the Bandy's giving them permission to build on the same foundation so they can remove the existing structure.

#### **ZONING ADMINISTRATOR REPORT**

Provided in packets.

#### **DPW REPORT**

Provided in packets.

#### **FOR THE GOOD OF THE TOWNSHIP**

None.

#### **CALL TO PUBLIC**

None.

#### **TREASURER'S REPORT**

Dave Hamann motioned to accept the treasurer's report with expenses of \$118,588.38. Myrna Schlittler seconded. **Motion carried 5-0.**

#### **ADJOURNMENT**

Dave Hamann motioned to adjourn the meeting at 10:30 p.m. Sue Lingle seconded.

**Motion carried 5-0**

**BOARD OF TRUSTEES  
APRIL 8, 2004**

**MEMBERS PRESENT:**       **Bob Hanvey, Sue Lingle, Dan Lowe, Myrna Schlittler and Dave Hamann**

**MEMBERS ABSENT:**       **None**

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**CALL TO ORDER**

Bob Hanvey called the meeting to order at 7:32 p.m.

**PLEDGE TO FLAG**

**MEMBERS PRESENT**

**APPROVAL OF AGENDA**

Sue Lingle asked to have three items added to the agenda: Recreation Authority, Policy for Board Meetings and Agendas, and Litter Ordinance. Dan Lowe said Bill Richardson asked to have the item on the Change Order deleted from the agenda.

Dave Hamann motioned to approve the agenda as amended. Sue Lingle seconded. **Motion carried 5-0**

**CALL TO THE PUBLIC**

Bob Hanvey asked any one with comments related to the rezoning agenda items to please hold comments until after the presentation has been made.

**APPROVAL OF MINUTES**

**Special Board of Trustees Meeting, March 11, 2004**

Myrna Schlittler motioned to approve the minutes as presented. Dave Hamann seconded. **Motion carried 5-0.**

**Board of Trustees Meeting, March 11, 2004**

Mr. Hanvey asked for a clarification on page 5 regarding collecting summer taxes. Sue Lingle asked to have the wording changed to "Resolution made by Myrna Schlittler for the Treasurer to collect summer taxes for the Howell Public Schools at the rate of \$4 per parcel." Sue Lingle motioned to approve the minutes as amended. Dave Hamann seconded. **Motion carried 5-0**

**Ways & Means Meeting April 5, 2004**

Dave Hamann motioned to approve the minutes as presented. Sue Lingle seconded.

**Motion carried 5-0**

**OLD BUSINESS**

**Building Pay Request**

A two-page spreadsheet was included in the packets. The total request is for \$81,325.

Myrna Schlittler motioned to approve payment of the building pay request in the amount of \$81,325.

Dan Lowe seconded. Roll call vote: Dan Lowe, Myrna Schlittler, Bob Hanvey, Sue Lingle, Dave Hamann—all yes. **Motion carried 5-0.**

**NEW BUSINESS**

**Marion Oaks Rezoning Request**

Tom Kalas, 40900 Woodward Ave., Suite 315, Bloomfield Hills, was present representing the petitioner on this rezoning request. The petitioner is seeking rezoning of the golf course from Suburban Residential (SR) to Urban Residential (UR). The petitioner also submitted a PUD application for residential mixed use. The proposal calls for 272 single-family attached units and 358 single-family detached units, for a total of 630 units. The plan is for a commercial center, and to leave the clubhouse and add a pool, softball diamond, soccer field, and nature trails. Mr. Kalas presented a conceptual plan for the property. Mr. Kalas stated that it's not economically feasible to continue operating as a golf course, and it's not economically feasible to develop with the current SR zoning. Mr. Kalas said that north of this site is The Meadows, 42 acres proposed for 147 units, which was rezoned from SR to UR. The overall density for The Meadows is 3.5 units per acre. Woodberry Park was rezoned from SR to UR. The overall density for Woodberry is 3.99 units per acre for a total of 120 units. Hometown Village of Marion, south of The Meadows and closer to the petitioner's property, was rezoned from SR to UR with a PUD option. The overall density of HVM is 3.34 units per acre. The proposed rezoning for the golf course would provide

an overall density of 2.88 units per acre, which is less than the other three rezonings. Mr. Kalas feels the request is not unreasonable, a development pattern has been established, the township has set the precedent for granting rezonings to UR density, and the property is located within a sanitary sewer and water district. South of the petitioner's property is the proposed new high school, and the school may possibly bring sewer and water down Pinckney Road (D-19) directly in front of the golf course. Mr. Kalas said the market calls for this type of development, and is requesting the township board to approve the rezoning of the property. Sue Lingle asked Mr. Kalas if he is an attorney. Mr. Kalas said yes. Ms. Lingle asked if it was appropriate to bring a conceptual plan to a rezoning request. Mr. Kalas said rezoning is his area of expertise, and he typically does submit a conceptual site plan. Ms. Lingle said if the property is rezoned, his conceptual plan isn't necessarily what will go there. Mr. Hanvey asked if the barns on the southern end of the property would be removed. Mr. Kalas said yes. Mr. Kalas said the lots would be 55 foot, 70 foot and 80 foot. The condos will be four-plex units. The 55-foot lots (with housing) will run approximately \$180-210,000; the 70 foot and 80 foot lots would be priced in the low to mid \$200's. The condo units would be priced from \$170-200,000. The plan would create a community with shopping, walking trails, and housing options for parents, children, and grandchildren. Dan Lowe said the rezoning would allow up to 10 units per acre. Mr. Kalas said a Special Use Permit would be required. Mr. Lowe asked where Mr. Kalas got information on sewer and water running to the school, as he isn't aware of any plans. Mr. Kalas said it's information heard on the street. Mr. Lowe said it's nothing the township has to do, only a possibility. Mr. Lowe wanted to confirm that Mr. Kalas said developing the property with the current zoning isn't reasonable. Mr. Kalas said it's not economically feasible with the current zoning. Mr. Lowe said the current zoning is SR, and what Mr. Kalas is saying is 20,000 square foot lots aren't economically feasible. Mr. Lowe said other developers who looked at the parcel felt it was feasible. Mr. Kalas said his studies show that it isn't. Mr. Lowe asked what makes it profitable. Mr. Kalas said it's different for each developer. Mr. Hanvey asked Mr. Kalas to confirm that the developer is Landtech. Mr. Kalas said yes. Mr. Hanvey asked if they would continue operating as a golf course this year. Mr. Kalas said they would keep the golf course open for right now. Mr. Hanvey said that it's not economically feasible to operate as a golf course, but they're going to do it anyway. Mr. Kalas explained that there's no profit, but it will pay the interest and taxes. Mr. Lowe asked Mr. Kalas if he has the profitability numbers for the two zonings, both SR and UR. Mr. Kalas said no, there is no feasibility analysis. Mr. Hanvey asked if there had been an attempt to sell the property as a golf course. Mr. Kalas said he didn't know.

### **Call to the Public**

**Dave Tiihonen, 3146 New Holland Drive:** Mr. Tiihonen said there's another development like this north of town on M-59 and the buildings are sitting vacant. Mr. Hanvey asked for the name of the development. Mr. Tiihonen said Town Commons. Mr. Tiihonen said if this type of development is sought after, those condos should be packed with people and they're not.

**Allison Tiihonen, 3146 New Holland Drive:** Mr. Kalas keeps referring to the demand for this type of development, yet the developments have houses sitting vacant. Mrs. Tiihonen also asked about a traffic study. Mr. Hanvey said traffic studies had been submitted and the township Planning Commission went over them extensively. The level of service on Pinckney Road would be reduced from Level C to Level D. Mr. Hanvey asked Mr. Kalas' traffic engineer, Carlo Santia, to give a summary of the report.

Mr. Santia said he evaluated Pinckney Road and Wright Road and the impact the proposed development would have. Pinckney Road's current 2004 volume is approximately 14,000 cars, and Wright Road has approximately 300 cars per day. The proposed development would generate approximately 7600 vehicles. The majority of those would go north on Pinckney Road. Mr. Santia referenced a trip distribution report that shows approximately 1600 cars accessing off of Wright Road, 4300 would go north on Pinckney Road, 2800 south on Pinckney Road based on his distribution. The distribution was based on existing traffic volumes. Pinckney Road is the significant road, with an existing level of service C. Mr. Hanvey asked Mr. Santia to explain what "C" means. Mr. Santia said there are six levels of service: A is free-flowing, no congestion; B is stable flow, with a few restrictions; C is stable but movement is restricted by other vehicles; D is high density, but stable flow of traffic with some restrictions; E is near capacity with unstable flow and severe restrictions; F is unstable with force flow with stop and go conditions. Pinckney Road currently is a Level C and the project at build-out would

create level of service D. Mr. Santia said Pinckney Road is almost at Level D regardless of the project build-out in approximately 10 years based on growth in general. Mr. Hanvey asked times of day the numbers are predicted. Mr. Santia said am and pm peak hours. Mr. Santia said the school would add approximately 1600-2000 cars per day.

**Mary Ann Bahr, 3201 Grass Lake Court:** Ms. Bahr said she made similar comments at the Livingston County Planning Commission meeting, and wanted to reiterate them for the township board. Ms. Bahr feels the UR density is too high for this area. To support her opinion, the 2002 Marion Township Comprehensive Plan survey results indicate that preservation of the natural environment is a high priority at 77%; the preservation of agriculture is a high priority at 58%; growth management is a high priority at 77%; preservation of open space is a high priority at 71%; 72% strongly agreed that providing a low density, rural atmosphere is a priority; 71% strongly agree that preserving natural features of the environment is a priority; 80% strongly agree that preserving natural features of the township such as open space, woodlands, and wetlands is a high priority; 48% strongly disagree that expanding public water/sewer provisions is a priority; 66% disagree that encouraging higher density residential developments with public sewer is a priority; and 50% of the respondents don't feel that encouraging road connections between neighboring residential developments is a priority. SEMCOG information on road studies and traffic incidents in Marion Township shows that the Pinckney Road/Wright Road intersection is ranked number 12. This is far too much traffic for Pinckney Road to handle. Ms. Bahr's final statement is that she feels it is economically feasible to develop the property with one-acre lots.

**Jeff Barber, 848 Wright Road:** Mr. Barber totally disagrees with the proposed density, and asks that the board not approve this rezoning.

**Lisa Barber, 848 Wright Road:** Ms. Barber read a letter she had previously read to the township Planning Commission stating her objections to the proposed rezoning. Mrs. Barber also feels this will impact the value of homes in the area.

**Horace Cole, 918 Francis Road:** Mr. Cole asked if there are enough REU's available? Mr. Hanvey said the system was sized assuming the golf course would remain zoned at SR, and a rezoning to UR would put the system out of balance. Ms. Bahr asked what an REU is. Mr. Hanvey said Residential Equivalency Unit, the amount of sewage a residential structure would be assumed to produce in one day.

**Dave Tiuhonen, 3146 New Holland Drive:** Wright Road currently has 300 cars per day, which will increase another 1600 cars with the new school, and then the township residents will be responsible for improvements and maintenance. Mr. Hanvey said there would probably be some improvement to the road when the school is built. The school has purchased property that will provide access off of Pinckney Road. Ms. Barber said the last article in the newspaper indicated students and buses would access off of Wright Road.

### **Close Call to the Public**

Mr. Hanvey said in terms of the 1992 Master Plan, the area where the golf course was intended to have a fairly low density. The master plan that is being worked on for 2004 hasn't changed that designation. According to the two master plans, the area is not designated for UR density. As far as sewer and water, increasing the density would throw the sewer capacity out of balance and create a burden. There are traffic issues involved. At the traffic summit last year, several right turn lanes that were supposed to be put in along Pinckney Road from Coon Lake Road to I-96, and none of that happened. The traffic summit this year, fostered by MDOT, has led the township to believe there's no surplus of money. There is talk about a road millage for this year. Basically, the future of Pinckney Road in terms of a better level of service is uncertain right now. Any rezoning that's done would be associated with the property, not the owner of the property. A UR zoning allows several uses that would be more intense than the proposed development and there's no guarantee or requirement that the applicant would develop the property as currently proposed. The board needs to consider the potential of a rezoning regardless of who owns the property. Ms. Lingle said the board should look at the surrounding property. The property surrounding this parcel on the east, west and north is zoned SR. To the south, it's zoned Rural Residential (RR). Ms. Lingle feels this is a request for spot zoning.

Mr. Hanvey said at the public hearings held by the township Planning Commission, there were a number of comments opposed to the development, and none in favor. At the county Planning Commission,

approximately 10 people spoke who were opposed to the development, and none in favor. Mr. Hanvey asked Dave Hamann to summarize the township Planning Commission's findings. Mr. Hamann said the PC recommended denial for a number of reasons: spot zoning, surrounding property, could be developed as SR with a PUD overlay, traffic, sewer capacity. One of the strongest was the property could be developed as SR with a PUD overlay, which would allow 436 units. With regard to RZN #6-03, commonly known as Marion Oaks rezone, and upon reviewing the data submitted by the applicant, the Planning Commission public hearing minutes of 1/27/04, and regular Planning Commission minutes of 2/24/04 recommending denial, John Ambrose & Company planning review letters of 2/16/04 and 1/16/04 recommending denial, and minutes of the Livingston County Planning Commission recommending disapproval, Sue Lingle motioned to deny RZN #6-03 from Suburban Residential (SR) zoning to Urban Residential (UR) zoning based on the following:

1. It is not in keeping with the township master plan for this site. The UR zoning is to be established only within the urban services where existing public services are adequate.
2. Proposed rezoning would represent "spot zoning" as properties to the east, west and north are zoned SR and to the south is RR.
3. Negative effect on road LOS if property is developed as UR, which could be as high as 10 units per acre.
4. The high density would not be compatible with the neighboring area. The property is situated in an area of SR and RR, and is master planned for open space residential.
5. It appears to be economically feasible to develop the property as SR with a PUD or as a site condo.
6. It is the opinion of the board that this property can be utilized under the current zoning.
7. There are adequate areas within the urban services that are zoned UR and are yet to be developed.
8. Residents of the township have voiced their disapproval through the public hearings, Planning Commission meetings, and correspondence to the board.
9. Both the Marion Township Planning Commission and the Livingston County Planning Commission have recommended disapproval.

Dan Lowe seconded. Roll call vote: Dave Hamann, Sue Lingle, Bob Hanvey, Myrna Schlittler, Dan Lowe—all yes. **Motion carried 5-0.**

### **Liquor License Transfer**

Sue Lingle moved by resolution to approve the transfer of the liquor license from Marion Oaks to Dominic Geric and Gateno Rizzo. Myrna Schlittler seconded. Roll call vote: Bob Hanvey, Sue Lingle, Myrna Schlittler, Dan Lowe, Dave Hamann—all yes. **Resolution passed 5-0.**

### **Fire Authority Articles of Incorporation**

Mr. Hanvey said the basic change is that during any time when the fire authority is fully funded by millage, the budgets can be set by the fire board and the township board will not have to be involved. If the fire authority is ever not fully funded by millage, then the township boards will have to approve the budget on an annual basis. Myrna Schlittler moved by resolution to approve the change in the Fire Authority Articles of Incorporation. Dan Lowe seconded. Roll call vote: Sue Lingle, Myrna Schlittler, Bob Hanvey, Dave Hamann, Dan Lowe—all yes. **Resolution passed 5-0.**

### **Fees for New Parcels**

The assessor, Tonia Clifford, presented the board with a proposed form for Application for Parcel Description Change, which replaces four separate forms for requests such as splits, combinations, and boundary line changes. Ms. Clifford asked the board to consider what fees would be appropriate for requests a property owner in a platted sub or site condo might make. Sue Lingle motioned to charge fees for metes and bounds as recommended by the assessor. For platted subdivision, the first three options on the right side of the form would be charged a flat \$75 fee, and the fourth option would follow the regular fee schedule. Myrna Schlittler seconded. **Motion carried 5-0.**

### **REU Financing**

Mr. Hanvey provided the board with a list of possible options for handling REUs. The township currently follows option 1, which could be a substantial burden to the developer. Mr. Hanvey discussed the pros and cons for each option. Whichever option the township board chooses, Mr. Hanvey would like to see

it remain in place for at least one year. Mr. Lowe feels the current situation is the worst of all situations. He would like to have the developer pay for a percentage of the project so it's even for everyone. Mr. Hanvey said option two requires 50%. Mr. Lowe feels 50% is a little high. Ms. Lingle said the board needs to verify this type of option would be legal. Ms. Schlittler thought it would just be a policy change. Ms. Lingle said she would have no problem with option two if the attorney okays it. Further discussion was held regarding the pros and cons for each option. Mr. Hanvey thought it unlikely that the DEQ would reduce the loadings below what's current. Phil Westmoreland said though you can't guess what the DEQ might do, he doesn't see them reducing the loading requirements. Mr. Westmoreland also pointed out that the DEQ helps with tracking information on the system. Mr. Lowe feels it's important to discuss this with the township accountant. Ms. Lingle would also like the attorney to review. Dan Lowe motioned to table this agenda item. Dave Hamann seconded. **Motion carried 5-0.**

### **Roads**

The township has not received the cost estimates from the Livingston County Road Commission (LCRC). Mr. Hamann asked if the township engineer would be involved in the analysis of the county's recommendations, and felt he should be. Dave Hamann motioned to table this item. Dan Lowe seconded. **Motion carried 5-0.**

### **Movers**

Information on this item is provided in the packets. The cost for the movers is \$87 per hour with a two-hour minimum. It was also decided to close the building on Wednesday, April 28 for moving. A notice will be posted.

### **Extra Furniture**

The total cost for additional furniture is \$2993.36. Sue Lingle motioned to approve the additional furniture in the amount of \$2993.36, not to exceed \$3500. Myrna Schlittler seconded. Roll call vote: Dan Lowe, Myrna Schlittler, Dave Hamann, Sue Lingle, Bob Hanvey—all yes. **Motion carried 5-0.**

### **Coddington Rezoning**

Jim Barnwell from Desine was present to request rezoning of an 11-acre parcel from SR to UR. The applicant is Mitch Harris. This request is consistent with the current master plan. The township Planning Commission and Livingston County Planning Commission have both recommended approval. Access will be a site plan and Special Use Permit issue. Mr. Lowe asked how close to Peavy Road the developer could get. Mr. Barnwell said the property is "topographically challenged."

**Allison Tiihonen, 3146 New Holland Drive:** Mrs. Tiihonen asked if a traffic study was done. Mr. Barnwell said no. Most of the traffic generated would access off of Pinckney Road.

Sue Lingle motioned to approve RZN #5-03—Coddington based upon the public hearing of the Planning Commission and its minutes of 1/27/04; John Ambrose letter of 12/30/03 recommending approval; the Livingston County Planning Commission recommendation of approval of 3/17/04; the consistency of the zoning from SR to UR and the surrounding zoning to the north, south and east. Myrna Schlittler seconded. Roll call vote: Dan Lowe, Dave Hamann, Myrna Schlittler, Sue Lingle, Bob Hanvey—all yes.

**Motion carried 5-0.**

### **Recreation Authority Articles of Incorporation**

A letter from the township attorney was presented indicating his review of the 8<sup>th</sup> draft of the Articles of Incorporation. Ms. Lingle summarized at the Ways & Means. As the letter was just received, Ms. Lingle would like everyone to have the opportunity to review prior to making a decision. Mr. Hamann indicated that the attorney did address the concerns that he had. Sue Lingle motioned to table this item until a special meeting can be held. Dave Hamann seconded. **Motion carried 5-0.**

### **Policy on Board Meetings and Agendas**

Ms. Lingle asked the board members to make a list of what should be included in a policy on setting up agendas, time allowance, etc. Dave Hamann said the Planning Commission would like a podium to be set up with a microphone to better control the meetings. This would help avoid discussion between audience members. Ms. Bahr offered to donate a podium and will check on its availability. Ms. Bahr voiced a concern about the time limit. She feels other people's comments precipitate additional comments. Mr. Hanvey said the policy is a work-in-progress. Mr. Tiihonen suggested following the county's process by having residents sign a sheet stating the item they are there for. Ms. Bahr said they also have a call to the public before and after the developer's presentation.

Mr. Hanvey said it also depends on whether it's a public hearing or a call to the public during a regular meeting. Ms. Lingle offered to compile a list of items, and will provide the board members a copy of her list of nine items. Dave Hamann motioned to table this item, and board members will provide Sue Lingle with their comments. Dan Lowe seconded. **Motion carried 5-0.**

### **Litter Ordinance**

Ms. Lingle has been collecting data from various sources. She feels that the township may need two ordinances: one for litter and one for blight. Ms. Lingle will continue to work on this item.

### **PLANNING COMMISSION REPORT**

Dave Hamann reported that the Planning Commission held two meetings. A public hearing was held on 3/23/04 to discuss the new proposed Section 6.30—Private Sewer/Wastewater Treatment Facility ordinance. At the regular meeting on 3/23/04, Family Golf rezoning was tabled; Chestnut Development was recommended for denial; the Knolls of Grass Lake was tabled; Fox Meadows was approved contingent upon purchase agreement being done; and text amendments were discussed. At the 4/7/04 meeting, the site plan review application was discussed and the township planner will be finalizing and providing to the board; Planning Commission rules and procedures were discussed. Following the regular meeting, a comprehensive planning meeting was held. One more working session will be held before presentation to the board.

### **PARKS & RECREATION REPORT**

The meeting won't be held until next week, so two reports will be submitted at next month's board meeting.

### **ZBA REPORT**

Dan Lowe reported the ZBA approved one variance request, the Bandy house on Triangle Lake Road. The house must be torn down by 6/6/04. If not torn down by then, the variance will be void. The zoning administrator will follow through on the procedure if the house is not torn down by 6/6/04.

### **ZONING ADMINISTRATOR REPORT**

Provided in packets.

### **DPW REPORT**

Provided in packets.

### **FOR THE GOOD OF THE TOWNSHIP**

Mr. Hanvey reported that the local cable access channel now has music playing, and progress has been made on the Highland case.

### **CALL TO PUBLIC**

Jim Barnwell expressed his appreciation for having his agenda item moved to accommodate his schedule. With regard to private sewer/water facilities, Mary Ann Bahr said she feels the developer should be the first people in line to buy the house closest to the facility. No one else would want to live next to this type of facility. Ms. Lingle said it was an appellate court that let that thing loose. Ms. Bahr said the residents don't want to see this type of thing if it's a detriment to the community. She feels control should be at the local level, and she will continue to voice her opinion at the state level. Mr. Lowe said it's not a government issue, it's a court issue. The township doesn't have a choice but to comply. The new ordinance will provide some control.

**Tom Klebba, 1615 Triangle Lake Road:** Mr. Klebba said in regard to meetings and agendas being published, scheduling of special meetings, there seems to be a lack in that. How will the public know about a special meeting, how will the trustees even know about it? Mr. Hanvey said the trustees will be notified by the clerk or the secretary. The public will know because they will be posted somewhere on the bulletin board and the website. The requirement is for an 18-hour posting for a special meeting. Mr. Klebba said nothing's been on the website. Mr. Hanvey said it was posted on the website today at about 3:30 pm. Mr. Klebba said for tonight's 7:30 pm meeting? Mr. Hanvey said yes. Mr. Klebba said the Ways & Means was never posted. Mr. Hanvey said the agenda for the meeting is not required to be posted, although the township tries to publish when possible. The agenda for this meeting was dynamic, changing rapidly, there was a developer anxious to have his item on the agenda, and we weren't able to get it posted on the website as soon as we would have liked to. Mr. Klebba said there are things on tonight's agenda that were tabled and not even discussed. Mr. Hanvey said the board is allowed to do that. Mr. Klebba said you're allowed to do pretty much everything you do. Is it right for

the public to not know about these special meetings unless they drive up and look on the front of the building on a daily basis? Mr. Hanvey said the information will be on the website as soon as possible, as well as the cable channel. Allison Tiihonen asked if the township could publish special meeting notices. Mr. Hanvey said generally the newspaper deadline is at least a few days, and special meetings normally are created on a very short-term basis for some purpose that can't wait until the next board meeting. Ms. Lingle pointed out that agenda items are even added at the beginning of the meeting. Mr. Klebba said when you add things, there might have been people in the township that didn't attend the meeting who might have had an interest in those items and would have liked to have heard the discussion. Mr. Hanvey said Mr. Klebba should keep in mind that up until about a year ago, the agenda appeared on the table at 7:30 pm and that's the best we had, so we have improved the situation over what it was a few years ago. Ms. Lingle said this is a regular meeting and has been posted...the township is required to post all regular meetings for the whole year. Mr. Klebba said but not the agenda. Ms. Lingle asked Mr. Klebba how an agenda could be posted for a year. Mr. Hanvey said anyone is welcome to come to the meetings and stay for the whole thing. Mr. Klebba said so that's your response...you just have to come up here and look at the board every day. Mr. Hanvey said no, that's not his response, his response is we're doing our best to get things posted as soon as we can. We're not always able to do it a week or two in advance. We have a trade-off between telling people there's a cut-off date for the agenda or waiting until the last minute to get it on there. That trade-off sometimes results in the agenda not being complete when it's posted. In order to avoid the situation where someone has to wait a whole month to get on the next month's agenda, the agenda becomes very dynamic sometimes.

Mr. Lowe said he can't sit any longer and take it, and asked Mr. Klebba what the problem is. What are you so angry about? Mr. Lowe said he does not understand what's going on. Mr. Klebba said you don't? Mr. Lowe said no...the emails Mr. Klebba's been sending...what is the problem? Mr. Klebba said let's go right back to the beginning. Mr. Klebba said when he was a consultant for the township and every time something was going on and he was told to butt out and focus on something else, when he would talk to trustees and other board members, they said do something about this, why can't you do it. Mr. Klebba said the supervisor said no, it's not your project, focus on your project, stay out of it, while other board members would tell him to work on something. That's the problem, and that's why I'm no longer a consultant here. There are other problems...for years, I did communications work here and hardly charged the township anything; a lot was done gratis as a public service. Then I turn around and see that they awarded a contract to somebody not to exceed \$5,000 when you know that project could have been done for \$2,000-3,000. Mr. Lowe asked what project that was. Mr. Klebba said the communications wiring for the new building. Ms. Schlittler told Mr. Klebba that he was in Florida at that time. Mr. Klebba said the wiring didn't need to be done, he tried to discuss with Myrna, he tried to discuss with Mr. Hanvey and he gives me one-word responses to my emails. There's some much going on that you don't know about, Dan. I'll send a two-page letter to Mr. Hanvey asking about this, this, and this and I'll get a five-word response. There's a lot going on. Mr. Lowe said the board is doing all they can, Bob puts in ungodly hours, he's here on Sundays. The stuff in your letters is unbelievable, the Jartnick Pond thing...you know we've been working on these things. Mr. Klebba said he disagrees with Mr. Lowe...a year ago... Mr. Lowe said it takes time to get three or four different agencies to agree. If Mr. Klebba would take the time to find out what's going on...the road commission is working on it, it's in the planning stages, and it's going to be fixed. Mr. Lowe said he's spent a lot of time on this issue and it makes him mad to think that Mr. Klebba thinks he's not doing it. Discussion ensued on the Jartnick Pond issue. Mr. Klebba said the bottom line is it's not being fixed. Mr. Lowe said it's going to be fixed, same as the Bandy house. The Bandy's went through the appeal process at the county level prior to bringing it to the township. Mr. Lowe said it takes time, and the house really wasn't that big of an eyesore. Mr. Lowe pointed out that there are other houses right off of D-19 and I-96 and Mr. Klebba never complained about those. Mr. Lowe said that's the problem. Everyone complains about their own little corner and nobody cares about what happens in the whole township. Why didn't Mr. Klebba bring up the three on D-19, those are in Marion Township. Mr. Klebba said they don't really affect him. Mr. Lowe said because something's in Mr. Klebba's neighborhood, he tries to make the board look like idiots who aren't doing anything. Mr. Lowe said all of the things Mr. Klebba is complaining about are being dealt with.

Mr. Klebba said further that as far as the wiring goes, the wiring was supposed to go through the floor, it was all in the plans. There was some tweaking to the plans, seems a little funny to me. Mr. Lowe said there were things that needed to be done to move on to the next stage and Mr. Klebba was in Florida. Mr. Klebba said that wasn't in the plans when he left for Florida. Ms. Lingle pointed out that while Mr. Klebba was in Florida, the board did grant permission for Mr. Klebba to use the township hall parking lot for his new venture.

Ms. Schlittler pointed out that Mr. Klebba had been involved with the township since 2000, and even though it's special interest, Mr. Klebba could have done more with the Bandy house and Jartnick Pond. Mr. Klebba said he was told to focus on his projects. Ms. Lingle pointed out that Mr. Klebba wasn't the supervisor, he was brought in on a consulting basis. Mr. Westmoreland is a consultant and he wouldn't think of intruding into other things that he wasn't asked to.

Mr. Klebba asked how he will know when the special meeting will be held regarding roads. If he has to come to the hall every day to check the bulletin board, he will. Ms. Lingle said he can call for the information. The notice has to be posted at least 18 hours in advance. Mr. Hanvey said it will probably be posted by 3:00 pm on Tuesday or Wednesday for a Thursday 4:00 pm meeting. It will also be published on the website and cable channel.

Mr. Lowe said as far as Triangle Lake Road, he feels adding gravel will create more of a drainage problem. Mr. Lowe will talk to the Road Commission about possibly tar and chip at least down the hill to where the cross tube is. Mr. Klebba said there's no stone left, it's all muck. Mr. Lowe said that adding gravel in certain areas will create problems for some people. The Road Commission has admitted there was a mistake made there. The township shouldn't have any cost to repair.

Mr. Klebba asked if everyone on the Board is running again. Ms. Schlittler said yes.

**Mary Ann Bahr, 3201 Grass Lake Court:** Ms. Bahr said people who live on gravel roads should understand that maintenance is an ongoing event. In defense of the Board trying to accommodate Mr. Klebba's complaint, it's an ongoing process.

**TREASURER'S REPORT**

Ms. Lingle indicated she just received the bank statements and will have the report available at the next meeting. Expenses for the month of March were \$107,699.83. Dave Hamann motioned to approve the treasurer's report with expenses of \$107,699.83. Myrna Schlittler seconded. **Motion carried 5-0.**

**ADJOURNMENT**

Sue Lingle motioned to adjourn the meeting at 10:14 pm. Myrna Schlittler seconded.

**Motion carried 5-0.**

**MEETING - MAY 13, 2004**

**MEMBERS PRESENT:** Bob Hanvey, Sue Lingle, Dan Lowe, Myrna Schlittler and Dave Hamann

**MEMBERS ABSENT:** None

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**CALL TO ORDER**

Bob Hanvey called the meeting to order at 7:35 p.m.

**PLEDGE TO FLAG**

**MEMBERS PRESENT**

The members of the Board introduced themselves.

**APPROVAL OF AGENDA**

Dave Hamann motioned to approve the agenda as presented. Sue Lingle seconded.

**Motion carried 5-0**

**CALL TO THE PUBLIC**

**Kelly Hansen, 100 Lucy Road** (City of Howell): Ms. Hansen was present to inform the Board of a situation adjoining her property on Lucy Road. Her home experiences extremely strong vibrations from 7:30 am to 4:30 pm every day. The ceilings and plaster are beginning to crack. Ms. Hansen asked if there is a length of time that the permit is valid for the work being done on the adjoining parcel. Mr. Hanvey explained that the permit was issued for restoration of the site. Mr. Hanvey asked Jack Lowe if

he had any knowledge about when the project might be finished. Mr. Lowe said it looks close to being finished, probably within the next 30 days. He will check with the owner on an estimated date, and will then follow-up with Ms. Hansen. Ms. Hansen asked the Board who might be responsible for the damages done to her home. Mr. Hanvey suggested she might hire a consultant to determine if the damage is a result of the activity on the adjacent property.

**Mary Ann Bahr, 3201 Grass Lake Court:** Ms. Bahr provided the Board members with a packet of information that included a letter to the Board regarding the Knolls of Grass Lake development and Red Hawk Landing. She read the letter aloud (copy attached).

**Dave Tiihonen, 3146 New Holland Drive:** Mr. Tiihonen agrees with Ms. Bahr, and doesn't want the high density. He also said he feels it's reasonable for the developer to be required to leave trees.

**John Zwerlein, 2501 Clivedon:** Mr. Zwerlein is opposed to the Knolls of Grass Lake development. He feels that Clivedon Road is not capable of handling the additional traffic. Mr. Zwerlein feels this is a public safety issue.

**Allison Tiihonen, 3146 New Holland Drive:** Ms. Tiihonen also agrees with Ms. Bahr. This should remain a rural area, and there are traffic and safety issues to consider.

### **Close Call to the Public**

### **APPROVAL OF MINUTES**

#### **Board of Trustees Meeting, April 8, 2004**

Dave Hamann motioned to approve the minutes as presented. Myrna Schlittler seconded. **Motion carried 5-0.**

#### **Special Board of Trustees Meeting, April 22, 2004**

Sue Lingle motioned to approve the minutes as presented. Dave Hamann seconded. **Motion carried 5-0.**

#### **Special Board of Trustees Meeting, April 26, 2004**

The date on the minutes needs to be changed from April 28 to April 26. Dan Lowe motioned to approve the minutes as amended. Sue Lingle seconded. **Motion carried 5-0.**

#### **Special Board of Trustees Meeting, May 10, 2004**

Dan Lowe motioned to approve the minutes as presented. Sue Lingle seconded. **Motion carried 5-0.**

#### **Ways & Means Meeting, May 10, 2004**

Dan Lowe motioned to approve the minutes as presented. Dave Hamann seconded.

### **Motion carried 5-0**

### **OLD BUSINESS**

None.

### **NEW BUSINESS**

#### **Chestnut Development Rezoning**

Steve Gronow from Chestnut Development introduced himself, as well as Jim Eppink, land planner; Roger Myers, legal counsel; and David Collier, engineer from Atwell-Hicks. Mr. Gronow is requesting a rezoning of property for the purpose of establishing a traditional neighborhood, somewhat similar to Chilson Hills in Genoa Township. He has done exhaustive research and analysis and feels this is an ideal location for the proposed development. Mr. Gronow presented display boards summarizing his research. Jim Eppink gave a brief presentation on key points showing why rezoning is appropriate for this parcel, including SEMCOG data. Roger Myers stated this is the right location for this type of development. Extending the sewers or providing an onsite septic system is appropriate because it's in the wellhead protection area. Sue Lingle asked how long before problems occur with an onsite system. Dave Collier said the system would be funded through the association and operated by a licensed provider. Discussion ensued regarding the demand in Livingston County for affordable housing. Ms. Lingle shared information on other housing in Livingston County that provide residences in the \$105,000-\$180,000 price range.

Mr. Gronow concluded his presentation by stating that he's interested in doing something that's socially responsible.

Sue Lingle motioned to deny RZN 8-03—Chestnut Development from Suburban Residential (SR) to Urban Residential (UR) based on the following findings:

1. Changing the zoning from SR to UR is not in keeping with the Marion Township Master Plan. UR zoning is intended for the areas with municipal water and sewer.
2. Site is located outside the water and sewer districts and is not served by either utility.
3. Rezoning the site to UR would be considered "spot zoning" as the surrounding areas in the township are all zoned SR.
4. The potential for development of this site under UR zoning could range from 292 single detached homes to 1,000 attached multi-family dwellings, which is totally inconsistent with the township Master Plan for the area.
5. UR zoning is not compatible with neighboring properties.
6. The proposed higher density zoning of UR would invite further requests in an area designated by the Master Plan for conservation and open space.
7. Under UR zoning, approximately 2,900 to 6,600 road trips would be generated daily on Mason Road, which was rated LOS "C" in the Master Plan of 1992. Under Section 6.17 of the township zoning ordinance, no new land use under site plan review will be permitted that would reduce the LOS below "C."
8. The site under review can be developed economically under the current SR zoning as evidenced by The Forest, Turtle Creek, and Sunridge.
9. The township has designated other areas adequate for the higher density development. They are located in the northeastern D-19 area and meet the criteria of the availability of public utilities and adequate roads.
10. As further basis for denial, we would include the following:
  - a. Letter from John Ambrose of John Ambrose & Co. dated January 16, 2004 recommending denial giving the basis of his recommendation.
  - b. Recommendation of the Marion Township Planning Commission for denial as stated in the Planning Commission minutes of March 23, 2004.
  - c. Recommendation of the Livingston County Department of Planning staff for disapproval.
  - d. Recommendation of the Livingston County Planning Commission for disapproval as stated in the letter of April 23, 2004.

Myrna Schlittler seconded. Roll call vote: Dave Hamann, Sue Lingle, Bob Hanvey, Myrna Schlittler, Dan Lowe—all yes. **Motion carried 5-0.**

### **Bandy Show Cause Hearing**

Mrs. Bandy presented a letter to the Board of Trustees indicating that a contract has been made with EGH Construction of Livonia for demolition of the building, which Mr. Hanvey read aloud. Mr. Lowe asked Mrs. Bandy if EGH is aware of the deadline of June 5. Mrs. Bandy said yes. Mr. Hanvey thanked Mrs. Bandy for providing the information.

### **Knolls of Grass Lake**

Mike Boss, representing the Power Group, was present for final site plan approval for the Knolls of Grass Lake. This is a 77-acre parcel, with 36 lots proposed for the development. The density is less than one lot for every two acres. The property is perked and approved by the Health Department. Additional trees have been added. The issue with the fire department has been resolved. Mr. Hanvey asked Mr. Boss to describe the process for DEQ permitting. Mr. Boss said the wetlands have been delineated. Mr. Hanvey said a letter was received today from the township attorney and there are some issues that he would like worked out. Mr. Hanvey said that Mr. Boss has agreed to increase the road width to 32 feet, which is consistent with the Howell Area Fire Authority and the 2003 International Fire Code. Dan Lowe asked about the parking issues, and indicated he had talked with the fire department. He was told the issue of parking restricted to one side of the street is up to the state police. Mr. Boss said the Livingston County Road Commission isn't in support of restricting the parking and haven't seen it required before. Dave Hamann asked Mr. Boss if the current site plan has been updated to show landscaping. Mr. Boss said both the site plan and construction plans have been updated. It hasn't been discussed with staff yet; that would be part of the construction process. Ms. Lingle asked about the height of the vegetation on the northern section. Mr. Boss said it's mostly scrub and it will be left in place. Jack Lowe said the landscape architect documented the requirements mentioned during the site visit, and it just needs to be verified that the changes have been incorporated into the landscape plan.

Dan Lowe asked if the state police approves parking restricted to one side, is Mr. Boss willing to do this? Mr. Boss said yes, but he would like to know as soon as possible. Mr. Boss stated the road width would be left at 32 feet.

Sue Lingle asked if Mr. Boss had considered clumping trees in the back. Mr. Boss said yes, and pointed out the trees depicted on the landscape plan.

Sue Lingle motioned to approve the Knolls of Grass Lake final site plan with conditions that the issues in the township attorney's May 13, 2004 letter be addressed; parking on one side of the street contingent on approval from the state police; and review of landscape plan with the Planning Commission or Zoning Administrator. Dan Lowe seconded. Roll call vote: Dan Lowe, Myrna Schlittler, Bob Hanvey, Sue Lingle, Dave Hamann—all yes. **Motion carried 5-0.**

### **Fox Meadows**

Mr. Hanvey said the attorney suggested this item be returned to the Planning Commission for further review due to the change in the easement to Mason Road. Sue Lingle motioned to send this item back to the township Planning Commission with regard to the easement to Mason Road for the May Planning Commission agenda. Myrna Schlittler seconded. **Motion carried 5-0.**

### **Sundance Meadows Preliminary Plat Approval**

Jim Barnwell from Desine, Inc., representing Newcorp/Fred Brown, is requesting approval of the preliminary plat for the next phase of Sundance Meadows. The new phase will continue with the same type of development—minimum of 1-acre lots with public roads. Ms. Lingle asked about the landlocked parcel owned by Mr. Mitchell. Mr. Barnwell said that because Mr. Mitchell owns two adjoining parcels, it's considered one parcel. Phil Westmoreland from OHM said this item should be cleaned up prior to the final plat being recorded, either by granting an easement or combining the lots. Mr. Barnwell will ask Mr. Mitchell to consider combining the parcels. Mr. Barnwell requested that the plat be approved with the authority that the roads be changed to 32 feet if the fire department deems that acceptable. No other changes would be made. The Board members had no problem with that. Dan Lowe motioned to approve Sundance Meadows preliminary plat. Sue Lingle seconded. **Motion carried 5-0.**

### **Builder Pay Request #7**

There are some items that haven't been completed, and the architect provided his comments on what should be withheld from the payment. There are also some punch list items. Jack Lowe had questions on acceptance of the pay request with regard to the brick on the back heating units. He's concerned the brick will fall off. Cindy Hodge said that the architect would talk to Mr. Richardson regarding that issue. Myrna Schlittler motioned to approve the builder pay request #7 in the amount of \$62,997.53. Dave Hamann seconded. Roll call vote: Sue Lingle, Myrna Schlittler, Bob Hanvey, Dave Hamann, Dan Lowe—all yes. **Motion carried 5-0.**

Myrna Schlittler motioned to pay the architect \$280 for the current month and any outstanding amounts that have not been paid up to a total of \$612.50. Sue Lingle seconded. Roll call vote: Dan Lowe, Dave Hamann, Bob Hanvey, Sue Lingle, Myrna Schlittler—all yes. **Motion carried 5-0.**

### **Change Order #1**

Sue Lingle motioned to approve Change Order #1 in the amount of \$13,652.53. Dave Hamann seconded. Roll call vote: Myrna Schlittler, Dan Lowe, Sue Lingle, Dave Hamann, Bob Hanvey—all yes.

**Motion carried 5-0.**

### **Change Order #2**

Sue Lingle motioned to table Change Order #2 for further discussion by Dan Lowe, Bob Hanvey and Cindy Hodge. Myrna Schlittler seconded. **Motion carried 5-0.**

### **Sewer Resolution**

Bob Hanvey read the following resolution to ratify certain changes in plans for sanitary sewer improvements:

Whereas, the Township Board adopted a Resolution on March 14, 1996 which provided that the plans for the construction of certain sanitary sewer improvements were accepted, approved and ordered filed with the Township Clerk; and

Whereas, pursuant to i) a contract with the County of Livingston dated as of November 1, 1996, as amended, ii) the establishment of special assessment districts, and iii) the confirmation of special assessment rolls, the subject sanitary sewer improvements were constructed; and

Whereas, during the course of the construction project, certain changes to the plans were made in 1997 in response to financial considerations, including but not limited to the elimination of an east-west trunk line traversing property owned by Highland-Howell Development Group, LLC; and

Whereas, the elimination of the subject east-west trunk line did not affect the availability of sanitary sewer service to the property owned by Highland-Howell Development Group, LLC; and

Whereas, the above described changes to the plans are incorporated within the various project documents created and maintained by the project's construction contractors, and are reflected in the configuration of the sanitary sewer system as actually constructed pursuant to contracts and resolutions of the Township Board; and

Whereas, the Township wishes to formally acknowledge, approve and ratify all of the changes to the plans which have been made since the plans were originally accepted, approved and ordered filed with the Township Clerk by way of Resolution on March 14, 1996, including but not limited to the elimination of the east-west trunk line traversing the property owned by Highland-Howell Development Group, LLC;

Now, therefore, be it resolved as follows:

1. All changes in the plans for the Township's sanitary sewer improvement project that is the subject of the Township Board's Resolution of March 14, 1996 and its Contract with the County of Livingston effective as of November 1, 1996, as amended, are hereby acknowledged, approved and ratified, including but not limited to the elimination of an east-west trunk line traversing the property owned by Highland-Howell Development Group, LLC. These plan changes are incorporated within the various project documents created and maintained by the project's construction contractors, and are reflected in the configuration of the sanitary sewer system as actually constructed pursuant to contracts and resolutions of the Township Board.
2. All previous resolutions, or any parts of previous resolutions, of the Board that are inconsistent with this Resolution are hereby rescinded.

Dan Lowe moved to approve the resolution as presented. Dave Hamann seconded. Roll call vote: Dan Lowe, Myrna Schlittler, Bob Hanvey, Sue Lingle, Dave Hamann—all yes. **Resolution passed 5-0.**

#### **DPW Additional Duties**

Sue Lingle said the water and sewer special assessments have become too cumbersome for the treasurer's office to handle. The actual tracking, recording, making the partial releases on the mortgages are tasks she would like to pass on to the DPW Coordinator and increase the pay rate an additional 50 cents per hour.

Sue Lingle motioned to change the DPW Coordinator's responsibilities to include administration of special assessment rolls and increase the pay rate by an additional 50 cents per hour, effective July 1, 2004.

Dave Hamann seconded. Dan Lowe asked where the pay rate would end up. Sue Lingle said \$15 per hour. Roll call vote: Dan Lowe—yes, Myrna Schlittler—no, Bob Hanvey—yes, Sue Lingle—yes, Dave Hamann—yes. **Motion carried 4-1.**

#### **Pay Raises**

Myrna Schlittler motioned to pay the supervisor an additional 3% for fiscal year 2004-2005. Dave Hamann seconded. Roll call vote: Dave Hamann, Sue Lingle, Bob Hanvey, Myrna Schlittler, Dan Lowe—all yes. **Motion carried 5-0.**

Sue Lingle motioned to pay the clerk an additional 3% for fiscal year 2004-2005. Dave Hamann seconded. Roll call vote: Bob Hanvey, Dave Hamann, Dan Lowe, Myrna Schlittler, Sue Lingle—all yes.

**Motion carried 5-0.**

Dave Hamann motioned to increase the treasurer's pay by 3% for fiscal year 2004-2005. Dan Lowe seconded. Roll call vote: Dan Lowe, Dave Hamann, Bob Hanvey, Sue Lingle, Myrna Schlittler—all yes.

**Motion carried 5-0.**

Dave Hamann motioned to increase the assessor's pay by 3% for fiscal year 2004-2005. Sue Lingle seconded. Roll call vote: Myrna Schlittler, Sue Lingle, Bob Hanvey, Dan Lowe, Dave Hamann—all yes.

**Motion carried 5-0.**

Sue Lingle motioned for the clerk to investigate other municipalities' per diem for Planning Commission members, Zoning Board of Appeals members, and the recording secretary prior to the June Board meeting. Dave Hamann seconded. **Motion carried 5-0.**

### **Park Stickers**

Sue Lingle motioned to provide the first sticker to each family free and charge \$5 for each additional sticker. Dave Hamann seconded. **Motion carried 5-0.**

### **Roads**

Mr. Hanvey indicated he hadn't received any more detail on road improvements from the LCRC. Dave Hamann asked about the brine that was approved at the special Board meeting. Myrna Schlittler said Michigan Chloride has been contacted. Dave Hamann motioned to table this agenda item. Dan Lowe seconded. **Motion carried 5-0.**

### **Window Coverings**

Sue Lingle passed out information on mesh window shades. Myrna Schlittler motioned to have Cindy Hodge investigate the cost for window coverings. Dave Hamann seconded. **Motion carried 5-0.**

### **Rain Garden**

Phil Westmoreland from OHM presented the concept of a "Rain Garden" for storm water management. Mr. Westmoreland will provide the township with information on the cost for this type of project within the next week.

### **Hay—Bob Cox**

Sue Lingle motioned to approve allowing Bob Cox to cut hay at the same price as last year. Dave Hamann seconded. **Motion carried 5-0.**

### **Wheat—Jerry Knight**

Sue Lingle motioned to approve allowing Jerry Knight to grow wheat on the 10 acres owned by the township. Dave Hamann seconded. **Motion carried 5-0.**

### **Technology Upgrade**

Mr. Hanvey said the County Treasurer notified the township that new hardware and software is required. Some of the items will be paid for by the county. The new software requires upgraded computers. Mr. Hanvey feels the assessor and the deputy clerk should also have upgraded computers. We need 5 new workstations and a server with a back-up system, at a cost of less than \$15,000.

Sue Lingle motioned to approve purchase of new hardware and software at an amount not to exceed \$15,000. Dave Hamann seconded. Roll call vote: Dan Lowe, Dave Hamann, Bob Hanvey, Sue Lingle, Myrna Schlittler—all yes. **Motion carried 5-0.**

### **PLANNING COMMISSION REPORT**

Dave Hamann said the Planning Commission met on April 27, 2004. Family Golf rezoning was tabled at their request. Sundance Meadows #3 preliminary plat was approved. The Knolls of Grass Lake was approved. There was a text amendment on PUD wording (heading only). Section 6.30—Private Sewage Waste Water Treatment Plant was approved and sent to the LCPD. The definitions for Section 6.30 were also approved and sent to LCPD. Site plan review application was approved and will be effective June 1, 2004. Planning Commission rules and procedures was tabled.

### **PARKS & RECREATION REPORT**

A report for the regular meeting is provided in packets. A special meeting was also held on the Parks & Recreation Authority and a report will be provided.

### **ZBA REPORT**

Dan Lowe reported that there was no meeting held in May.

### **ZONING ADMINISTRATOR REPORT**

Provided in packets.

### **DPW REPORT**

Provided in packets.

### **FOR THE GOOD OF THE TOWNSHIP**

Mr. Hanvey said some of the township staff went to the OHM open house and gained a much greater appreciation of the township engineers by touring the facility and talking with staff members. Also, Mr. Hanvey said the property at the corner of Coon Lake and Pingree has been cleaned up.

### **CALL TO PUBLIC**

None.

**TREASURER'S REPORT**

Sue Lingle presented the treasurer's report with expenses of \$44,274.72. Dave Hamann motioned to accept the treasurer's report. Myrna Schlittler seconded. **Motion carried 5-0.**

**ADJOURNMENT**

Sue Lingle motioned to adjourn the meeting at 11:07 pm. Dave Hamann seconded. **Motion carried 5-0**

**MINUTES - JUNE 10, 2004**

**MEMBERS PRESENT:** Bob Hanvey, Sue Lingle, Dan Lowe, Myrna Schlittler and Dave Hamann

**MEMBERS ABSENT:** None

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**CALL TO ORDER**

Bob Hanvey called the meeting to order at 8:20 pm.

**PLEDGE TO FLAG**

**MEMBERS PRESENT**

The members of the Board introduced themselves.

**APPROVAL OF AGENDA**

Sue Lingle motioned to approve the agenda as amended. Dave Hamann seconded. **Motion carried 5-0**

**CALL TO THE PUBLIC**

Ron VanHouten introduced himself as the candidate for County Commissioner for District #4.

**APPROVAL OF MINUTES**

**Board of Trustees Meeting, May 13, 2004**

Myrna Schlittler motioned to approve the May 13, 2004 Board of Trustees minutes as presented. Dave Hamann seconded. **Motion carried 5-0.**

**Ways & Means Meeting, June 7, 2004**

Sue Lingle motioned to approve the June 7, 2004 Ways & Means minutes as presented. Dave Hamann seconded. **Motion carried 5-0.**

**OLD BUSINESS**

**Richland Construction Change Order #2**

Myrna Schlittler motioned to table this item. Dave Hamann seconded. **Motion carried 5-0.**

**Rain Garden**

Phil Westmoreland, township engineer from OHM, provided the Board with a proposal to help the township design a rain garden. Mr. Hanvey explained that a rain garden is a way to attempt to clean water that runs off the parking lot before it runs into the ground. The township hopes this rain garden will provide a sample to encourage future development to include similar approaches.

Sue Lingle motioned to approve the OHM proposal for \$800 for a rain garden. Myrna Schlittler seconded. Roll call vote: Dan Lowe, Bob Hanvey, Sue Lingle, Myrna Schlittler, Dave Hamann—all yes.

**Motion carried 5-0.**

**Window Coverings**

Three bids were provided for window coverings. Sue Lingle motioned to accept the bid from Custom Window Blinds for \$2,226. Myrna Schlittler seconded. Roll call vote: Sue Lingle, Myrna Schlittler, Bob Hanvey, Dave Hamann, Dan Lowe—all yes. **Motion carried 5-0.**

**NEW BUSINESS**

**Landscaping Bid**

Bob Hanvey stated that Fred Brown donated approximately \$400 worth of sand. Myrna Schlittler motioned to authorize up to \$6,000 for limestone and landscaping, as determined by the Building Committee. Sue Lingle seconded. Roll call vote: Dave Hamann, Dan Lowe, Myrna Schlittler, Sue Lingle, Bob Hanvey—all yes. **Motion carried 5-0.**

**Insulation Bid**

A bid was received for \$1,488 from Cellutite. Mr. Hanvey had a question as to whether venting is required. Dan Lowe motioned to accept the bid for \$1,488 on the condition that venting is not

necessary. Sue Lingle seconded. Roll call vote: Dan Lowe, Bob Hanvey, Dave Hamann, Sue Lingle, Myrna Schlittler—all yes. **Motion carried 5-0.**

### **Land Balancing**

The invoice includes charges to move and prep for sidewalks, place topsoil, install roof drains, install retaining walls, excavate retention pond area, truck fill for lower parking area. Sue Lingle motioned to approve the invoice from Eric Lowe for \$1,765. Dave Hamann seconded. Roll call vote: Dave Hamann, Sue Lingle, Bob Hanvey, Myrna Schlittler, Dan Lowe—all yes. **Motion carried 5-0.**

### **Richland Pay Request**

A letter was received from Bruce McCullen recommending approval except for item #18 in Phase 2 for \$2,500. Myrna Schlittler motioned to approve the Richland pay request #8 for \$7,092. Dan Lowe seconded. Roll call vote: Bob Hanvey, Sue Lingle, Myrna Schlittler, Dave Hamann, Dan Lowe—all yes.

**Motion carried 5-0.**

### **2004-05 Meeting Schedule**

Myrna Schlittler motioned to approve the 2004-05 meeting schedule as presented. Dan Lowe seconded.

**Motion carried 5-0.**

### **Pay Raise**

Myrna Schlittler motioned to increase Sandi Longstreet's pay rate an additional 50 cents per hour to bring the hourly rate to \$14 per hour, and increase the amount she is paid for minute transcription to her regular hourly wage, effective July 1, 2004. Sue Lingle seconded. Roll call vote: Dave Hamann, Dan Lowe, Myrna Schlittler, Sue Lingle, Bob Hanvey—all yes. **Motion carried 5-0.**

### **Roads**

A proposal was received from Livingston County Road Commission (LCRC) recommending that Davis Road and Hinchey (north from Schafer for approximately 3000 feet) have gravel placed and drainage improvements made. Mr. Lowe suggested that the township identify a road suitable for tar and chip and use most of the funds on it, or wait until next year. Mr. Hanvey did not have the traffic counts yet. Dan Lowe and Bob Hanvey will meet with Mike Crain from the LCRC. Myrna Schlittler motioned to table this item. Sue Lingle seconded. **Motion carried 5-0.**

### **Increase Trustees from 2 to 4**

Myrna Schlittler said the township has the option to increase the number of trustees from two to four, and the question has to be on the November ballot. If a majority of the township residents approve, the candidates would be on the gubernatorial ballot in 2006. They would serve a two-year term the first time. Mr. Hanvey said this is covered under Public Act 116 of 1954. The township has more than met the criteria to add more trustees. Myrna Schlittler moved by resolution to place on the November 2004 ballot whether or not the township should increase the number of trustees to four. Sue Lingle seconded. Roll call vote: Dan Lowe, Dave Hamann, Bob Hanvey, Myrna Schlittler, Sue Lingle—all yes. **Resolution passed 5-0.**

### **Comprehensive Plan**

A resolution is required to distribute the comprehensive plan and decide how much should be spent. Dave Hamann moved by resolution to approve distribution of the draft Marion Township comprehensive plan to the required agencies. Sue Lingle seconded. Roll call vote: Dan Lowe, Myrna Schlittler, Bob Hanvey, Sue Lingle, Dave Hamann—all yes. **Resolution passed 5-0.** Myrna Schlittler moved by resolution to authorize the zoning administrator and the township board representative to the Planning Commission to spend up to \$750 for printing. Dan Lowe seconded. Roll call vote: Dave Hamann, Sue Lingle, Bob Hanvey, Myrna Schlittler, Dan Lowe—all yes. **Resolution passed 5-0.**

### **Text Amendments**

Myrna Schlittler motioned to accept the text change to the PUD section of the zoning ordinance by adding the word "overlay" to the heading. Dan Lowe seconded. **Motion carried 5-0.**

Sue Lingle motioned to amend Article 3—Definitions of the zoning ordinance to include the items for private sewer/waste water treatment facilities. Dan Lowe seconded. **Motion carried 5-0.**

Myrna Schlittler motioned to approve the zoning ordinance amendment for private sewer/waste water treatment facilities under Article VI—General Provisions as approved by the township Planning Commission. Dan Lowe seconded. **Motion carried 5-0.**

### **Flood Plain Insurance**

Phil Westmoreland gave the board a brief overview of this item. The DEQ provided information on the FEMA program and the benefits. Mr. Westmoreland feels that it's a useful program, and the township may be required to participate within the next 2-5 years. Dan Lowe and Jack Lowe had some concerns about participating in the program. There was a question as to whether the finished floor elevation would be required on every permit and assessing records. Verification of the elevation would be an added expense. Residents in the designated flood plain area would be required to buy insurance. Dan Lowe motioned that the township not participate in FEMA. Myrna Schlittler seconded.

**Motion carried 5-0.**

### **Fire Hall Lease**

Sue Lingle motioned to authorize signing of the fire hall lease with the Howell Area Fire Authority. Dave Hamann seconded. Roll call vote: Dan Lowe, Myrna Schlittler, Bob Harvey, Sue Lingle, Dave Hamann—all yes. **Motion carried 5-0.**

### **Haz-Mat Ordinance**

This ordinance would allow the township to recover costs in the event of an extraordinary emergency incident or incendiary fire. Bob Harvey provided the board with a copy of the ordinance. A correction is required on the last paragraph. Sue Lingle motioned to table this item until the correction is made. Dave Hamann seconded. **Motion carried 5-0.**

### **Norton Road**

Dan Lowe received a bid from Tom Rogers for the parking lot in the amount of \$19,380, and the Norton Road repairs in the amount of \$7,400 including milling, or \$3,800 more if done separately from the parking lot. Phil Westmoreland hoped to have the bid from Allied, but didn't receive it prior to the meeting. Dan Lowe asked Phil Westmoreland about testing the material that was originally used. Dan Lowe motioned to table this item. Dave Hamann seconded. **Motion carried 5-0.**

### **Clark-Hill Invoice**

Myrna Schlittler motioned to approve the Clark-Hill invoice in the amount of \$12,260. Sue Lingle seconded. Roll call vote: Myrna Schlittler, Bob Harvey, Sue Lingle, Dan Lowe, Dave Hamann—all yes.

**Motion carried 5-0.**

### **MHOG Infrastructure Ownership**

Myrna Schlittler moved by resolution to authorize the supervisor to sign a letter to the MDEQ regarding MHOG water supply infrastructure ownership. Dave Hamann seconded. Roll call vote: Dan Lowe, Dave Hamann, Sue Lingle, Myrna Schlittler, Bob Harvey—all yes. **Resolution passed 5-0.**

### **PLANNING COMMISSION REPORT**

Dave Hamann reported the PC meeting was held on May 25, 2004. Family Golf didn't attend the meeting, Fox Meadows site plan was approved with conditions, Jesse Drive was reviewed and sent to the Zoning Board of Appeals, and an ordinance workshop was scheduled for June 16.

### **PARKS & RECREATION REPORT**

Sue Lingle provided the board with a report. The donations for the skate park are at about \$147,000, which is approximately 60% of the goal. The plan is to start after the Balloon Fest. Steve Manor has requested the township board to allow him to give a presentation, and possibly have the township make a donation. Sara Miller has resigned. Dan Hutcheson, the interim director, will be leaving to return to the school system. Ms. Lingle remarked on the wonderful job Mr. Hutcheson has done.

### **ZBA REPORT**

Dan Lowe reported that the Zoning Board of Appeals met on June 7, 2004. A variance request from Marion Oaks was denied.

### **ZONING ADMINISTRATOR REPORT**

Provided in packets. Bob Harvey pointed out that the number of land use permits issued for new homes is approximately 15 per month.

### **DPW REPORT**

Provided in packets.

### **FIRE AUTHORITY REPORT**

Bob Harvey reported that three new vehicles were purchased. There is also the beginning of efforts to

explore combining the Brighton and Howell fire authorities into a common authority that would potentially be countywide.

**MHOG**

Bob Hanvey reported that the bids on the water plant expansion came in about \$1 million less than expected. The MHOG engineer suggested putting in more wells.

**FOR THE GOOD OF THE TOWNSHIP**

Bob Hanvey reported that computers have been ordered. The County Equalization Department requires different software. The amount spent thus far is approximately \$11,000, less than what was approved. Dan Lowe said by next month's meeting, he would check the cemeteries and get bids for tree removal. Mr. Lowe reported there are no ash trees in Lakeside Cemetery, and he will check the other two cemeteries. Mr. Hanvey explained there is an opportunity for some financial assistance to remove ash trees on township property.

**CALL TO PUBLIC**

Horace Cole reported that the LCRC applied brine to Francis Road in the rain today. Bob Hanvey showed the board a drawing from the LCRC regarding the Jartnick Pond issue. Dan Lowe expressed some concern with the plan.

**TREASURER'S REPORT**

Dave Hamann motioned to accept the treasurer's report with expenses of \$139,509.37. Myrna Schlittler seconded. **Motion carried 5-0.**

**ADJOURNMENT**

Dave Hamann motioned to adjourn the meeting at 9:55 pm. Myrna Schlittler seconded. **Motion carried 5-0.**

**BOARD OF TRUSTEES  
JULY 8, 2004**

**MEMBERS PRESENT:** Bob Hanvey, Sue Lingle, Dan Lowe, Myrna Schlittler and Dave Hamann

**MEMBERS ABSENT:** None

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**CALL TO ORDER**

Bob Hanvey called the meeting to order at 7:30 pm.

**PLEDGE TO FLAG**

**MEMBERS PRESENT**

The members of the Board introduced themselves.

**APPROVAL OF AGENDA**

Sue Lingle motioned to approve the agenda as amended. Myrna Schlittler seconded. **Motion carried 5-0.** Sue Lingle motioned to change the order of the agenda items. Dave Hamann seconded.

**Motion carried 5-0.**

**APPROVAL OF MINUTES**

**Board of Trustees Budget Public Hearing, June 10, 2004**

Myrna Schlittler motioned to approve the June 10, 2004 Budget Public Hearing minutes as presented. Sue Lingle seconded. **Motion carried 5-0.**

**Board of Trustees Meeting, June 10, 2004**

Sue Lingle motioned to approve the June 10, 2004 Board of Trustees minutes as presented. Dave Hamann seconded. **Motion carried 5-0.**

**Ways & Means Meeting, July 6, 2004**

Sue Lingle motioned to table this item. Dave Hamann seconded. **Motion carried 5-0.**

**NEW BUSINESS**

**Skate Park**

Steve Manor, co-chair of the Howell Skate Park Committee, was present to provide a status report on the skate park and ask for the township's support. Mr. Manor provided attendees with a brochure summarizing the project. The location for the skate park will be the north side of the Freshman Campus.

The committee has focused on fundraising for the past six months. To date, approximately \$140-150,000 has been collected in pledges, grants and cash. The largest grant is from the Parker Foundation, which is a matching grant of \$75,000. The City of Howell has a lease agreement with the school system, and will assume all liability and insurance for the skate park. The park will be fenced and gated. Bob Hanvey asked if the committee is part of Parks & Recreation. Mr. Manor said the committee is an ad hoc committee established by the City of Howell. Mr. Hanvey asked who handles the money. Mr. Manor said the city clerk's office. Mr. Hanvey asked about a possible start date for construction. Mr. Manor said hopefully September 2004, and construction should take approximately six weeks. Sue Lingle asked if the skate park would be part of the Parks & Recreation Authority. Mr. Manor said possibly. Myrna Schlittler asked if donating money had been discussed with the accountant. Ms. Lingle said she discussed it with the township attorney. Myrna Schlittler motioned to table this item to give the board an opportunity to review the budget to determine an amount for a donation. Sue Lingle seconded. **Motion carried 5-0.**

## **OLD BUSINESS**

### **Roads**

Bob Hanvey said something needs to be done with the GRIP (Gravel Road Improvement Program) money. The GRIP money available is \$20,621, which the township must match. Phil Westmoreland said tar and chip would cost approximately \$1.50 per square foot. Sue Lingle motioned to spend GRIP money and matching township funds in an amount not to exceed \$45,000 for road repairs to Fisk Road between the Francis Road and Beck Road, and the corner of East Davis Road and Fisk Road. Myrna Schlittler seconded. Roll call vote: Dave Hamann, Sue Lingle, Bob Hanvey, Myrna Schlittler, Dan Lowe—all yes.

**Motion carried 5-0.**

### **Fire Ordinance**

Bob Hanvey said he is waiting for the attorney's review. Dave Hamann motioned to table this item. Sue Lingle seconded. **Motion carried 5-0.**

### **Norton Road/Township Hall Parking Lot Paving**

Bob Hanvey received a bid from Allied for the parking lot, which includes a reduction in the price if the Norton Road repairs are done at the same time. Phil Westmoreland explained the difference between pulverizing and milling, and cautioned that the grading needs to be done carefully. Mr. Westmoreland will contact Mr. Pearson to ensure the township's requirements are clear. Sue Lingle motioned to table this item until all bids are received. Dave Hamann seconded. **Motion carried 5-0.**

### **Change Order and Pay Request**

Bob Hanvey said he and Dan Lowe met with the builder and the architect to discuss these items. A revised billing request and change order was received. The amount left to complete is \$2,000, and an additional \$1,306 for the alarm system. Sue Lingle motioned to approve billing request #9 dated July 8, 2004, change order #2, and change order #3 in the amount of \$38,743.86. Dave Hamann seconded. Discussion: Mr. Hanvey said he didn't see where the \$1,306.44 was in change order #3. Mr. Hanvey said he thought \$1,306.44 was for the fire alarm and change order #3. Sue Lingle motioned to amend the motion to approve billing request #9 dated July 8, 2004, change order #2, and change order #3 not to exceed \$38,743.86. Dave Hamann seconded. **Motion to amend carried 5-0.** Roll call vote (on original amended motion): Dave Hamann, Dan Lowe, Bob Hanvey, Myrna Schlittler, Sue Lingle—all yes.

**Motion carried 5-0.**

## **NEW BUSINESS (continued)**

### **Township Planner**

Bob Hanvey asked Dave Hamann to explain the Planning Commission's recommendation. Mr. Hamann said the Planning Commission is requesting the Township Board to release the current planning consultant and to search for a new planner due to a number of different issues over the past several months. Mr. Hanvey said he spoke with Mr. Ambrose, who indicated he would not be willing to prepare review letters without making a recommendation, as the Planning Commission requested. Mr. Ambrose feels it's best to terminate his contract with the township.

Dave Hamann motioned to notify John Ambrose in writing that the township would no longer be utilizing his services as planning consultant. Sue Lingle seconded. **Motion carried 5-0.** Dave Hamann motioned

to have the Planning Commission subcommittee continue to research a new planning consultant. Myrna Schlittler seconded. **Motion carried 5-0.**

**Signs**

Bob Hanvey gave the board members a copy of a letter received from the David Reader for Circuit Court Committee regarding political signs. It is that committee's position that the size restriction in many ordinances is unconstitutional.

**PLANNING COMMISSION REPORT**

Dave Hamann said the Planning Commission met on June 16 for an ordinance workshop, and the regular PC meeting on June 22. The PC has been working on the home occupation ordinance, private roads, access management, private stables, and nonconforming lots. Mr. Hanvey said the PC forwarded Fox Meadows to the township board contingent on agreement between the attorneys. Agreement has not been reached to date.

**PARKS & RECREATION REPORT**

Sue Lingle reported that the monthly meeting will be held the week of July 10, and she will provide two reports at next month's board meeting.

**ZBA REPORT**

The July ZBA meeting is scheduled for Monday, July 19.

**ZONING ADMINISTRATOR REPORT**

Provided in packets.

**DPW REPORT**

Provided in packets.

**FIRE AUTHORITY REPORT**

Bob Hanvey said there is continued exploration of a merger between the Howell Area Fire Authority and the Brighton Authority. The advantage of a merger would be primarily in the area of service.

**FOR THE GOOD OF THE TOWNSHIP**

Bob Hanvey reported that the new file server is in place.

**CALL TO PUBLIC**

Horace Cole, 918 Francis Road: Mr. Cole referenced a recent article in the Detroit News regarding the wastewater treatment plant smell. The article mentions the township's ozinator, and the fact that it wasn't properly installed. Mr. Cole asked if the township is responsible for making the necessary changes. Mr. Hanvey said it's being negotiated with Rainbow. This item should be on the DPW agenda next month.

**TREASURER'S REPORT**

Myrna Schlittler motioned to accept the treasurer's report with expenses of \$46,050.25. Dave Hamann seconded. **Motion carried 5-0.**

**ADJOURNMENT**

Dave Hamann motioned to adjourn the meeting at 9:10 pm. Sue Lingle seconded. **Motion carried 5-0.**

**MINUTES - AUGUST 12, 2004**

**MEMBERS PRESENT:** Bob Hanvey, Sue Lingle, Myrna Schlittler and Dave Hamann  
**MEMBERS ABSENT:** Dan Lowe  
**OTHERS PRESENT:** Mike Kehoe, Township Attorney  
Annette McNamara, Zoning Administrator  
Phil Westmoreland, OHM, Township Engineer

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**CALL TO ORDER**

Bob Hanvey called the meeting to order at 7:30 pm.

**PLEDGE TO FLAG**

**MEMBERS PRESENT**

Bob Hanvey introduced the members of the Board.

## **APPROVAL OF AGENDA**

Bob Harvey suggested changing the agenda item "Gravel Pit" to the top of the agenda. Sue Lingle motioned to approve the agenda as amended. Dave Hamann seconded. **Motion carried 4-0.**

## **NEW BUSINESS**

### **Gravel Pit**

Bob Harvey introduced Joe Riccardi, the president of San Marino and Northern Materials. Mr. Harvey asked the residents to allow Mr. Riccardi to make his presentation, and then questions can be asked of the Board. Mr. Riccardi began by saying that as of right now, he has not closed on the property belonging to the Trierweiler estate. His company hasn't gotten an engineer involved at this point. The closing is scheduled for this month. Mr. Riccardi said his plans are to mine the rest of the material that's on the property over the next 3-5 years, and develop a small community. House construction could begin in as little as three years. His company has been cleaning out debris and hauling away garbage. His company will own the 10 acres in the back, and there are no plans to mine that property. The house will be renovated. There will be little or no disturbance to the 10-acre parcel to get the hill to slope to an acceptable grade for a road and homes. Mr. Riccardi presented an aerial view of the property, dated March 2000. The plans are to get the hill to slope from the 10 acres in the back to the bottom of the excavation, and to have a road come off of County Farm Road. Mr. Riccardi said they are not taking the 10 acres to get the slope. Mr. Riccardi said, "We will not mine the 10 acres." Mr. Riccardi said he has no intention of touching the northwest corner of the 16-acre parcel. Mr. Harvey said for the plan to work, from the back of the house out to County Farm, some of the soil will have to be removed from the 10-acre parcel. Mr. Riccardi said yes. Mr. Harvey said it was his understanding that there are deed restrictions on the 10-acre parcel that would prohibit removing any soil or minerals from that parcel. Mr. Riccardi said he is aware of that. Mr. Harvey asked how Mr. Riccardi plans to deal with that deed restriction. Mr. Riccardi said the attorneys are looking into it. They won't be moving the soil off of the 10 acres, just balancing on the 10 acres.

Mr. Harvey said when he walked along the fence line on the property, it appeared that the fence line was near the peak of that area, and the grade on the east side in the mining area was very steep. He believed it was Mr. Riccardi's suggestion that by moving the soil on the 10-acre parcel to the east, you could get a smooth grade out to County Farm that would be a 10% grade. However, that would involve moving soil from the 10-acre parcel onto the 20-acre parcel. Mr. Riccardi said you would have to move a little bit. Mr. Harvey said that's where the deed restrictions come in, and he's not sure how you can have a restoration that doesn't involve moving soil off of the 10-acre parcel. Mr. Riccardi said even if the deed restrictions prohibit him from moving soil off the 10-acre parcel, he could balance on the 10 acres. It's just easier to move it off the 10 acres so the trees in the back don't have to be removed. Mr. Riccardi doesn't want to touch the back part of the 10 acres because it's fully treed and there's no material there to mine. Mr. Harvey restated that Mr. Riccardi said there's no material to mine on the 10-acre parcel. Mr. Riccardi said that's correct. Mr. Riccardi referred to the different elevations on the aerial photograph. Mr. Harvey asked the elevation of the gravel pit in relation to County Farm Road. Mr. Riccardi said County Farm Road at the intersection of Sanitorium is 915', 925' at the entrance, and 1055' at the water tower, and the walkout of the house is 1045', then it drops off to 945'.

### **Call to the Public**

**Brian Manson, 2950 Sanitorium Road:** Mr. Manson asked whether the township considers the gravel pit a mine? Mr. Harvey said probably, according to the definition of mining. Mr. Manson asked if there is a mining permit. Mr. Harvey said no, not with the township. Mr. Manson asked if they need to have a township mining permit? Mr. Harvey asked the township attorney, Mike Kehoe, to respond. Mr. Kehoe said that property is considered a non-conforming use. Under the zoning ordinance, as a non-conforming use, it's allowed to continue, but there are certain legal restrictions that deal with whether or not an expansion is allowed. Mr. Kehoe said they are probably getting real close to what could be considered an expansion. Mr. Kehoe has discussed this issue with the township officials and Mr. Riccardi to find out where he's headed with this project. If the operation expands, then under the ordinance, they have to comply with the ordinance. Mr. Manson stated that the property was split within the last eight months and given two tax code numbers. Mr. Kehoe confirmed that a split was done. Mr. Manson said that made the property more non-conforming. Mr. Kehoe said not necessarily; at the time the

gravel pit began, there was no size limit for an excavation operation. The use itself is not non-conforming because of the size of the parcel; the use of the property is non-conforming from the standpoint that the ordinance went into effect and had some restrictions, and one of them was that you had to have a permit. Because of the fact that they were already operating before the ordinance required a permit, that's what makes them non-conforming. The split of the property and the reduction in size doesn't necessarily mean that the operation itself is in violation of the ordinance. The question is going to be, and where the violation questions are going to arise, are more in regard to what direction they head, how does the expansion occur, and those types of things. Merely the fact that the size changed doesn't necessarily mean it's a violation. Mr. Manson said the ordinance also says if it's already existing non-conforming, you can't make the area or the size bigger. Mr. Kehoe said correct. Mr. Manson asked if they aren't, every time they take out one foot of dirt, making the area bigger? Mr. Kehoe said yes, but on the other hand, that's the basic operation of a gravel pit. Mr. Manson asked if that is why the ordinance reads non-conforming use of land. Mr. Kehoe said the basic premise of a gravel pit is to remove material. Mr. Manson asked if that's why use of land is in the ordinance. Mr. Kehoe said he doesn't believe that's what it means. He believes it means the overall scope of the operation being enlarged. They are very close to being in that position. Mr. Kehoe said he has provided the township with advice, and this is going into an area that's covered by attorney/client privilege. Mr. Manson asked if anything in the ordinance allows it to be made greater. Mr. Manson said they're closer to the road than 150'. Mr. Hanvey said that's not the only thing that doesn't conform to the ordinance; there's a multitude of things that don't conform. The issue for the township is to decide what triggers them to become subject to the current ordinance. When that happens, then the whole ordinance falls into play, i.e., fencing, restoration plan, etc. Mr. Manson asked whether they need the 10 acres to reclamate. Mr. Hanvey said they haven't filed an official reclamation plan. Based on their visual observation, they are suggesting that the most reasonable way to get the site to a residential-type application would be to take some soil from the 10-acre parcel and move it onto what used to be the gravel pit in order to provide a slope that will go, not from the top of the existing hill, but from the elevation at the valley at the back on the south side of the house. Mr. Manson said doesn't that mean there's not enough dirt there. Mr. Hanvey said he believes that's correct. Mr. Manson said doesn't that mean the gravel pit's out of dirt, there's not enough dirt to fix the problem; if they do have to abide by the ordinance, the slope required is 1:10. Mr. Hanvey said correct. Mr. Manson said he doesn't believe that land was originally there. Mr. Hanvey said if they have a 100' rise, they need to go out 1000'. That math is challenging if they try to restore it from the peak of the existing ridge. Mr. Manson said again that there's not enough dirt there. Mr. Hanvey said that would be a reasonable statement. Mr. Manson asked why are they still digging? Mr. Hanvey said because it's a gravel operation, and it's his belief that they're not operating under the 2000 mining ordinance, but the 1977 version. That's one of the issues that need to be decided. Mr. Manson said splitting the parcel should have caused that to happen. Mr. Hanvey said that is one of the issues that have been discussed with the attorney. Mr. Manson asked how long it would take to figure it out. Mr. Kehoe said his concern in regard to claiming that merely the change in size from 20 acres to 16 acres is whether or not that automatically means they're in violation of the ordinance, because of the fact that they were in operation before there was a requirement for the pit to be a minimum size. The 3+ acres taken from the 20-acre parcel was not part of the mining operation. Mr. Kehoe would like to focus on all of the violations, not just the size. Mr. Manson pointed out that Section 19.03 of the ordinance deals with the issue of size. Mr. Kehoe said taking dirt out doesn't necessarily mean an enlargement, because that's the nature of a gravel operation. Mr. Manson said if they're at 148' today, and the mining ordinance says you can only go to 150', and they move to 147', would that make them more non-conforming by moving one foot closer? Mr. Kehoe said no, he doesn't believe they can. Mr. Hanvey said they are clearly beyond 150'. Mr. Manson asked Mr. Kehoe if they could keep moving closer? Mr. Kehoe said no, he doesn't think they can. Mr. Manson asked if you could keep taking dirt out? Mr. Hanvey said he believes it goes back to the question of the nature of a gravel operation. Mr. Hanvey asked if everyone could change their focus and provide suggestions for how the parcel should look in five years.

**John Manson, 3048 Jewell Road:** Mr. Manson asked whether they need a mining permit. Mr. Kehoe said he doesn't think they do. However, if they continue in the fashion that he believes they're going to,

then they probably will need one. Mr. Manson asked if they are removing material from the property, then they would need a mining permit, correct? Mr. Kehoe said if they start to expand the operation, then yes, they need a mining permit. Brian Manson asked for the definition of "expand." Mr. Kehoe said if they are moving beyond the 150', then he believes that is an expansion. Mr. Hanvey said another way to look at it is they're removing more material than has historically been moved over the last four or five years, that would also constitute an expansion.

**John Manson** said in the mining ordinance, the township is responsible for yearly reviews, and it's his understanding that the township hasn't done that. Mr. Hanvey said it hasn't been done with this site. Mr. Manson asked if there are plans to do that in the future. Mr. Hanvey said if it's determined that they are subject to the ordinance, it certainly will be done. Mr. Manson asked how long before a determination is made? Mr. Hanvey said it's only been a week or two since the township has been discussing this with the new operators. Mr. Manson said he came to the township over a month ago. Mr. Manson asked when the township is going to stop and make the determination, or are we going to keep dragging our heels? Mr. Hanvey said sometime in the next couple of days something should be done, possibly Monday or Tuesday, as soon as the appropriate course of action is decided. Mr. Manson asked Mr. Hanvey what makes him think they're not mining there? Mr. Hanvey said that no one says they're not. Mr. Manson said they're clearly past the 150' marker. Mr. Hanvey said yes. Mr. Manson said once you're past the 150' marker, you're done. Mr. Hanvey said the township is looking at an interpretation of that. Mr. Manson said it's time to stop and decide what's going to be done with the property. He's not against them doing something with it. Mr. Hanvey said if it's determined that they're subject to the ordinance, then everything else kicks in as well. Mr. Manson said there's not enough land there, and previously Mr. Hanvey said they were going to use the 10 acres to reclaimate the property. Mr. Manson believes they can't do that because of the mining ordinance because that's a separate parcel. Mr. Hanvey said they also couldn't because of the deed restrictions. If they have to use the 10 acres to reclaimate, that means there's no more dirt there, yet trucks continue to go out. Mr. Manson stated that Mr. Hanvey said he only saw one truck leaving. Mr. Hanvey said on the two days he was there, he saw a total of one truck. Mr. Manson asked if that truck has to come back to reclaimate that property? Mr. Hanvey said from the elevation at the top of the hill, it would require bringing material in. If they are to the point where they can present a plan that would be acceptable to the owners of the property around them, that would allow reclamation and produce a residential application of the land, he believes that's a reasonable approach. Mr. Manson said they still need a mining permit for the 10 acres. Mr. Hanvey said that's a different issue. Mr. Manson said the minute they want to push more than 1000 yards off of the hill, they will need a mining permit. Mr. Hanvey said if it doesn't leave the site, it's considered land balancing. Mr. Manson said he believes the ordinance says "from that parcel." Mr. Hanvey said correct, if it's leaving the site, it's mining. Mr. Manson asked if a determination would be made by Monday. Mr. Kehoe said that would be reasonable. Mr. Manson asked the name of the company buying the gravel pit. Mr. Riccardi said the name of the company is Northern Materials. He also asked if anyone present knows how to process sand and gravel. Mr. Hanvey said he didn't believe that's an issue. Mr. Manson asked for the name of the company on the purchase agreement. Mr. Riccardi repeated that it's Northern Materials.

**Art Mohr, 3012 Sanitorium:** Mr. Mohr pointed out a couple of things he believes are material. He is a businessman. We just heard that the operator of the pit is Northern Materials, Inc., Glen Caverly, 1150 Victory Road in Howell. Mr. Riccardi said that's his partner. Mr. Mohr continued that Mr. Caverly is the registered owner of the property with 60,000 shares, but there's no notice of how well the company is capitalized. The company was incorporated on July 27, 2004. You're speaking about a corporation doing all this reclamation while at the moment there is a question by the neighbors about the damage being done to the property and the capability of the people now working on this property being able to restore this property if, in fact, on Monday, the township decides they are in violation of some ordinance. This company has no assets on file. It's only 90 days old. You are allowing them to operate the property. He questions that without some type of bond posted with the township that demonstrates an amount equal to the total restoration cost, that a shell corporation that is doing this operation any longer from tomorrow morning on should be suspect. There's nothing to protect the neighbors in the area. This is a road that has not seen a truck except for the building of the water tower. These trucks have

been working on this property, they've been hauling down the trees at the top of slope. If they never appear tomorrow morning, no one is responsible for cleaning the property up. Mr. Mohr talked with several of the employees at the site, and without question, they've said they're going to mine all 10 acres. Along Sanitorium Road, where there's been a shelter of trees, the trucks are sitting and idling with diesel engines all day long, and they're cutting a roadbed through the woods. They've already said they're going to cut down the trees along the road, and now the residents have full visibility of the gravel pit. At least Joe Trierweiler put up a berm, which the employees of Northern Materials say they're going to take down. Mr. Mohr said the quality of life he would like in five years is a responsible board operating this township, that recognizes that when you have a company that's three months old that has no affiliation with any other corporation, which is operating the vehicles and the mine with equipment owned by San Marino Excavating, with Joseph Riccardi listed as the registered person, at 7676 Rushton Road in Brighton, which was incorporated in 2001. There's a total of less than six years of operating history on this company that the township is allowing to go in and deface the property. The proper thing for the township board to do is immediately stop all action on the site, to require that it be surveyed clearly so that all of the neighbors can see the markings where the 10 acres in the back are separated from the front. This township sees that it takes no more lateral movement, and no more trees removed until the legal matter is handled because all of the things that came before Mr. Trierweiler died were grandfathered in. This operation is operating under an option to purchase the property. This company is a brand-new entity. The minute this company started to operate the pit under Northern Materials name, it should now be in conformance with 2004 laws. For the attorney not to know this is despicable. All of these questions about this mine...Steve Wilson, 517-241-1542, is responsible for all mining operations at the Michigan Department of Environmental Quality. All of these questions that the attorney can't answer were readily answered by Mr. Wilson on the phone. There is no state legislation related to mined sand and gravel. According to Mr. Wilson, the only thing the state has legislation over is mining sand dunes and iron. All of the rest is a local township zoning issue. Mr. Wilson's comments included that the mining operation should be as responsible as possible to the adjacent property owners, making the least possible intrusion on neighborhoods and quality of life for the neighboring property owners. Fencing might be provided. A reasonable way to handle it would be to put berms and trees along the property to block the view of the mining operation as best as possible. This operator is defiant with the neighbors, thinking only about how quickly he can extract whatever financial benefit he can from the land, he has absolutely no financial interest beyond the day-to-day operations. Mr. Mohr believes it's the responsibility of the township board to immediately cease those operations until a proper plan is put forward by a responsible property developer, and then come back to the board. All of this is a legal moot issue anyway according to all of the attorneys that Mr. Mohr spoke with, except the township attorney.

**Vicki Huberschmidt, 2960 Sanitorium:** Ms. Huberschmidt lives directly across from where the new "road" is and where they're cutting the trees. Last week, the fire department was there. Two days later, there's more smoke coming out of there. A truck sat running in front of her home all day Saturday.

**Jim Hoover, 3026 Sanitorium Road:** Mr. Hoover asked why Dan Lowe is absent. According to the employees who were cutting down trees next to the road, he was curious why they suggested that he talk with Mr. Lowe about it. Why is a board member discussing those things with employees...is something going on? Mr. Hanvey said Dan Lowe was there on Saturday, and then he asked Jack Lowe to explain what took place on Saturday. Jack Lowe said they received complaint/question about the tree removal on top of the hill. Dan Lowe was asked to come take a look at what was going on. The employee actually called the owner while Dan Lowe was there, and that's why the employee said that Dan should know what's going on. Mr. Hoover said the employees said it was approved by Dan Lowe to continue cutting the trees. Jack Lowe and Bob Hanvey both said absolutely not.

**Paul Damon, 2992 Jewell:** Mr. Damon asked Mr. Hanvey whether it was true that he had a meeting with the attorney, other board members, and the bank. Mr. Hanvey said that was not true. There was a meeting at the attorney's office a month ago, prior to San Marino being involved, with the attorney for the estate, the attorney representing the bank, and Mr. Hanvey. Their questions at that point were what were some possible applications that the parcel could be used for. Mr. Hanvey told them a residential parcel.

**Susan Davidson, 1230 County Farm Road:** Ms. Davidson said Mr. Trierweiler told her he was at the extent of what could be excavated. He thought he'd be lucky to get another season out of it. Mr. Riccardi says he has another 3-5 years. What is he planning on doing for 3-5 years?

**Dave Porritt, 1116 County Farm Road:** Mr. Porritt's property borders the gravel pit to the south. Mr. Porritt's request is for assistance with controlling the dust. On Saturday, July 24, with the wind coming from the north, his property was engulfed with a constant cloud of dust. It's an unhealthy situation.

**Michele Scott, 2992 Sanitorium:** Ms. Scott said they just moved in July 16. Her comment is as an unbiased observer. Trees are coming down along the road. Mr. Mohr spoke very eloquently and with common sense. To attract more residents to the area, the board should put a halt to this until it's been decided what to do. As an accountant for a manufacturing company, if Northern Materials has only been a corporation since July 2004, that's a red flag. He definitely should put up a bond.

**John Manson:** Would it be reasonable to stop work until a bond is received? Mr. Hanvey said if a judge can determine they are subject to the ordinance, then a bond is required, as well as the fencing, the reclamation, the setbacks, etc. Mr. Manson asked what steps have been taken to determine if the ordinance applies? Mr. Hanvey said the township is evaluating the situation. Mr. Manson said it only takes a couple of hours to see what they're doing. Mr. Kehoe said that one of things that need to be looked at is some historical perspective on what the nature of the use was. Mr. Manson asked again what steps have been taken? Mr. Kehoe said he's made recommendations to the township board. Mr. Manson asked what the recommendations are? Mr. Kehoe said based on what he's been hearing, he believes they're subject to the ordinance.

**Art Mohr:** Mr. Mohr said it's the responsibility of the board to give an answer tonight about whether that mine operates tomorrow. He's repeatedly heard that the township is waiting for a judge to decide. However, there is no issue before a judge. Mr. Mohr suggested that everyone call the EPA about the dust issue, which there is a state law about; on the groundwater issues, Mr. Mohr volunteered to drive to Lansing tomorrow. Will the board give an answer on whether the mine can operate until a bond is put in place or what legal determination is made. It is not correct for this municipal government to allow this to continue when the tax-paying citizens are sitting right in front of you. You have a responsibility to stop the mining operation until this is clarified.

**Ted Zamonski, 1278 County Farm Road:** Mr. Zamonski said that in the past, people had problems with the hours of operation of the pit, and they contacted Mr. Trierweiler. The hours were reduced. Now, they are currently starting at sun-up. Some type of hours of operation should be included because it's a residential neighborhood.

**Joe Riccardi:** Mr. Riccardi wanted to clarify some items. Hours of operation are 7:00 am to 6:00 pm, Monday through Friday, 7:00 am to 4:00 pm on Saturday. The newly formed corporation was to combine two good-standing corporations. Mr. Riccardi asked if there is a tree ordinance in the township? Mr. Hanvey said no. Mr. Riccardi said a performance bond probably isn't a bad idea—he can look at that option. There's no groundwater there—it's from a well. There's no Sunday operation.

**Brian Manson:** Mr. Manson asked if the township could make sure they don't keep moving out, and make the decision real quick.

**Dave Porritt:** Mr. Porritt asked Mr. Riccardi about the dust issue. Mr. Riccardi says his dust tank was broken, but it's fixed now. There were some start-up failures, but most bugs have been worked out. They have a calcium tank with water, and he'll take care of it.

**Brian Manson:** Mr. Manson asked Mr. Riccardi if he thinks he can get the slope on the hill? Mr. Riccardi said yes. Three to five years is the total development time.

**Larry Karon, 1685 County Farm Road:** Mr. Karon said he supports Mr. Mohr, who has presented intelligent questions regarding the operation. Because it's such a volatile issue, the lack of introduction to the neighbors has caused an emotional backlash. If there are litigious problems facing the township, discretion requires us to stop all of this and come up with a reasonable timetable. It behooves the township to not further the problem. The only way you're going to stop from furthering the problem is to stop the problem. Mr. Karon said he hopes the board has the authority to do that.

**Paul Damon:** Mr. Damon asked Mr. Riccardi if he would be willing to stop for 48 hours or 72 hours. Mr. Riccardi said he can't answer that because Glen Caverly isn't present. Mr. Riccardi said he

understands everyone's issues. The bottom line is they want the gravel pit gone, the equipment out of there, and a small community, and that's what he's there to do.

**John Manson:** Mr. Manson said the biggest issue is does the ordinance apply. This person may or may not operate there. The smart thing would be to stop and find out if the ordinance applies first. Mr. Hanvey asked Mr. Riccardi if he is willing to voluntarily comply with the ordinance. Mr. Riccardi said he couldn't legally answer that. Mr. Manson said the supervisor of the township could stop it. Mr. Hanvey said that would be one way to test to the ordinance. Mr. Hanvey said if the township issues a stop work order, and they lose, then they can do whatever they want. The best course of events would be for everyone to end up with what they want without going to court.

**Jack Lowe, Chairman of Marion Township Planning Commission:** Mr. Lowe said a meeting was held a week ago with the individuals running the pit, their attorney, the township attorney, and two of the township officials. In essence, these same discussions were held: reclamation plan, performance bond, hours of operation, dust control, and how they related back to the new ordinance. The two items that Mr. Lowe presented as primary issues were 1) to immediately get a boundary survey placed along the 10 acres as soon as possible. In the interim, they were to touch nothing on top of the hill as far as trees, nothing as far as dirt removal that affected the bank—they could within the pit until these items were brought to the township. Mr. Lowe said the agreement was they could clean up dead trees. Mr. Lowe said at the time there was no problem taking out stuff that was already down—do not touch any of the trees on top of the hill. Mr. Lowe asked Mr. Riccardi if there wasn't an agreement to not touch trees on top of the hill? Mr. Riccardi said they specifically said they were going to take trees down from the top of the hill, 80% were dead and lying on the ground. Mr. Riccardi restated that there's no tree ordinance. Mr. Lowe again asked, "did you or did you not tell me that you were not going to take down trees other than what was dead up on the top. If there were some incidental trees to come down to get the dead trees out, that was the extent of what was to be done up there until you got back with us and established a line." Mr. Lowe said the next thing he knows, he gets a call Friday and Mr. Riccardi has started on the boundary line on a downward slope from Sanitorium Road, which did not have to have trees removed because it's downhill. That's in the greenbelt area along Sanitorium Road—two foot oak trees that should have never been touched. Mr. Riccardi said there were no trees removed from the edge of Sanitorium Road, nor will there be. Mr. Riccardi said there's been a two-track trail in there since he looked at the property. The audience strongly disagreed. Mr. Lowe said there were several people in the room who heard the agreement. This throws a great deal of doubt on the veracity of what Mr. Riccardi is saying. John Manson asked Mr. Lowe if he thinks Mr. Riccardi isn't going to do what he says. Mr. Lowe said he has concerns. Mr. Lowe asked for Mr. Riccardi's word that he won't go up there and finish the process between now and Monday, as a goodwill gesture. Mr. Riccardi said from now until Monday, he would not remove the trees. What's on the ground is going to be burned. Mr. Riccardi said he's been in touch with the surveyors. John Manson said again the township needs to get a bond to make sure it's done.

**Art Mohr:** Mr. Mohr said he's very uncomfortable to sit before the board and hear threats of litigation against the township. Why is the township board in such a defensive situation on this? Mr. Mohr said he hasn't heard one proactive situation on behalf of the citizens of the township. The township attorney should be able to tell us what our litigation responsibilities would be so we can make that determination. Mr. Mohr said he cannot in his wildest dreams believe that what the board is being asked to make a decision about is anything more than pure procrastination because none of this sets the township up. Mr. Mohr said it's being operated by a new entity and therefore they must comply. Mr. Hanvey said the ordinance doesn't say that. The ordinance says the use is independent of the person performing the operation. John Manson asked what the township has to lose by challenging it. Mr. Hanvey said allowing them to do whatever they want. Mr. Riccardi said if he can't develop the property, then it's not worth it.

**Brian Manson:** Mr. Manson asked if the township has seen any plans for development? Mr. Hanvey said no. Mr. Mohr asked what the amount of the bond would be? Mr. Hanvey said that would be determined by an engineer. Mr. Mohr said Mr. Riccardi hasn't agreed to post a bond, he's said we can talk about it.

Mr. Hanvey asked Phil Westmoreland, the township engineer, to estimate a reasonable amount for restoration. Mr. Westmoreland said a rough estimate would be \$5 million. Mr. Hanvey asked Mr. Riccardi if he would be willing to post a bond for \$5 million to complete the restoration of the site. Mr. Riccardi said he couldn't answer right now. Mr. Hanvey asked Mr. Riccardi if he could stop work until a bond is posted. Mr. Riccardi said he would have to talk with the attorney for the estate. Mr. Hanvey said it seems reasonable that Mr. Riccardi could post a bond that would expire in a year, and it could be re-evaluated after the restoration plans are prepared. Mr. Riccardi says he doesn't have a problem with a performance bond, but they have to be able to keep working to pay for the bond. Secondly, he needs to get his attorney involved and come up with a number, and then get a bond. It doesn't happen in 24 hours. Mr. Hanvey said the alternative is to post a stop-work order and talk to a judge. Mr. Hanvey said it would be to everyone's advantage to come to some agreement. Mr. Riccardi said he needs time to get a bond, and to talk with Glen Caverly, who is the president of Northern Materials. Mr. Hanvey said he thought Mr. Riccardi was the president. Mr. Riccardi said a conversation on the bond amount should be held Monday morning. Mr. Hanvey said there will be no operations between now and the time a bond is posted. Mr. Riccardi said his attorney would be there at 9:00 am tomorrow morning to open back up. Mr. Riccardi asked Mr. Hanvey what his definition of "operating" is. Mr. Hanvey said any activity whatsoever on the site. Mr. Riccardi said he's in a bad situation, without his attorney being present. This forum was supposed to be for Mr. Riccardi to introduce himself to the neighbors.

**Art Mohr:** Mr. Mohr pointed out to the township attorney that Mr. Riccardi presented himself as the president of Northern Materials and the other corporation. He has just denied being the president. Also, he said in the very beginning that he would not touch the 10 acres; then it went to little or no disturbance of the 10 acres; then it was we will not move the 10 acres; then it was they will have to take a little bit of it, but we don't have intentions of touching much except the northeastern corner. These inconsistencies should be reason enough that this man is in question about the continued operation and his willingness to seek out the legal remedy to this situation.

Mr. Hanvey asked the attorney if the bond amount could be changed. Mr. Kehoe said the terms could be mutually amended. Mr. Hanvey asked the owners of property that was originally part of the 138 acres who were present, if Mr. Riccardi presented an acceptable plan, but that would require moving dirt off of the 10-acre parcel, would they be willing to allow that to happen? John Manson said he would be willing if it was bonded and they presented a plan. Mr. Riccardi asked Mr. Kehoe if the township could legally shut down a property owner who is continuing to mine the pit. Mr. Kehoe said under the circumstances, he believes they can. John Manson confirmed that Mr. Kehoe was saying the township could put a stop-work order on the property. Mr. Kehoe said yes. Mr. Hanvey asked Mr. Riccardi if he had an engineer picked out. Mr. Riccardi said Garlock & Smith is the surveyor, and Desine, Inc. is the engineer. He said they haven't put forth all of the engineering yet, because they're just getting the ball rolling. What the township is asking for tonight is something his attorney will handle.

**Brian Manson:** Mr. Manson asked Mr. Kehoe if he would be ready for Mr. Riccardi's attorney tomorrow? Mr. Kehoe said yes.

**Susan Davidson:** asked what exactly are they doing at the pit now? Are they mining, are they restoring, are they bringing dirt in to separate and sell, because that's what it sounds like. It's so loud—there has never been the noise volume there is now. Mr. Hanvey said they are running multiple plants and the previous operator never did. Mr. Riccardi said to his knowledge, Mr. Trierweiler dry-screened material for the past 20 years. There is such an abundance of dirty stone on the site now it is economically worth it to wash the stone that's there and reclaim the land with the sand taken off the stone. They have cleaned up the garbage, mobile home, old conveyors, trucks, trash, broken concrete, and debris. Mr. Hanvey asked why they're cutting down the trees on top of the hill. Mr. Riccardi said when material is processed to run through the wash plant, you need a 60/40 mix of sand and stone. They need the sand to process the stone.

**Art Mohr:** The issues are very clear. The only reason Mr. Mohr is here is because Mr. Riccardi's operation is defacing the area by cutting down trees, making too much noise, putting dust in the air, and running a lot of trucks. The board's concern should have nothing to do with the further reclamation. Mr. Mohr would like to see professional conduct on the part of the elected board members to stop the operation until Mr. Riccardi's operation is in compliance with the current laws that prevail.

**Jim Hoover:** Mr. Hoover asked Mr. Kehoe if the township would have any liability for the trucks if there were to be an accident. Mr. Kehoe said he doesn't believe so.

Mr. Hanvey said he disagrees with Mr. Mohr. He believes his objective is to have the site restored to a position that makes it residential, the noise and the dust are gone. Mr. Hanvey asked Mr. Westmoreland about the time frame for a grading plan. Mr. Westmoreland said between 30-60 days.

Jack Lowe asked to have the motion include that the existing boundaries aren't to be extended until the grading plan is approved. Mr. Lowe said that provides incentive to get the grading plan more quickly. It should also include a statement about substantial compliance with the 2004 mining ordinance. Mr. Hanvey asked which group would handle that, the Planning Commission, the ZBA? Mr. Lowe asked Mr. Kehoe if the ZBA would be the appropriate group. Mr. Kehoe said that would be one way. Another way would be through some type of consent agreement entered with the court. Mr. Lowe reiterated that a great deal of what went on tonight was self-created by Mr. Riccardi's actions.

Myrna Schlittler motioned to issue a stop-work order until a \$5 million bond is posted, provide a grading plan within 60 days, become compliant with the 2004 mining ordinance by complying with hours of operation, dust control, and safety issues, and mining on the banks will not be extended. Sue Lingle seconded. Roll call vote: Dave Hamann, Sue Lingle, Bob Hanvey, Myrna Schlittler—all yes.

**Motion carried 4-0.**

Mr. Hanvey directed the zoning administrator to put a stop-work order on the sign at the site, and provide Mr. Riccardi with a copy. Dave Hamann motioned that if work does not stop due to the red tag, the township board authorizes Mike Kehoe to seek an injunction. Sue Lingle seconded. Roll call vote: Myrna Schlittler, Bob Hanvey, Sue Lingle, Dave Hamann—all yes. **Motion carried 4-0.**

**(Adjourned for break; resumed meeting at 10:12 p.m.)**

**CALL TO PUBLIC**

None.

**APPROVAL OF MINUTES**

**Ways & Means Meeting, July 6, 2004**

Myrna Schlittler motioned to approve the July 6, 2004 Ways & Means minutes as presented. Sue Lingle seconded. **Motion carried 4-0.**

**Board of Trustees Meeting, July 8, 2004**

Sue Lingle motioned to approve the July 8, 2004 Board of Trustees minutes as presented. Dave Hamann seconded. **Motion carried 4-0.**

**Special Board of Trustees Meeting, July 22, 2004**

Dave Hamann motioned to approve the Special Board of Trustees minutes as presented. Sue Lingle seconded. **Motion carried 4-0.**

**Ways & Means Meeting, August 9, 2004**

Dave Hamann motioned to approve the August 9, 2004 Ways & Means minutes as presented. Sue Lingle seconded. **Motion carried 4-0.**

**OLD BUSINESS**

**Roads**

The price from Livingston County Road Commission (LCRC) to fix the roads (Fisk from Francis to Beck) was \$54,000. The township only wanted to spend \$45,000; \$21,000 of that is GRIP money. Mr. Hanvey said if this isn't handled at this meeting, it probably won't get done this year. If the GRIP money isn't used, it's lost. Sue Lingle motioned to approve \$54,000 for road repairs. Myrna Schlittler seconded. Roll call vote: Dave Hamann, Bob Hanvey, Myrna Schlittler, Sue Lingle—all yes. **Motion carried 4-0.**

**Fire Ordinance**

Bob Hanvey received comments from the attorney, but more are coming. Dave Hamann motioned to table this item. Sue Lingle seconded. **Motion carried 4-0.**

**Skate Park**

Sue Lingle motioned to contribute \$2,350 for services contingent upon a satisfactory agreement being reached between the township and the City of Howell. Dave Hamann seconded. Roll call vote: Myrna Schlittler, Bob Hanvey, Dave Hamann, Sue Lingle—all yes. **Motion carried 4-0.**

### **Parking Lot/Norton Road Manholes**

A bid was received from Pearson for \$19,012. Mr. Westmoreland offered the opportunity to Allied Construction for \$13,000 and they declined. Mr. Westmoreland said he received a letter from them today saying they want the original \$11,000, plus the \$4,500 from the February proposal to fix the Norton Road manholes, which brings the total to roughly almost \$16,000. Their proposal for the parking was approximately \$9,000. Mr. Westmoreland feels \$11,000 is too high for the Norton Road patches. Mr. Hanvey said Dan Lowe has information from Tom Rogers. Sue Lingle motioned to table this item for more information. Myrna Schlittler seconded. **Motion carried 4-0.**

### **Electronic Recycling Payment Request**

Dave Hamann motioned to pay Recycle Livingston \$996 for 2004 electronics recycling. Sue Lingle seconded. **Motion carried 4-0.**

### **NEW BUSINESS (continued)**

#### **Trierweiler Show Cause Hearing**

Annette McNamara provided the board with a letter requesting this item be withdrawn based on conversations that the attorneys have had. Dave Hamann motioned to postpone this item until further communication from the zoning administrator. Myrna Schlittler seconded. **Motion carried 4-0.**

#### **Snow Removal**

Sue Lingle motioned to accept bids for the 2004-05 snow removal. Myrna Schlittler seconded. **Motion carried 4-0.**

#### **Cleaning of Hall**

Myrna Schlittler indicated she received two bids for cleaning services: Carefully Clean for \$100 per week, and E.T. Janitorial for \$105 per week. There was a question whether the quote was for one building or both. Sue Lingle motioned to have Cindy Hodge get more specific information from E.T. Janitorial. Myrna Schlittler seconded. **Motion carried 4-0.**

#### **MHOG Wells #5 and #6 Site Plan**

Sue Lingle motioned to approve the site plan for MHOG wells #5 and #6 as recommended by the township Planning Commission. Dave Hamann seconded. **Motion carried 4-0.**

#### **Planning Commission Rules and Procedures**

Annette McNamara provided copies in the packets for the board's review.

#### **GIS Intergovernmental Agreement**

Mr. Hanvey provided the board with a letter from the county's GIS department requesting an amendment to the Intergovernmental Agreement for Access to GIS Data between the county and the township to prohibit the township from posting county data on the internet. Sue Lingle motioned to authorize the township supervisor to sign the amended agreement. Myrna Schlittler seconded. **Motion carried 4-0.**

### **PLANNING COMMISSION REPORT**

Dave Hamann reported that the Planning Commission held three meetings. Two items will be presented at a public hearing on August 24. The regular PC meeting was held on July 27. The PC reviewed a Special Use Permit for The Meadows West, MHOG wells, and set public hearings.

### **PARKS & RECREATION REPORT**

Sue Lingle reported that at the July 13 meeting, Todd Smith from Genoa Township reported they may pull out of the Howell Area Parks & Recreation. Genoa Township is attempting to purchase a 200-acre parcel which would not be part of the Authority. At the August 10 meeting, a new member was assigned by the Howell City Council to replace Sarah Miller.

### **ZBA REPORT**

None.

### **ZONING ADMINISTRATOR REPORT**

Provided in packets.

### **DPW REPORT**

Provided in packets.

### **FIRE AUTHORITY REPORT**

Bob Hanvey said he would provide a report at the next month's meeting.

**FOR THE GOOD OF THE TOWNSHIP**

Bob Harvey reported that work on the Knolls of Grass Lake began yesterday.

**CALL TO PUBLIC**

None.

**TREASURER’S REPORT**

Dave Hamann motioned to accept the Treasurer’s Report with expenses of \$61,080.96. Myrna Schlittler seconded. **Motion carried 4-0.**

**ADJOURNMENT**

Sue Lingle motioned to adjourn the meeting at 10:40 p.m. Dave Hamann seconded.

**Motion carried 4-0.**

**BOARD OF TRUSTEES –SPECIAL MEETING  
MINUTES - AUGUST 23, 2004**

**MEMBERS PRESENT:** Bob Harvey, Sue Lingle, Dan Lowe, Myrna Schlittler, and Dave Hamann

**MEMBERS ABSENT:** None

**OTHERS PRESENT:** Mike Kehoe, Township Attorney

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**CALL TO ORDER**

Bob Harvey called the meeting to order at 10:05 a.m.

**CALL TO THE PUBLIC**

None.

**APPROVAL OF AGENDA**

Sue Lingle motioned to approve the agenda as presented. Dave Hamann seconded.

**Motion carried 5-0.**

**GRAVEL PIT**

The gravel pit is located at the corner of Sanitorium and County Farm . It has been operated by Mr. Trierweiler for several years. Upon Mr. Trierweiler’s death, it became part of an estate and is now being operated by Northern Materials. A representative from Northern Materials will present his view of the operation. Raymond Feul, the attorney representing Northern Materials, explained his appearance today follows a lengthy meeting held with the township attorney on a proposed stipulated order that would not relieve the court of the litigation, but is an effort to try and remove the temporary restraining order and prevent a permanent injunction. In discussions with township representatives and its counsel, although the defendant’s counsel believes that there’s a non-conforming use, it appeared that one of the major concerns of the constituency and the board was the issue of a plan of reclamation down the road. Mr. Feul said that Glen Caverly is present today. He has been working with Desine, Inc. to try and assure the board that is their intent, although from a legal standpoint, he doesn’t feel there’s a requirement that the property be reclaimed. In the spirit of trying to move forward and resolve this matter amicably to everyone’s best interest, and to eventually try to resolve the litigation, Mr. Caverly agreed to attend this meeting, even though this matter is scheduled for a vote. Mr. Caverly has some preliminary design drawings to show that they are acting along those lines, and that is, in fact, the intent of Northern Materials after they finish the excavation, which they feel they’re entitled to under the non-conforming use. Mr. Caverly presented the board with a very preliminary hand sketch. Mr. Feul said they recognize it would be subject to approval, but that can be worked out. Due to the price that was offered to the Trierweiler estate, it doesn’t make economic sense to simply mine the site and walk away. They can’t get enough revenue to cover the cost of operation without having a plan in mind. They own the adjoining 10-acre parcel of property to the west, and the long-range plan is to reclaim the site in conjunction with the 10-acre parcel, once the subject property is mined.

Mr. Harvey said in the discussion held the previous Thursday, a variety of legal issues were brought up that could be interpreted in a variety of ways. It was decided that it would be to everybody’s advantage to work out an agreement that would be acceptable to all parties without the filing of lawsuits that would delay the process. Mr. Feul said it would be to resolve the lawsuit that the township has already filed. The first step is to remove the temporary restraining order and prohibit a permanent injunction because

of the potential economic loss to both the owner and the people who are operating the pit. As a municipal entity, the township doesn't have to post a bond to ensure revenues are paid if the township loses the lawsuit. In the event a counter claim for a taking is alleged, the township would have to buy the property for \$1.4 million. Mr. Hanvey asked Mr. Feul to again explain his use of the word "bond." Mr. Feul explained that the township has shut down an operation that is costing thousands of dollars per day, yet the township didn't have to post a bond, but you're requiring the operator to post a bond. Right now, what we are trying to do is remove the temporary restraining order, mitigate the damages to the people who own the property and who are operating the property, and then try to resolve those other issues and address the concerns that the township and the constituency has brought to their attention, which is some type of plan for reclamation of the site, even though from a legal standpoint, there is no obligation to reclaim. Mr. Hanvey asked the defendant's counsel to explain the position about the inability of the operator or the estate posting a bond to assure reclamation.

Mr. Caverly asked for clarification on the bond. Does the bond for reclamation mean for stabilizing the soils? Dale Schaller, attorney representing the Trierweiler estate, said a performance bond, a guarantee. Mr. Caverly said there is no design that's been accepted by the township, which means they can't get a bond. Mr. Schaller said the township's request for a bond is premature. The gravel pit is still operating under its non-conforming use status. The intention of Northern Materials is to bring a plan to the township for approval. At that time, the township can certainly require a bond. At this time, pursuant to Marion Township's zoning ordinance, the township doesn't have that authority. Mr. Hanvey said it is his understanding that a bond at this point can't be done because the estate is not in a position to post it and the operators do not own the property. Mr. Feul said that is true. Mr. Schaller said the estate is barely or less than solvent. Mr. Hanvey asked Mr. Kehoe if that makes the township's request from the last board meeting something that's not reasonable at this point. Mr. Kehoe said yes. Mr. Hanvey said the resulting Stipulated Consent Order does not involve a bond because it's not something that's legally obtainable at this point.

The board members were provided with a copy of the Stipulated Consent Order, and Bob Hanvey read the relevant items from the Order:

IT IS HEREBY ORDERED as follows:

1. That the Ex Parte Temporary Restraining Order issued by the Court on August 13, 2004 is hereby dissolved and of no force or effect and held for naught;
2. That the Defendants may continue excavation and mining operations and activities related thereto on the following described property without interruption:

PARCEL 1—16.24 acres

Beginning at the Northwest corner of Section 10, Town 2 North, Range 4 East, Marion Township, Livingston County, Michigan; thence N 89°29'00" E 580.72 feet along the North line of said Section and the center line of Sanitorium Road; thence S°00 31'00", E133.04 feet; thence S°43 28'53" E 308.73 feet; thence S 43°28'53" E 308.73 feet; thence S 89°37'05" E 541.89 feet; thence S 03°29'44" E 357.18 feet along the East line of the West ½ of the Northwest ¼ of said Section and the center line of County Farm Road; thence S 89°29'00" W 1316.33 feet; thence N 03°17'54" W 725.01 feet along the West line of said Section to the place of beginning. Being a part of the West ½ of the Northwest ¼ of Section 10, Town 2 North, Range 4 East, Marion Township, Livingston County, Michigan containing 16.24 acres of land, more or less, being subject to the rights of the public over the Northerly 33.00 feet thereof, as is occupied by Sanitorium Road, also being subject to the rights of the public over the Easterly 33.00 feet thereof, as is occupied by County Farm Road, also being subject to easements and restrictions of record, if any (hereafter "Subject Property"). subject to the following terms and conditions:

- (1) Defendants shall maintain the following hours of operations: Monday through Friday, 7:00 a.m. to 5:30 p.m., Saturday: 8:00 a.m. to 12:00 noon .
- (2) Defendants shall maintain dust control on the driveway that provides ingress and egress between County Farm Road and the Subject Property.
- (3) Defendants will provide Plaintiff a survey and place stakes on the Subject Property which delineates the line of demarcation between the Subject Property and the ten (10) acre parcel of land to the immediate west of the Subject Property, within fourteen (14) days from date of entry of this Order or as shortly thereafter as required by a Registered Land Surveyor. Mr. Hanvey confirmed that this means visible stakes that the neighbors can see.
- (4) Defendants agree not to remove any trees from the top of the hill on the Subject Property or any perimeter trees on the Subject Property until any Defendant submits a site plan to the Township, or until further agreement of the parties, or until further order of the Court, unless dead or fallen by other causes.

Mr. Hanvey said the only problem he has with this item is that there's no mention that the plan has to be approved.

Mr. Feul said one of the concerns is how long it can take to get plan approval—it can take a long time. Jack Lowe, chairman of the Planning Commission, said that it's the township's desire to have the plan be reviewed as quickly as possible for resolution. Mr. Feul reiterated that the defendant is here today to try and get the TRO removed so that operations can continue. The primary lawsuit is still in effect, to which counter claims will be filed, that they want to get rid of. This is the first step in moving toward dismissing the lawsuit. This doesn't dismiss the lawsuit—it only puts the operation back in business and mitigates the damages. Sue Lingle said she thought the Planning Commission would be willing to hold a special meeting for review. Dave Hamann asked Jack Lowe if this item came before the Planning Commission, would it be against the 2000 ordinance or against some other criteria? If it is against the 2000 ordinance, wouldn't it require several variances from the ZBA? Jack Lowe said that hasn't been clarified. Bob Hanvey said that once there's a legal action filed, the negotiations involved in a settlement can depart from the Ordinance. Mr. Hanvey asked which board would be conducting the negotiations. Mr. Kehoe said it would ultimately be the township board, with the preliminary site plan submitted to the Planning Commission. Mr. Hanvey asked whether the strict enforcement of the ordinance may be modified. Mr. Kehoe said yes.

- (5) The temporary berms currently on Sanitorium Road and County Farm Road will be left alone until any Defendant submits a site plan to the Township, or until further agreement of the parties, or until further order of the Court.
- (6) Defendants will cause a topographical survey to be prepared on the Subject Property within forty-five (45) days from the date of this Order or as shortly thereafter as required by a Registered Land Surveyor.
- (7) The parties agree that in the event Plaintiff believes that Defendants shall fail to perform any of its obligations hereunder, Plaintiff must first give written notice of the alleged violation to Defendants' counsel by hand delivery and/or facsimile, and the Defendants shall have seventy-two (72) hours after written notice is sent in which to cure or otherwise resolve any alleged violation by compromise, before Plaintiff takes any further action. Mr. Hanvey asked to speak with Mr. Kehoe. Defendants' attorneys

excused themselves from the meeting. Mr. Hanvey said his concern with this item is the words "shall fail." Mr. Kehoe said it's really a matter of semantics; however, he would have worded it "have failed." Mr. Hanvey said there's a big difference, and what's better for the township? Mr. Kehoe said he would rather it say "have failed." Jack Lowe believes that "shall fail" would mean down the road as it relates to the site plan, topos, etc., rather than the day-to-day operation, and he believes "shall fail" is better. Mr. Hanvey said in terms of the enforcement issue, one of the things the township was faced with from the residents was that part of the concern was what the residents thought the company was going to do based on previous encounters with this company. That's where the "shall" part concerns him. Sue Lingle expressed concern about the 72-hour provision. Mr. Hanvey asked if any board member would like the language changed from "shall fail" to "have failed." The response was no.

Defendants' attorneys returned to the meeting.

3. This order shall remain in full force and effect unless modified by mutual agreement or until further agreement of the parties or until further order of the Court.
4. This Order shall have immediate effect.

Mike Kehoe confirmed that the dust control would be done on more than just the driveway. Dan Lowe said he had heard concerns about the property to the south being covered with dust. Mr. Caverly confirmed that the term "driveway" includes areas on the site. Sue Lingle motioned to authorize the township attorney, Mike Kehoe, to execute the Stipulated Consent Order as presented and reviewed by the township board. Dave Hamann seconded. Roll call vote: Dan Lowe, Myrna Schlittler, Bob Hanvey, Sue Lingle, Dave Hamann—all yes. **Motion carried 5-0.**

#### **NORTON ROAD MANHOLES/PARKING LOT PAVING**

Bob Hanvey said a bid was received from Pearson for the parking lot paving. The bid from Allied is higher than anticipated. The township is displeased with the work that was done by Allied, both in the fact that they didn't do what the township thought they would do, and what they did do didn't meet the contract in terms of depth of the material on the repairs. There is documentation from OHM that it was approximately 1/2 of the material stated in the contract. Mr. Hanvey said Allied has approached the township regarding payment, and Mr. Hanvey said the township is suggesting that Allied refund the money already paid. Dan Lowe said the township paid approximately half. Mr. Kehoe asked whether the township has provided formal notice to Allied that the work hasn't been done according to the contract. Mr. Hanvey said the engineer has provided them with a letter. The township will have Phil Westmoreland from OHM provide Mr. Kehoe with copies of all correspondence on this issue. Mr. Kehoe said the township should provide Allied with formal written notice and give them the opportunity to do the job correctly. If not, the township will hire someone else and consider that they're entitled to no more money under the contract because they didn't fulfill the contract. Dave Hamann motioned to accept bid from Tom Rogers for parking lot paving for \$19,380, and the board will decide on the Norton Road manhole repairs at a later date. Sue Lingle seconded. Roll call vote: Dave Hamann, Bob Hanvey, Sue Lingle, Myrna Schlittler, Dan Lowe—all yes. **Motion carried 5-0.**

#### **CALL TO PUBLIC**

None.

#### **ADJOURNMENT**

Sue Lingle motioned to adjourn the meeting at 11:05 a.m. Dave Hamann seconded.

**Motion carried 5-0.**

### **MINUTES - SEPTEMBER 9, 2004**

**MEMBERS PRESENT:**      **Bob Hanvey, Sue Lingle, Myrna Schlittler (part of meeting), Dan Lowe, and Dave Hamann**

**MEMBERS ABSENT:** None  
**OTHERS PRESENT:** Phil Westmoreland, OHM, Township Engineer

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**CALL TO ORDER**

Bob Hanvey called the meeting to order at 7:32 p.m.

**PLEDGE TO FLAG**

**MEMBERS PRESENT**

The members of the Board of Trustees introduced themselves.

**APPROVAL OF AGENDA**

Dave Hamann motioned to approve the agenda as amended. Sue Lingle seconded.

**Motion carried 5-0.**

**CALL TO PUBLIC**

None.

**APPROVAL OF MINUTES**

**Ways & Means Meeting, September 7, 2004**

Sue Lingle motioned to approve the minutes from the September 7, 2004 Ways & Means meeting as presented. Dave Hamann seconded. **Motion carried 5-0.**

**Board of Trustees Meeting, August 12, 2004**

Sue Lingle motioned to approve the minutes from the August 12, 2004 Board of Trustees meeting as presented. Myrna Schlittler seconded. **Motion carried 4-0 (Dan Lowe abstained).**

**Special Board of Trustees Meeting, August 23, 2004**

Sue Lingle motioned to approve the minutes from the August 23, 2004 Special Board of Trustees meeting as presented. Myrna Schlittler seconded. **Motion carried 5-0.**

**NEW BUSINESS**

**Fox Meadows**

Bob Hanvey said a letter was received from the township attorney indicating everything is in order. The Planning Commission has reviewed and approved the site plan. Myrna Schlittler motioned to approve the Fox Meadows site plan with the condition that the township may issue a land balancing permit immediately, but no individual land use permits will be issued until the attorney approves final copies of all documents. Dave Hamann seconded. **Motion carried 5-0.**

**Drain Resolution**

Ken Recker, from the Livingston County Drain Commissioner's office, asked the Board to consider two resolutions: one for the Jartnick Pond special assessment and one for Marion #3. Mr. Recker indicated a special public hearing would be held prior to levying the assessments. Mr. Hanvey asked how much advance notice the residents are given. Mr. Recker said the hearing normally is held in mid-September and the taxes are levied with the winter tax bill. The residents have a window of opportunity of about 20 days to file a protest to their percentage of the assessment. Mr. Recker explained that if the board approves one or both of the resolutions tonight, the Drain Commission will proceed with the project, and then give notice to the residents prior to the tax bills being put on the special assessment roll. The hearings are held at the Drain Commissioner's office. Sue Lingle asked if information would be available for residents to review at the Drain Commissioner's office. Mr. Recker said yes.

Dan Lowe suggested waiting to make a decision on Marion #3 until after a meeting is held with representatives from the new high school. Mr. Recker said there are two outlets for the school property depending on how you look at it. The school's engineer has identified a fairly substantial problem with the outlet immediately to the west. There is a significant restriction on that outlet. Mr. Recker doesn't believe the southern outlet of the Marion #3 being much better. These are agricultural drains that weren't designed with suburban runoff in mind. The purpose of the meeting with the schools is to look at the layout and try to identify what area to set aside for storm water management. Mr. Recker said the school has expressed a willingness to participate, but he's not sure to what extent.

**Jeff Grifka, 2474 Sundance Ridge:** Mr. Grifka asked if the goal is to reduce the sediment into Triangle Lake. Mr. Recker said yes. Mr. Grifka asked if the majority of the sediment is due to Triangle Lake Road runoff. Mr. Recker said a significant portion of it is. Mr. Grifka asked why the Jartnick Pond residents are being assessed for part of the fix. Mr. Hanvey said it has to do with the Drain

Commissioner's evaluation of the source of the drain, who is served by the drainage area. Jartnick Pond is the area that the water comes from. Mr. Recker said the reason why is that Jartnick Pond does contribute a portion of the water to that area that causes some of the sediment load increase into the lake. There is a somewhat unquantifiable factor in that whenever you have a new development come in, there will be changes in how runoff that may have historically sat in a pothole and just went away versus water that runs downhill in a ditch and crosses under culvert—it has an impact on how the sediment is picked up into the lake. There are a couple of sound reasons for assessing the units within Jartnick Pond. Dan Lowe said the two catch basins on the north side aren't functioning properly. Part of the redesign will be to locate a spillway on the south side and cut into the curb on the north side and put a different type of catch basin system in there, so as the water comes down that hill on the north side, it will actually catch it and go into the retention pond. Right now, a lot of that water bypasses the whole retention pond system and goes right into the lake. Mr. Grifka said the drainage system was approved, and whoever approved it should be responsible for the repairs. Mr. Hanvey said that Jartnick Pond is paying only a percentage. Mr. Recker said 40% of whatever the actual cost is. Mr. Hanvey said the township, the Drain Commission, the Road Commission, and the special assessment district combined will pay for it. Mr. Grifka still doesn't believe the repairs will fix the whole problem.

Mr. Recker said the time period for the special assessment is no more than two years. Mr. Grifka asked if the residents of Jartnick Pond had been notified of this meeting. Mr. Recker said no, this is an extension of an ordinary maintenance function under the statute. If they were doing something that involved an assessment that was created pursuant to a landowner or a township generated petition for a larger project, then everyone in the assessment district would have to be notified. The Drain Code doesn't require everyone to be notified prior to the township passing the resolution. Mr. Recker said no property is being added to the district, the district is not being altered in any way, and that's why there's no hearing. In the master deed, it basically is covered. The residents are notified through disclosure in the condominium documents. Dan Lowe asked Mr. Grifka if he thought any of the other neighbors know about this meeting tonight. Mr. Grifka said no. Mr. Lowe said he didn't realize that they weren't notified. Mr. Hanvey said his understanding is that they will be notified for the next meeting. Mr. Grifka said he still believes the residents should have been notified of this meeting. Mr. Recker said there is a legitimate point to that. However, the residents along Triangle Lake have been asking for this fix for quite some time. Mr. Grifka said they're not paying for a dime of it. Mr. Recker said they aren't part of the special assessment district. Mr. Recker also said if the fix is going to be done this year, the resolution has to be passed at this hearing. The assessment will amount to approximately \$130-150 per unit over two years.

Linda Manson-Dempsey, W. Coon Lake Road: Ms. Manson-Dempsey said without the resolution, the Drain Commission can already assess \$2,500 per mile. Mr. Recker said yes. Ms. Manson-Dempsey asked if a cap is put on that if the resolution is passed. Mr. Recker said the total amount the authority is being asked to assess is \$10,000, so they're adding \$7,500 above and beyond. Ms. Manson-Dempsey asked again if the resolution is passed with a cap. Mr. Recker said yes.

Bob Hanvey read the resolution provided by the Livingston County Drain Commissioner:

**WHEREAS** the Livingston County Drain Commissioner has advised the Marion Township Board of Trustees that, pursuant to Section 196 of the Michigan Drain Code (MCL 280.196; MSA 11.1196), an inspection has been made of the Jartnick Pond Drain and, as a result of the inspection, it has been determined that certain maintenance must be performed upon the Drain; and,

**WHEREAS** the Livingston County Drain Commissioner has the authority to expend two thousand five hundred and no/100 dollars (\$2,500.00) per mile in any one (1) year for the interim maintenance of the drain, and where it is estimated that expenditures in excess of two thousand five hundred and no/100 dollars (\$2,500.00) per mile are necessary, those amounts may not be expended until approved by the resolution of the governing body of each township, city, and village affected by more than 20% of the cost; and,

**WHEREAS** the Livingston County Drain Commissioner has advised the Marion Township Board of Trustees that it will be necessary to expend funds in excess of two thousand five hundred and no/100 dollars (\$2,500.00) per mile for the interim maintenance of the Jartnick Pond Drain and that the Township of Marion is affected by more than 20% of the costs; and,

**WHEREAS** the Livingston County Drain Commissioner estimates that the cost for the maintenance of the Jartnick Pond Drain will be approximately ten thousand and no/100 dollars (\$10,000.00), which constitutes seven thousand five hundred and no/100 dollars (\$7,500.00) in excess of the authorized two thousand five hundred and no/100 dollars (\$2,500.00) per mile.

**NOW, THEREFORE IT IS HEREBY RESOLVED** by the Marion Township Board of Trustees that, pursuant to Section 196 of the Drain Code, the Livingston County Drain Commissioner is authorized to expend money for the maintenance and repair of the Jartnick Pond Drain in excess of two thousand five hundred and no/100 dollars (\$2,500.00) per mile and, to the extent that the drain fund for the drain contains insufficient funds for the payment of costs incurred for the interim maintenance or repair of the drain, then the Livingston County Drain Commissioner is authorized to levy a special assessment, as allowed by law, not to exceed ten thousand and no/100 (\$10,000.00).

**RESOLUTION** approved this 9<sup>th</sup> day of September, 2004, by the Marion Township Board of Trustees, governing body of Marion Township.

Sue Lingle motioned to accept the resolution, as amended to include "not to exceed ten thousand and no/100 (\$10,000.00). Dan Lowe seconded. Roll call vote: Dave Hamann, Sue Lingle, Bob Hanvey, Myrna Schlittler, Dan Lowe—all yes. **Motion carried 5-0.**

Sue Lingle motioned to table the resolution for Marion #3 drain. Dave Hamann seconded.

**Motion carried 5-0.**

Ken Recker said that the meeting regarding the new high school will be held on September 15 at 3:00 p.m.

### **OLD BUSINESS**

#### **TT&G Gravel Pit**

Bob Hanvey provided a handout in response to questions from Art Mohr.

#### **Call to the Public**

**Brian Manson, 2950 Sanitorium:** Mr. Manson asked if the gravel pit is subject to an ordinance? Mr. Hanvey said it hasn't been determined yet. Mr. Manson asked how long it would take to make that determination. Mr. Hanvey said the lawsuit is in place, the counter suit has been filed, the counter plaintiff attorneys have filed questions for the township to answer, the township has another week to answer those questions, and then it goes to the court. Mr. Manson asked the township's feeling. Mr. Hanvey said, speaking for himself, he believes it's to everyone's advantage to work out a compromise between the two ordinances. If the township attempted to strictly enforce the 2000 version of the ordinance, one of the things they would have to do would be to move the berms. The berms that are there are against the 2000 ordinance. Mr. Hanvey doesn't believe it makes sense to move them. Hopefully, a compromise agreement can be worked out with the operators to get the reclamation plan, the development done as soon as possible, without having to enforce the total 2000 ordinance. Mr. Manson asked if the township would get bond money. Mr. Hanvey said as soon as the bond feature is possible, the township will do that. Mr. Manson asked why it's not possible. Mr. Hanvey said because the operators are not the owners; the owner's estate is not bondable. Mr. Manson asked if that should make it the township's problem. Mr. Hanvey said he doesn't know. Mr. Hanvey said if the court proceeds faster than the agreement, then the courts will decide what happens. Mr. Manson said that currently the township is giving them free reign. Mr. Hanvey said no, they're doing the surveys; the stakes are in place on the west property line. Mr. Manson said those are the ones that were supposed to be in Monday. Mr. Hanvey said yes, they didn't make it in on Monday. Mr. Manson said that's the second thing. Mr. Hanvey said he did see them working until 12:30 pm on a Saturday, so they've not

been perfect. Mr. Hanvey talked with the engineer today and they're working on getting the topo and restoration plan going as soon as they can. Mr. Manson said in the minutes, the attorneys said they were going to dig the hole bigger, and they're not going to mine the 10 acres next to it—they're going to use the 10 acres to push back into the hole. Isn't that mining? Mr. Hanvey said the township hasn't seen that plan yet. That's the plan they're working on in the next 30 days. Mr. Manson said if they're going to dig this hole as deep as they can, and take another hill to push into it, wouldn't that be mining?

**John Manson, 3048 Jewell Road:** When they push the dirt into the hole, is that mining? Mr. Hanvey said that's to be determined. Mr. Manson said they're in violation of all the ordinances since 1977, or the 1966 ordinance, there's no special use permit, nothing on this property ever. Mr. Hanvey said the township is pretty much convinced that it began operation prior to 1966. Mr. Manson said they have doubled the historical use on the site. Mr. Hanvey said he would like to avoid all of this arguing mainly because he doesn't want to provide documentation for the other party to have. Mr. Manson asked if Mr. Kehoe is the only attorney working on this. Mr. Hanvey said yes, as of today. Because the township was counter sued, the claim was submitted to the insurance company and, in the past, they've always provided an attorney. Mr. Manson asked if the attorney is a specialist. Mr. Hanvey said the township doesn't get to pick the attorney. Mr. Manson asked who the attorney was who drew up the ordinance. Mr. Hanvey said his name is Charles Harris. Mr. Harris is retired and chooses not to speak to anybody. If the township gets the same attorney assigned by the insurance company that they have in the past, he does an excellent job. His name is Tom Meagher from Foster, Swift, Collins in Lansing. Mr. Manson asked if the township is getting a game plan together. Mr. Hanvey said yes. Mr. Manson asked how long the township is going to wait. Mr. Hanvey said the township is working on it as quickly as possible. Mr. Manson said answers to the questions posed in July haven't been given. Mr. Manson said Mr. Kehoe responded "probably," "maybe," and "I don't know". Mr. Manson asked what stance the township is taking. Mr. Hanvey said at this point, he doesn't believe it's appropriate to say what the defense is going to be; however, he would still prefer to have the operators agree on a settlement that everyone can agree on without going to court. Mr. Manson said that would be fine. Mr. Hanvey said that would certainly include a bond. Mr. Manson asked if it would positively include a bond. Mr. Hanvey said the township will make every effort that it can legally work out. Mr. Hanvey said the restoration plan is due 45 days from August 13.

**Art Mohr, 3012 Sanitorium:** Mr. Mohr said according to the rules of the township, the supervisor is responsible for the safety, health and well-being of the citizens of the township. Mr. Mohr asked if there is a sanction for violation of the mining ordinances in the township. Mr. Hanvey said there is not, the township doesn't have an infractions bureau. Mr. Mohr said the township may adopt an ordinance that designates a violation of the ordinance as a civil infraction and provides a civil fine for that violation, which means the Board can implement at this meeting a statute that will impose a civil fine. At the last meeting, the township and Mr. Kehoe said they were in violation of the ordinance. It was clearly stated that this operation is not grandfathered in; it is in violation of the 2000 mining ordinance. Mr. Mohr said it is a normal process that when someone is sued, they counter sue. The common delaying tactic is to immediately ask for fact finding. Mr. Mohr said there is a health and safety issue here. One woman has called the township about the noise level, another neighbor has a problem with dust, etc. Mr. Mohr said it was brought up at the August 12 meeting that this is not the same mining operation that Trierweiler had, and they are not using the same equipment that Trierweiler had. Mr. Mohr said the day after the township had the meeting at 10:05 a.m. and allowed them to resume the mining operation at 1:30 p.m. on that day, he showed up with other residents to participate by witnessing how they were allowed to resume. Prior to the public hearing at 1:30 p.m. at which he and others were invited, a meeting was held privately at 10:05 a.m. with the attorneys which enabled them to proceed with the mining. Mr. Mohr said he's not suggesting this was a closed-door meeting, but what he is suggesting is that the township has accommodated them the only thing that allows them to return to work that requires them to pay any money of their own is the surveying. Every other implementation to restrict the mining operation to make it more compatible with the residents in that area doesn't cost them any money whatsoever. There is no financial penalty that they have paid. The day after they started, they moved additional earth-moving and washing machinery on the site, which has elevated the noise level even further. It's obvious that the purpose of dragging this on is to allow the closure on this property by

Northern Materials, which has no assets, no liabilities, has not been in business 90 days as of this date. It is a shell corporation. Mr. Mohr said he thinks its incumbent on the supervisor to do as part of the job, which is to protect the safety and well-being of the residents, that the mine is definitely emitting sounds that are making it impossible for people to live. Mr. Mohr said he's present as a citizen because he cares about his neighbors. It is unconscionable and irresponsible for this board not to go back to court immediately after tagging this operation tomorrow morning and seeking an immediate injunction that stops the operation until it is in full compliance, not negotiated compliance, with the mining ordinance. Mr. Mohr said this mining operation is already much too small according to the current ordinance, so what's to negotiate? It doesn't have the acreage necessary to operate. It's a brand new operation started in July 2004. Mr. Mohr said if he put a barn on his property that was 10 feet over the line, this township would come in immediately and make him move it. If he wanted to do something on his property that was in violation of the township ordinances, he would be asked to correct it immediately. This mining operation is intimidating our township. It's creating an unsafe, unhealthy environment in the area for the people who have been residents for many years. The traffic is abominable; they are running trucks out of that place to the point where it's actually creating safety and environmental problems. The township board has the responsibility to stop those types of unsafe operations. Mr. Mohr read from, "Authorities & Responsibilities of Michigan Township Officials, Boards and Commissions", which states that the supervisor has fiscal responsibility. The supervisor is the township agent for transacting all legal business, upon whom suits may be brought and defended and upon whom all process against the township is served. This means the supervisor is responsible to call these attorneys, not to listen to them tell you what needs to be done, and to listen to the call from us as the public to say that this is an unacceptable operation, it is unsafe, it is bringing an unpleasant living environment in a residential area. There is no mining operation legally there. It is not zoned for operation of that mine. Mr. Mohr is asking this board to tell the attorneys to close the mine tomorrow and put the red tag back on.

**Linda Manson-Dempsey, 3076 W. Coon Lake Road:** Ms. Manson-Dempsey said one of the biggest issues on Mega-Dirt was the noise levels. This township agreed, after she called several times, to bring in equipment to measure the decibel levels. The other big issue was the traffic. She has seen the San Marino trucks pull out in front of an LESA bus. The township has the liability if anything happens.

**Helen Hiser, 860 County Farm Road:** Mrs. Hiser said the trucks start at 6:15 a.m. and they go constantly all day long. The dust and the noise are awful.

**John Manson, 3048 Jewell Road:** Mr. Manson asked Mrs. Hiser how long she had lived here? Mrs. Hiser said 44 years. Mr. Manson asked her if the usage at the gravel pit has changed. She said yes.

**Vicki Hubenschmidt, 2960 Sanitorium:** Ms. Hubenschmidt said she is out on the road by 6:00 a.m. and she has met some of the gravel trucks around the corner. There are bus stops out there, and the trucks "fly." Ms. Hubenschmidt asked if she is in the wellhead protection area. She was told yes. She has a question as to what this operation does to the rest of residents who are on wells. Mr. Hanvey said he's not sure it has any impact. Mr. Hanvey said it's his understanding that they're not bringing any new material in. Mr. Hanvey also reported that a person doing an environmental study for the gravel pit was at the township today to gather information for the bank.

**Art Mohr, 3012 Sanitorium:** Mr. Mohr asked the board, yes or no, is going to make a motion to red tag the operation tomorrow and to have the lawyers under the township's direction stop the operations until there's a legally compliant operation in effect according to the current mining ordinance. Dan Lowe said absolutely not. Mr. Mohr said he was asking the chairman. Mr. Lowe said he's answering the question. Mr. Lowe said Mr. Mohr talks about responsibility and read all of these ordinances—the township attorney says the township better not shut it down. Mr. Lowe said he's not a lawyer, none of the board members are lawyers, if the township attorney advises not to do it, the township shouldn't take the chance of a big lawsuit coming down later that all of the township residents have to pay for. Mr. Lowe said he's not going to take a chance until the township legal advisor says so. Mr. Hanvey said if Mr. Mohr were to go to the courthouse, he would have access to the counter complaint that they filed. It might provide some insight. Mr. Mohr said according to the township rules, the supervisor is responsible for the conduct of the legal people that are serving this township, not Dan Lowe. That is why Mr. Mohr is asking Mr. Hanvey the question. Mr. Mohr said he has one more point to make. He

attended the ZBA meeting and asked a question of the chairman at the end of the meeting. Mr. Mohr asked the ZBA members if there are any zoning appeal matters pending or being discussed with or before the ZBA or its members by Northern Materials, Inc. and/or San Marino or its attorney related to the mining operation now growing on the former Trierweiler property on County Farm Road. Chairman John Lowe said no, there have been no applications. Mr. Mohr asked if there's been a call of inquiry or discussion. Chairman Lowe said no.

### **Marion Oaks**

Bob Hanvey reported that a lawsuit has been filed against the township. Mr. Hanvey is asking for the board to grant authority to get Mr. Meagher involved in defending that lawsuit. Sue Lingle motioned to get Mr. Meagher involved in the lawsuit with Marion Oaks. Myrna Schlittler seconded. Roll call vote: Dave Hamann, Sue Lingle, Bob Hanvey, Myrna Schlittler, Dan Lowe—all yes. **Motion carried 5-0.**

### **Norton Road Manholes**

Bob Hanvey said the township received a letter from the attorney suggesting the procedure. Phil Westmoreland said he talked with the attorney this afternoon. Dave Hamann said the attorney is suggesting the township give Allied the opportunity to make the necessary repairs. Dan Lowe said the township already gave Allied a June 1 deadline. Mr. Westmoreland said in Allied's opinion, they did the work correctly. It's Mr. Westmoreland's opinion that they did not do what they were supposed to. The contract called for 1 1/2" of asphalt, and Mr. Westmoreland measured it at 3/8" to 1/2" where it's failing—significantly less than the contract required. Mr. Westmoreland said they're claiming that based on the load tickets in the areas that they put down, you can calculate the thickness based on the tonnage they put down in the area. Mr. Westmoreland's experience with those is they're never accurate. He goes by what is measured in place. That is what governs all the time. There isn't a company or standard out there, including MDOT, that takes the load tickets and says what was placed is the correct thickness. It's always done on measurements. Mr. Westmoreland feels Allied has been given the opportunity to correct the problem. (Myrna Schlittler excused herself from the meeting at 8:55 p.m.)

Dan Lowe said he's like to see the township accept the bid from Tom Rogers and proceed with the work. Mr. Lowe asked Mr. Westmoreland if he could come out as Tom Rogers is taking the material out and verify actual measurements of different spots. Mr. Westmoreland said yes.

Dan Lowe motioned to approve Tom Rogers Paving for the parking lot and Norton Road manhole repairs. Dave Hamann seconded. Roll call vote: Dave Hamann, Sue Lingle, Bob Hanvey, Dan Lowe—all yes. **Motion carried 4-0.**

### **REUs**

Bob Hanvey said the issue is the township has a motion from 1999 that says any new project that wants sewer and water service would have to pay the REU in one payment up front. Mr. Hanvey suggested the best approach might be to have the developments pay for the REU charges as the land use permits are drawn, with the provision that the service may or may not be available. If they want to have a guaranteed reserve service, they could pay the whole thing up front, under the density that is in place at the current time. To restate, if they pay for the REUs up front at the density that is currently approved, the REUs will be available. If it's a situation where there has been a rezoning and the density has increased, then the township can't guarantee the service. Mr. Hanvey asked if the sequence would be that the Planning Commission grants approval first, then they pay for the REU charge? Ms. Lingle said yes, the same as new users. Mr. Hanvey suggested that the percentage should be 25% of each REU, not 25% of the REUs. Dan Lowe said it should be done by phase, not for the entire project.

Sue Lingle motioned that the requirement on REUs for water and sewer be 25% due when land balancing permit is issued and paid upon approval of the Planning Commission of any project as long as the zoning has not changed, with 75% paid as each land use permit is issued, and the Planning Commission can approve various phases and the 75%/25% would pertain to each phase as the project progresses. Dave Hamann seconded. Roll call vote: Dan Lowe, Bob Hanvey, Sue Lingle, Dave Hamann—all yes. **Motion carried 4-0.**

### **NEW BUSINESS (continued)**

#### **Clark-Hill Invoice**

Sue Lingle motioned to approve the invoice from Clark-Hill in the amount of \$17,924.24. Dave Hamann seconded. Roll call vote: Bob Hanvey, Sue Lingle, Dave Hamann, Dan Lowe—all yes.

**Motion carried 4-0.**

**Land Division**

Bob Hanvey said the general ordinance should be changed so that land division approval will require payment of the taxes prior to the new parcels being created. Sue Lingle motioned to have Mike Kehoe write an amendment to the land division ordinance to incorporate language that would require payment of taxes prior to approval of a land division. Dave Hamann seconded. **Motion carried 4-0.**

**Richland Invoice**

Bob Hanvey said some of the items are not yet complete, most notably the cap on the HVAC pad. Sue Lingle motioned to table Richland pay request #10 until outstanding issues are resolved. Dan Lowe seconded. **Motion carried 4-0.**

**Deputy Clerk Salary**

Sue Lingle motioned to approve the salary for the new deputy clerk at \$13 per hour. Dave Hamann seconded. Roll call vote: Dan Lowe, Bob Hanvey, Sue Lingle, Dave Hamann—all yes.

**Motion carried 4-0.**

**Sewer Assessment Refund**

Chris and Lisa Zucker at 3825 Norton Road have requested a refund because the home is 700 feet from the road. Sue Lingle asked to have the measurement verified prior to issuing a refund.

Sue Lingle motioned to refund the sewer assessment principle and interest paid to date, contingent upon verification of the measurement by the zoning administrator. Dave Hamann seconded. Roll call vote: Dave Hamann, Dan Lowe, Bob Hanvey, Sue Lingle—all yes. **Motion carried 4-0.**

**PLANNING COMMISSION REPORT**

Dave Hamann reported that the Planning Commission met twice in August—an ordinance workshop on August 3 and the regular meeting, with public hearings on text amendments, on August 24. The Rules & Procedures document was also finalized.

**PARKS & RECREATION REPORT**

Sue Lingle said the Parks & Recreation Committee hasn't met yet this month. She will provide the report at next month's meeting.

**ZBA REPORT**

Dan Lowe reported that a ZBA meeting was held on September 7. The variance for Family Golf's air-supported dome was approved. Jesse Drive was tabled for additional information.

**ZONING ADMINISTRATOR REPORT**

Provided in packets.

**DPW REPORT**

Provided in packets.

**FIRE AUTHORITY REPORT**

Bob Hanvey reported that a brief meeting was held last month. The combination of the Brighton and Howell Area Fire Authorities is still being pursued.

**MHOG Report**

Bob Hanvey reported that the water loss is down substantially. A meter will be used to meter the water going into Howell Township.

**FOR THE GOOD OF THE TOWNSHIP**

Bob Hanvey reported that the township assessor passed away. A deputy assessor has been hired and started September 1. There are several alternatives for the township. The deputy assessor is a level 2 and is about halfway to level 3. Possibly a level 3 could be hired for one day per week.

**CALL TO PUBLIC**

Debra Wiedman-Clawson commented that the township did an excellent job selecting the maintenance people for the cemeteries this year. Dan Lowe mentioned there are still several large trees that need to be removed. Ms. Wiedman-Clawson said her husband has volunteered to help. Bob Hanvey said one of his suggestions would be to have some sculptures made from the trees. Ms. Wiedman-Clawson said she would be willing to research having that done. Dan Lowe will check with Crosscut for prices on getting the trees topped.

**TREASURER'S REPORT**

Dave Hamann motioned to accept the treasurer's report with expenses of \$80,794.91. Sue Lingle seconded. **Motion carried 4-0.**

**ADJOURNMENT**

Sue Lingle motioned to adjourn the meeting at 9:40 p.m. Dave Hamann seconded. **Motion carried 4-0.**

**MINUTES - OCTOBER 14, 2004**

**MEMBERS PRESENT: Bob Hanvey, Myrna Schlittler, Dan Lowe, and Dave Hamann**

**MEMBERS ABSENT: Sue Lingle**

**OTHERS PRESENT: Phil Westmoreland, OHM, Township Engineer**

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**CALL TO ORDER**

Bob Hanvey called the meeting to order at 7:30 p.m.

**PLEDGE TO FLAG**

**MEMBERS PRESENT**

The members of the Board of Trustees introduced themselves.

**CALL TO PUBLIC**

**Jeff Hansen, 100 Lucy Road:** Mr. Hansen lives in the City of Howell on the border of Marion Township. His neighbor has dug an enormous, 4-acre crater next to Mr. Hansen's house. It has affected the quality of life in Mr. Hansen's residence. Mr. Hansen said he believes the neighbor has violated township ordinances. He would like to know what is being done to remedy the situation. He provided the Board members with a list of items related to the site. Mr. Hansen said he is present to appeal to the Board members' sensibility and to ask for help. Bob Hanvey said he understands the problem. Township representatives have been out to the site several times and talked with the owner. Some agreements were made; however, Mr. Hanvey feels there's a bit of a credibility gap. The site was posted with a Stop Work order on the previous Thursday. The owner was working on Friday and the sign was gone. The sign was reposted on Tuesday, and as of today, the sign is down again and he's back in operation. Mr. Hanvey said Jack Lowe was at the site this afternoon, and it's not an acceptable situation. Mr. Hanvey said he's talked with the Drain Commissioner regarding the stabilization. Mr. Hanvey said if the situation couldn't be resolved by Monday or Tuesday of next week, the township will ask for an injunction. Mr. Hanvey said the Drain Commissioner might have some other means to encourage cooperation. The Drain Commission probably has more authority than the township in this matter. Dan Lowe asked Mr. Hansen if he had actually seen the owner bring dirt in. Mr. Hansen said yes, and he's taken things out since the Stop Work order was issued. Mr. Hanvey said Jack Lowe would discuss this situation with the attorney and the Drain Commissioner on Friday. Mr. Hanvey will talk with the Drain Commissioner on Monday, and if something can't be done by Monday or Tuesday, the township will seek an injunction. Mr. Hansen asked the Board to keep him informed.

**APPROVAL OF AGENDA**

Dave Hamann motioned to approve the agenda as amended. Myrna Schlittler seconded. **Motion carried 4-0.**

**APPROVAL OF MINUTES**

**Board of Trustees Meeting, September 9, 2004**

Myrna Schlittler motioned to approve the minutes as presented. Dave Hamann seconded. **Motion carried 4-0.**

**Ways & Means Meeting, October 11, 2004**

Dave Hamann motioned to table this item. Myrna Schlittler seconded. **Motion carried 4-0.**

**OLD BUSINESS**

**Rain Garden**

OHM provided a list of suggested plants and a price list. Phil Westmoreland said there's probably another 2-3 weeks left to plant. Otherwise, the planting could be done in the spring. Myrna Schlittler

motioned to postpone the rain garden selection to have Sue Lingle evaluate what plants should be used and present the information to the Board. Dan Lowe seconded. **Motion carried 4-0.**

### **Fire Ordinance**

Bob Hanvey provided the Board with copies of two ordinances. The first is the Extraordinary Emergency Incident and Incendiary Fire Response Cost Recovery ordinance (HAZMAT). This ordinance replaces part of the previous ordinance regarding recovery of costs from hazardous material and extraordinary incendiary events. It has been approved by all other members of the Fire Authority. The township attorney has reviewed and approved it. Mr. Hanvey said the intent is to have all members of the Fire Authority have the same ordinance. This ordinance goes hand-in-hand with the other ordinance, which is called the Fire Prevention Code. This ordinance is really a modification to the International Fire Code Book, so the township has to adopt the International Fire Code along with the modifications.

Myrna Schlittler motioned to adopt the International Fire Prevention Code, as amended, as the Marion Township Fire Ordinance. Dan Lowe seconded. **Motion carried 4-0.**

Myrna Schlittler motioned to adopt the Extraordinary Emergency Incident and Incendiary Fire Response Cost Recovery Ordinance. Dave Hamann seconded. **Motion carried 4-0.**

### **Land Division Ordinance Amendment**

Mike Kehoe provided language for an amendment to the Land Division Ordinance G-2-92. Section 6, entitled "Procedure for Review of Application for Land Division Approval," shall have a new subparagraph E to read as follows: "No land division approval will be final until the property taxes for the parent parcel and/or any resulting land divisions have been paid in full." Dave Hamann motioned to adopt the modification to the Land Division Ordinance No. G-2-92. Myrna Schlittler seconded. **Motion carried 4-0.**

### **NEW BUSINESS**

#### **Coon Lake Dredging**

Mike Vernon, 4067 Westhill, introduced himself to the Board. He lives on the canal on Coon Lake and they have a unique opportunity to have the canal dredged. Harry Malynowsky is willing to have the sediment from the canal dumped on his property. There is 100% support from property owners on the canal. Bob Hanvey said one of the issues is the procedure by which this would be done. Public Act 451 of 1994 includes a section called Part 309 that provides for a body called the Lake Improvement Board that has some authority to create special assessment districts and to get projects like this started. The Lake Board is required to do certain studies before it starts spending money. The funding for the study can come from the county-level revolving fund. Dave Hamann mentioned that a seminar on lake improvement boards is being held this Saturday, October 16 from 9 am to 3 pm at Hamburg Township. Dave Hamann motioned to table this agenda item. Dan Lowe seconded. **Motion carried 4-0.**

#### **Clark Hill Invoice**

The charges for the month of September are \$4,809.72. Myrna Schlittler motioned to pay the Clark Hill invoice in the amount of \$4,809.72. Dave Hamann seconded. Roll call vote: Dan Lowe, Myrna Schlittler, Bob Hanvey, Dave Hamann—all yes. **Motion carried 4-0.**

#### **Jesse Drive Final Site Plan Approval**

Dan Depner from Boss Engineering, representing Ray and Rita Ward, introduced himself to the Board. They are requesting final approval for this project. Approvals have been received from the MDEQ, the Livingston County Road Commission (LCRC), the former township planner, OHM, the township Planning Commission, and a variance was granted from the township Zoning Board of Appeals for the length of the road. Myrna Schlittler motioned to approve the final site plan for Jesse Drive, contingent on final approval from the township attorney. Dave Hamann seconded. **Motion carried 4-0.**

#### **Sundance Meadows Phase 3 Final Plat Approval**

Jason Wallace from Desine Engineering was present to request final plat approval for Sundance Meadows Phase 3. Mr. Wallace indicated all of the necessary approvals have been received. Bob Hanvey said he talked with the attorney about the documents that he needed to do, and there aren't any at this time. Mr. Hanvey asked Mr. Wallace about the list of soil erosion problems. Mr. Wallace said the unstabilized areas are the areas where utilities will be installed. Once the utilities are installed, the areas will be stabilized.

Dan Lowe motioned to approve Sundance Meadows Phase 3 final plat. Myrna Schlittler seconded.

**Motion carried 4-0.**

### **Planner Selection**

Dave Hamann said the Planning Commission had a special meeting on September 14 to interview three prospective planning consultants. The Planning Commission made a recommendation to the Board to select Carlisle/Wortman Associates, Inc. and John Enos as the new township planner. Mr. Hanvey said he felt any of three candidates would be acceptable, although Carlisle/Wortman seemed to come out on top and comes highly recommended.

Myrna Schlittler motioned to appoint Carlisle/Wortman Associates, Inc. as the township planner. Dave Hamann seconded. **Motion carried 4-0.**

### **Snowplowing Bids**

Dan Lowe motioned to table this item until next month so he can get clarification on the bids and to include bids on plowing for the cemeteries. Dave Hamann seconded. **Motion carried 4-0.**

### **3% Tax Penalty**

Myrna Schlittler motioned to authorize collection of a 3% penalty on the winter tax bill. Dave Hamann seconded. **Motion carried 4-0.**

### **Assessor Contracts**

Bob Hanvey provided the Board members with a handout showing projections. The actual number of dollars in expense doesn't take into account the money allocated for the previous assessor and the deputy assessor that is allocated in the benefits category. That would be absorbed because the contract people are not employees and the township won't be paying benefits. Dave Hamann motioned to authorize the supervisor to sign contracts with the two new contract assessors. Myrna Schlittler seconded. Roll call vote: Dan Lowe, Dave Hamann, Bob Hanvey, Myrna Schlittler—all yes.

**Motion carried 4-0.**

### **Medical Insurance Eligibility**

Myrna Schlittler said the township offers Blue Cross/Blue Shield. Ms. Schlittler read a resolution, provided by BC/BS, to establish a retiree suffix. Bob Hanvey provided language for the township personnel manual, which Ms. Schlittler read. The employee will be responsible for reimbursing the township for 100% of the insurance premium. Myrna Schlittler motioned to adopt the proposed change in the township personnel policy regarding medical insurance coverage after separation from the township. Dave Hamann seconded. **Motion carried 4-0.**

Myrna Schlittler made a resolution to establish a Blue Cross/Blue Shield retiree suffix. Eligibility under this suffix will be based on a full-time employee obtaining a total of 70 points. Points are to be determined as follows:

- One point for every year of service
- One point for every year of employee's age
- Minimum of 10 years service
- Minimum age of 55 years

The township guarantees to pay 50% of the premium for participants enrolled under this suffix. Dave Hamann seconded. Roll call vote: Dan Lowe, Bob Hanvey, Myrna Schlittler, Dave Hamann—all yes.

**Resolution passed 4-0.**

### **Cell Tower**

Bob Hanvey said that AT&T has merged with Cingular. As a result, they are doing a survey of all of their towers. They have hired a company called Unison to contact owners of the property where the towers are in an attempt to buy out the leases. Mr. Hanvey asked the Unison representative some questions that she didn't have the answers to. She will get back to Mr. Hanvey with additional information.

### **PLANNING COMMISSION REPORT**

Dave Hamann reported that the Planning Commission held three meetings in September. A special meeting was held on September 14 to interview planning consultants. A comprehensive plan meeting was held on September 27, where a public hearing was set for November 10. The regular PC meeting

was held at September 28. Agenda items included The Meadows, Jesse Drive, a presentation on the new high school, and ordinance amendments.

**PARKS & RECREATION REPORT**

No report available this month.

**ZBA REPORT**

Dan Lowe reported that the Zoning Board of Appeals met on September 7 and approved a road length variance for Jesse Drive.

**ZONING ADMINISTRATOR REPORT**

Provided in packets.

**DPW REPORT**

Provided in packets.

**FOR THE GOOD OF THE TOWNSHIP**

Bob Hanvey commented on two items mentioned in the October 1 issue of the Legislative Michigan Township Association Report. The first is the Joint Planning that will allow certain exclusions. This is a proposed amendment to the Joint Planning Act. It states, in part, that if the township joins in planning with another municipality, such as the city, the exclusionary provisions of zoning can be combined. That could mean that if the township planned jointly with the City of Howell, the city's trailer park could be the township's trailer park. The other item concerned Conditional Zoning. Essentially, it legalizes contract zoning.

**CALL TO THE PUBLIC**

Dave Miechiels, National Street, provided the Board with photographs of the property on Lucy Road. Jack Lowe asked if the two issues Mr. Hanvey mentioned were state legislation. Mr. Hanvey said they are proposed. Phil Westmoreland indicated that Mr. Hanvey had received a fax from one of OHM's competitors about a lawsuit filed against OHM in 2003 for a project in Ypsilanti Township. Mr. Westmoreland wanted to assure the Board that this lawsuit has no merit. Mr. Westmoreland said OHM represents municipalities almost exclusively. Anytime a lawsuit is filed, it's not unusual for OHM to be included.

**TREASURER'S REPORT**

The report for September will be provided at next month's meeting.

**ADJOURNMENT**

Dave Hamann motioned to adjourn at 8:53 p.m. Myrna Schlittler seconded. **Motion carried 4-0.**

**MINUTES - NOVEMBER 11, 2004**

**MEMBERS PRESENT:** Bob Hanvey, Sue Lingle, Dan Lowe, and Dave Hamann

**MEMBERS ABSENT:** Myrna Schlittler

**OTHERS PRESENT:** Phil Westmoreland, OHM, Township Engineer

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**CALL TO ORDER**

Bob Hanvey called the meeting to order at 7:30 p.m.

**PLEDGE TO FLAG**

**CALL TO PUBLIC**

None.

**APPROVAL OF AGENDA**

Sue Lingle motioned to approve the agenda as presented. Dave Hamann seconded. **Motion carried 4-0.**

**APPROVAL OF MINUTES**

**Board of Trustees Special Meeting, September 21, 2004**

Sue Lingle motioned to approve the minutes as presented. Dan Lowe seconded. **Motion carried 3-0-1 abstention (Hamann).**

**Ways & Means Meeting, November 8, 2004**

Dave Hamann motioned to approve the minutes as presented. Sue Lingle seconded.

**Motion carried 4-0.**

## **Board of Trustees Regular Meeting, October 14, 2004**

Dave Hamann motioned to approve the minutes as amended. Dan Lowe seconded. **Motion carried 3-0-1 abstention (Lingle).**

### **OLD BUSINESS**

#### **TT&G Site Plan**

Joe Ricardi and Glen Caverly from Northern Materials were present, along with their attorney, Raymond Feul, and Jim Barnwell from Desine, Inc. Mr. Hanvey said for the record that the township has received a site plan from Desine that has been transmitted to the attorney and engineer for review. Mr. Hanvey said the attorney suggested that the Board needs to decide whether the plan is reasonable. Phil Westmoreland said he has looked at the plan, and it's a start. It's not a full and complete site plan. Mr. Hanvey said all they were required to do was a topographical study, and they've gone beyond the requirement. Mr. Westmoreland said they have a grading plan that's reasonable, although it doesn't meet the 1:10 requirements of the mining ordinance, but the slopes are what would typically be seen on sites. The lot layout is pretty standard. There are some items that need to be noted. For example, cut and fill calculations weren't done to see if all of the material that's needed for the fill area and the grading would actually be coming from that site. The grade is appropriate, although there are a couple of areas they would probably look at closer during site plan review. The type of fill material needs to be noted, and it does require a 6" minimum topsoil layer for the entire site. Mr. Barnwell indicated he was given limited direction, and this isn't a final site plan for the project; it's a restoration plan. Perk tests haven't been done yet. Mr. Hanvey said this grading would be suitable for a residential project. Mr. Barnwell said it was determined that approximately 200,000 yards could be removed from the site. Mr. Hanvey said that he and Mr. Barnwell visited the site and measured from the property line to the beginning of the bank and it was approximately 70 feet. The development plan would require using materials that are currently on the 10-acre parcel. Mr. Barnwell said yes. Mr. Hanvey said at this point, the township should suggest that this plan appears to be reasonable. The township has no authority to challenge the use of materials from the other parcel. That issue is to be dealt with by the operators and the deed holders who share the same deed restrictions.

Mr. Feul said they are looking for the Board to approve this plan as presented, and that down the road they would be given formal approval. Mr. Hanvey said the Board could suggest that the site plan, as presented and reviewed by the engineer, appears to be in conformance with the ordinance, and the township has no ordinance that prevents the use of materials on an adjacent parcel. Before this was actually developed, Mr. Hanvey believes it would have to go to the Planning Commission for the normal site plan review, but that would happen after the excavation business is completed and grading is done. Dave Hamann asked if the township is following the excavation ordinance as far as the reclamation and restoration. Mr. Hanvey said no. Mr. Feul said there is a lawsuit pending, but even the township's counsel acknowledged that this is a nonconforming use and is not subject to the ordinance. That's one of the big issues. Mr. Hanvey restated that the township has no authority to challenge moving material from one site to another. The property owners will have the opportunity to review the plan and it's up to them to support it or challenge it. Dan Lowe asked if they mine the 200,000 yards, if they can't take it off the 10-acre parcel, where does that leave it. Mr. Caverly said it's not necessarily a matter of taking any material off of the 10 acres. If they could take the tip off of that hill and make it disappear to make the slopes work is what it's all about. It would bring the high point inside the property line. If they leave the high point, there's not enough land to make the 5% slope. Mr. Hanvey stated the 200,000 yards does not include the stockpiled material, but does include the berms. Mr. Lowe asked how many yards would come off of the 10-acre parcel. Mr. Caverly said approximately 8,000 to 10,000 yards. Mr. Hanvey said there is also the issue of getting some sort of bond to ensure that the proposed grades will be met if Northern Materials decides not to complete the development of the project. Mr. Feul said if Northern Materials were to agree to a bond, although there's no requirement that they do, it would be a reclamation bond for grading and grassing. Mr. Caverly said that typically, grading bonds are \$5,000 per acre for grading and grassing. Mr. Hamann read from the ordinance which states "...not less than \$40,000 for the first 20 acres and a portion thereof; a minimum of \$1,000 for each acre over that." The two engineers would have to agree on the amount of the bond. Mr. Hanvey asked what Northern Materials plans on doing next. Mr. Feul said they don't have an obligation to go to the neighbors. He

also stated that these gentlemen are established businessmen within the community. It's important that the board understand that the purchase agreement that's pending with the Trierweiler estate has as a condition that the plan is approved. Sue Lingle said she would like to see the site plan go through the Planning Commission for review. Mr. Hamann asked if the township needs a master deed and bylaws, a road maintenance agreement on the private road, all of those things in place for the health, safety and welfare of the site. Mr. Hanvey asked if in a normal situation, the engineer would approve the construction plans after the site plan. Mr. Hamann said yes. Mr. Lowe asked about lots 15, 16 and 17, and whether they would come off of Sanatorium. Mr. Barnwell said yes. Mr. Lowe asked if there would be a problem with site distance. Mr. Barnwell said he didn't believe so. Mr. Lowe asked about the 200,000 yards. Will they have to go right to the property line to mine this out? Will everything be clear cut right to the 16-acre parcel's lot lines and after that's done, reslope it? Will there be anything left that can be saved around the perimeter? Mr. Caverly said yes, not at the west side on the 16 acres, but there will still be trees on the west side of the 10 acres. Mr. Barnwell said they would be grading to the property lines. Dan Lowe motioned to approve the grading and reclamation plan as presented, dated 10/26/04, and as required by court order, subject to review by the township engineer, and subject to posting an appropriate bond based on the township engineer's calculations. Dave Hamann seconded.

**Motion carried 4-0.**

Dave Hamann motioned to grant preliminary site plan approval as presented, dated 10/26/04, subject to approval by all regulatory agencies and township engineer, township attorney and township planner.

Sue Lingle seconded. **Motion carried 4-0.**

**CALL TO PUBLIC**

**Jeff Hansen, 100 Lucy Road:** Mr. Hansen was present to ask the township board for information on mining operation next to his property on Lucy Road. Mr. Hansen said two days after the court order was issued, the property owner was in violation. Mr. Hanvey said he spoke with the township attorney, who indicated that based on the videotape Mr. Hansen provided, the property owner was clearly in violation of the restraining order. Mr. Hanvey indicated that he would instruct the attorney to proceed to the next step with the court. Mr. Hansen asked if the property owner does submit a site plan, would he be required to replace all of the things he's destroyed. Mr. Hanvey said one of the site plan requirements would be a greenbelt. Dan Lowe asked if Mr. Lanaville's fence was still down. Mr. Hansen said yes, the fence is still down and the property owner told Mr. Lanaville that he would not replace the fence.

**OLD BUSINESS (continued)**

**Snow Plow Bids**

Three bids were received for snowplowing. Sue Lingle indicated the residents of Love's Creek/Sesame Drive want to select their own contractor. Ms. Lingle also asked if the township could ask Rocky Ridge to decrease the amount of salt they use. Dan Lowe motioned to accept the bid from Rocky Ridge for snowplowing, subject to conversation regarding decreasing the amount of salt used. Sue Lingle seconded. Roll call vote: Dave Hamann, Sue Lingle, Bob Hanvey, Dan Lowe—all yes.

**Motion carried 4-0.**

**AT&T Lease**

Discussion was held regarding the pros and cons of selling the lease for the cell tower. Sue Lingle motioned to decline the offer from Unison to buy the lease for the tower. Dan Lowe seconded.

**Motion carried 4-0.**

**Parking Lot Paving**

Two invoices were received from Tom Rogers for the parking lot paving: one is for the original proposal for \$19,380, and the other is for the repairs in the amount of \$3570. After reviewing the existing asphalt, the township engineer determined the area that needed to be replaced. Mr. Hanvey said the question is whether the amount for the repairs is reasonable. Mr. Westmoreland said yes.

Sue Lingle motioned to approve payment for the \$19,380 invoice plus the additional invoice in the amount of \$3570. Dave Hamann seconded. Roll call vote: Dan Lowe, Dave Hamann, Bob Hanvey, Sue Lingle—all yes. **Motion carried 4-0.**

## **NEW BUSINESS**

### **Highland**

Dan Lowe and Bob Hanvey attended the recent City Council meeting, and there was some disagreement as to what exactly was said at the meeting. Mr. Hanvey talked with Shea Charles, and confirmed that the agreement to move that property is tentative, contingent upon two items. Mr. Hanvey read the following from a letter to the City of Howell from Mark Lewis:

- Given that Highland's property is currently subject to a special assessment for sanitary sewer, Highland is requesting that the City of Howell waive its tap fees and other connection charges for connecting all or any portion of the property to sanitary sewer. Highland also requests that the City waive any usage, service or similar fees and charges to the extent Highland is required to pay usage, service and/or other similar fees and charges to Marion Township.
- Immediately following the land transfer, Highland will be permitted to concurrently apply to zone and obtain site approval for the development of its property, in the manner described above.

The letter further stated that its purpose is to advise the city of Highland's interest in applying for the transfer of Highland's property into the City of Howell under the conditions described. The City Council approved authorizing Mr. Charles to continue negotiations

### **Peavy Force Main**

Bob Hanvey provided the board members with a copy of the invoice from SBG Construction for repairs to the broken force main. Discussion ensued with the township engineer regarding the various charges. Sue Lingle asked who the septic company was. Mr. Hanvey said those invoices haven't been received yet. The township also hasn't seen anything from the city yet. Mr. Westmoreland said he has a contact name for the person who is the cathodic protection expert for the gas company. Supposedly, he knows everything there is to know about this. Mr. Westmoreland will schedule a meeting with him to discuss this situation. Sue Lingle motioned to pay the invoice for \$21,967.82 subject to review and approval by OHM. Dave Hamann seconded. Roll call vote: Dave Hamann, Bob Hanvey, Sue Lingle, Dan Lowe—all yes. **Motion carried 4-0.**

Mr. Hanvey also said that readings from the stream as of Tuesday still showed levels above recreational levels. A final reading is not yet available.

### **Peavy-Kedde-Sexton Petition**

Mr. Hanvey said a petition was received from residents of Peavy, Kedde and Sexton Roads requesting some fairly severe restrictions on the use of those roads for gravel trains and dump trucks. Mr. Lowe investigated the situation and found that it was Clark going into Delcor's development. He contacted Delcor and they put a stop to it, so that should eliminate the problem. Mr. Hanvey said the residents requested that the township enact an ordinance that would prevent this from happening. The Livingston County Road Commission (LCRC) indicated that Tyrone Township had attempted something similar. Mr. Hanvey contacted Tyrone Township and they have a civil infractions bureau and a code enforcement officer who can issue tickets. So far, he's only been able to catch one. That one is scheduled to appear in court on November 22. Mr. Hanvey will attend and try to get some idea of the realities of having a code enforcement officer and civil infractions bureau. Charlie Musson said it says in the extraction ordinance how it should be handled. Dave Hamann read from the ordinance that "...all vehicles used for transporting materials from an extractive use site shall travel to and from the site only on a haul route approved by the LCRC." Mr. Hanvey said the LCRC wouldn't do it unless it's one of their projects. Mr. Hamann said if that's the case, then the ordinance needs to be changed.

### **Appointments to Planning Commission**

Bob Hanvey nominated Dave Hamann and John Lowe to another term on the Planning Commission. Sue Lingle motioned to approve the appointment of John Lowe and Dave Hamann to the Marion Township Planning Commission for another three-year term. Dan Lowe seconded. **Motion carried 4-0.**

### **Rainbow Final Billing**

Mr. Hanvey indicated he and Dan Lowe attended the Board of Public Works meeting, where they pleaded the township's case. Mr. Hanvey believes they were not successful, but final written notice hasn't been received.

### **Text Amendments—Section 13.03 C, Section 8.02 A, and Section 17.24 A**

Dave Hamann motioned to approve the text amendment for Section 8.02 A. Sue Lingle seconded.

**Motion carried 4-0.**

Dave Hamann motioned to approve the text amendment for Section 13.03 C. Sue Lingle seconded.

**Motion carried 4-0.**

Sue Lingle motioned to approve the text amendment for Section 17.24 A. Dave Hamann seconded.

**Motion carried 4-0.**

### **Fire Department ISO Rating Improved to Level 5**

Mr. Hanvey reported that the Insurance Service Office (ISO) is the group that does the rating of fire service. The rating can be from 1-10. The township's rating previous to the increase in manpower and the availability of water service was a 9. As a result of the recent investigation, which took almost a year, the rating level for the entire township was changed from 9 to 5. According to some of the examples that were given, the amount saved on insurance could offset the amount of the millage. This new rating becomes effective December 1, 2004. Mr. Musson suggested that the township have something available for residents to give to their insurance company. Mr. Hanvey said this will be announced on the township website and cable channel.

### **Appointment to Cedar Lake Improvement Board**

Myrna Schlittler asked that a new representative be appointed to take her place on the Cedar Lake Improvement Board prior to its meeting on Tuesday, November 16 at 9:30 a.m. Tammy Beal, the incoming township clerk, volunteered to serve on this board. Sue Lingle motioned to appoint Tammy Beal as the township representative to the Cedar Lake Improvement Board. Dave Hamann seconded.

**Motion carried 4-0.**

### **Coon Lake Special Assessment**

Mr. Hanvey said he had discussed with Mike Vernon the concept that Mr. Vernon get the money up front in cash to pay the bill for the testing, the study, the engineering, and the preliminary work that needs to be done prior to the determination of whether the project can go forward. Mr. Vernon seemed willing to do that and has scheduled a meeting with the residents.

### **PLANNING COMMISSION REPORT**

Dave Hamann reported that the Planning Commission met three times in October. A workshop was held on October 18 to discuss ordinance issues. Two public hearings were held on October 26. One was for Section 6.07—Accessory Structures, and one was for the Crossroads Church special use permit. The regular meeting was held on October 26. Also, a public hearing was held on November 10 for the master plan presentation to the public.

### **PARKS & RECREATION REPORT**

Sue Lingle reported that Eric Reickel, the new interim director for Parks & Recreation, is working with Shea Charles to update the five-year master plan to send to the DNR. He's looking into the Kellogg Foundation. He also wants the townships to endorse the city spending \$25,000 out of the Parks & Recreation budget for a program called "The Partnerships of Change." More information will be provided at a later date. Keith Huff has resigned and he introduced one of the new trustees who will be his replacement.

### **ZBA REPORT**

Dan Lowe reported that the ZBA met on November 1. A variance request for a front yard setback was approved for construction of a new house on the northwest corner of Coon Lake Road and Pingree.

### **ZONING ADMINISTRATOR REPORT**

Provided in packets.

### **DPW REPORT**

Provided in packets.

### **FOR THE GOOD OF THE TOWNSHIP**

Bob Hanvey reported that the watershed plan was submitted. However, more work needs to be done. There is a meeting on Friday, November 12. The permit expires in four years.

### **CALL TO THE PUBLIC**

Bob Hanvey extended a thank you to Myrna Schlittler, the outgoing township clerk, in appreciation for her 12 years of service to the township.

**TREASURER'S REPORT**

Sue Lingle provided reports for September and October. However, the amount of expenses wasn't available. Dave Hamann motioned to table this agenda item. Dan Lowe seconded. **Motion carried 4-0.**

**ADJOURNMENT**

Dave Hamann motioned to adjourn the meeting at 9:45 p.m. Sue Lingle seconded. **Motion carried 4-0.**

**MINUTES - DECEMBER 9, 2004**

**MEMBERS PRESENT:** Bob Harvey, Sue Lingle, Dan Lowe, Dave Hamann, and Tammy Beal

**MEMBERS ABSENT:** None

**OTHERS PRESENT:** Phil Westmoreland, OHM, Township Engineer

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**CALL TO ORDER**

Bob Harvey called the meeting to order at 7:32 p.m.

**PLEDGE TO FLAG**

**INTRODUCTION OF BOARD MEMBERS**

**CALL TO PUBLIC**

None.

**APPROVAL OF AGENDA**

Sue Lingle motioned to approve the agenda as amended. Dave Hamann seconded.

**Motion carried 5-0.**

**APPROVAL OF MINUTES**

**Board of Trustees Regular Meeting, November 11, 2004**

Dan Lowe motioned to approve the minutes as presented. Sue Lingle seconded. **Motion carried 5-0.**

**Ways & Means Meeting, December 6, 2004**

Sue Lingle motioned to approve the minutes as presented. Dave Hamann seconded. **Motion carried 5-0**

**OLD BUSINESS**

**Highland**

Bob Harvey presented a letter from Shea Charles that seems to state that the 425 agreement is a done deal. Mr. Harvey said it didn't sound that way at the board meeting and he has not received any written information from anyone that the agreement has been finalized. Mr. Harvey said the lawsuit with Highland is still very much alive. The plaintiff has recently hired three new attorneys and they are stepping up attempts through various courts. The tax tribunal recently issued an order that all the tribunal activities will be held in abeyance until the circuit court's judgment from Judge Latrielle can be resolved at the appellate level. However, the order giving the abeyance was issued about the same time that Highland filed a pre-trial brief for the tribunal restating the old stuff, but adding a new item, which is a request to amend their previous appraisal based on the fact that they are now going to be annexed into the city.

**Dan Lowe made the following resolution:**

Whereas, Marion Township and the City of Howell entered into a contract for conditional transfer of property on January 19, 1987, under the authority of Public Act 425 of 1984; and  
Whereas, that agreement provided for the Township to consent in advance to the transfer of parcels of land within Marion Township north of Interstate 96 (I-96) Highway; and  
Whereas, that agreement was based upon an understanding that providing municipal water and/or sewer to that area would further the economic well-being of both the City and the Township; and  
Whereas, that agreement provided that the only feasible way to provide sewer and/or water services to this area was through a cooperative contract between the Township and the City; and  
Whereas, the purpose for entering into that contract for conditional transfer of property was because Marion Township lacked the ability to provide municipal sewer and/or water to that area at the time of the contract; and  
Whereas, Marion Township and the City of Howell subsequently entered into a separate agreement

whereby Marion Township is able to purchase and provide municipal sewer to areas of Marion Township including the area covered by the agreement that provided for the conditional transfer of property; and Whereas, Marion Township also has the ability to provide municipal water in the Township as well as within the area covered by the contract for the conditional transfer of property; and Whereas, Marion Township cooperated with the City of Howell that allowed the City to be able to obtain property that would provide the "loop road" to Lucy Road; and Whereas, Marion Township has cooperated with the owners of the "Darakjian Property" to assist them in their efforts to develop their property located within Marion Township and north of I-96; and Whereas, Marion Township is being sued by the Highland Howell Development Property involving, among other things, the assessment of water and sewer services to that property; and Whereas, Marion Township is able and capable of providing municipal sewer and water to these properties; and Whereas, the City of Howell has agreed to accept the above-referenced properties commonly referred to as the "Darakjian Property" and the "Highland Howell Property"

Now, therefore, be it resolved:

1. Marion Township Board hereby notifies the City of Howell of its disappointment with the decision of the City of Howell to accept said properties under the January 19, 1987 contract because:
  - a. Such transfer is not in accordance with the spirit of the January 19, 1987 contract because of the Township's ability to provide municipal sewer and water to the subject properties;
  - b. Marion Township has already assessed the properties for municipal sewer and water services;
  - c. Marion Township is being sued by the Highland Howell property owner involving, among other things, the water and sewer assessments with no provision for any resolution of that litigation;
  - d. The transfer of those properties represents a significant loss of tax revenue, as well as other revenues, for which the Township will not be adequately compensated;
  - e. The issue of outstanding sewer and water assessments owed to the Township for these properties is unresolved. Resolution seconded by Sue Lingle. Discussion: Sue Lingle said one of her big concerns is the outstanding REUs on that property and how that will be handled. The township has a lien against that property. Roll call vote: Dave Hamann, Sue Lingle, Bob Hanvey, Tammy Beal, Dan Lowe—all yes.

**Resolution passed 5-0.**

#### **Coon Lake Special Assessment**

Bob Hanvey provided a brief updated on this item. The property owners of the 21 parcels on the canal held at meeting and it was decided to go forward with the testing of the material in the canal area. The owners would provide the funding for the testing and first-level design. The company has done the testing and they are awaiting the results.

#### **Peavy Force Main**

Bills are in the packets from Advance and SBG, and the engineer has reviewed the SBG invoice. There are also bills coming from the City of Howell for the work they did and from OHM. Dan Lowe motioned to approve the bill from Advance Underground Inspections for \$5,564. Sue Lingle seconded. Roll call vote: Dan Lowe, Tammy Beal, Bob Hanvey, Sue Lingle, Dave Hamann—all yes. **Motion carried 5-0.** Sue Lingle motioned to approve the revised invoice 04-0078 in the amount of \$21,517.82 submitted by SBG Construction. Dave Hamann seconded. Roll call vote: Sue Lingle, Tammy Beal, Dave Hamann, Dan Lowe, Bob Hanvey- all yes. **Motion Carried 5-0.**

#### **Peavy/Keddle/Sexton Petition**

A petition was filed by approximately 50 residents requesting that gravel trains be restricted from these roads. Mr. Hanvey called the Livingston County Road Commission (LCRC) and in order to impose a restriction, the township would have to pass an ordinance that would restrict the traffic. Tyrone Township has this type of ordinance, although they have not been very successful in enforcing the ordinance. Dan Lowe has talked with the drivers of the gravel trains and they briefly changed their routes. Mr. Lowe talked with them again and hopefully, they will comply. Mr. Lowe asked the operators of the gravel pit, who were in the audience, if they could discourage the drivers from taking the back

route over to D-19, and try to encourage them to take Norton Road. Joe Ricardi said most of them are local deliveries, but he will do his best to keep them on main roads.

### **Northern Materials (TT&G) Site**

Mr. Hanvey indicated the township has received a preliminary site plan that was reviewed at the last board meeting and given tentative approval. Since that time, the township received a review from the engineer and an estimate of the restoration amount. There is a lot of activity taking place that's not yet solidified. Tom Kizer: Mr. Kizer is representing the Mansons in this matter, one of whom is an adjacent property owner. The other is a resident of the township. They have several concerns. It appears the township has a gravel pit operator who wants to mine this pit. The township has an ordinance that is designed to protect all of the citizens from dangerous situations. Even if the township's ordinance allows this operation to continue, there is clear law that they do not have a right to expand it by going beyond whatever boundary the gravel pit had when it was first operated without complying with the ordinance that's designed to protect all of the citizens. What the township is getting from the Trierweiler estate, which apparently has no assets, and from a gravel pit operator who doesn't even own the property and who wants to get as much gravel out of there, and as long as the township delays things and doesn't take action against them, they'll keep mining it, because they're in it for the economics. Mr. Kizer suggests that when they are all done, they're not going to reclaim that property; they're going to walk away. The township won't have a bond, nothing sufficient to protect the citizens adjacent to the pit. In addition, right now the township has an operation going on and it's going to be sued by somebody. Apparently, there have been threats made by the operators or by the Trierweiler estate or somebody, that if the township takes action to limit what they're doing and to comply with the township's ordinance, that they're going to sue the township for damages. If somebody falls into that pit, or other damages, the township will be sued there too. If the township allows and permits this operation, knowing there is a deed restriction, so that the Mansons' property is subjected to a violation of this restriction, the township will be sued for the damages it allowed to happen to them. The easy way out is to tell the operators the township will take action unless the following occurs: the operator clears up the deed restriction and the township enforces the ordinance. Mr. Kizer is urging the township not to approve anything and to take action under the ordinance through the township attorney or through an expert that is hired. That may eliminate the need for action. **Call to the Public**

Glen Caverly, Northern Materials: Mr. Caverly asked what Mr. Kizer means by "expanding the pit." Mr. Hanvey said that's a question for the attorneys to work out. Mr. Hanvey made a recommendation that the board table this issue and allow the attorneys to work on it.

Brian Manson, 2950 Sanitorium: Mr. Manson asked what the township will do if the operator walks away? Mr. Hanvey said the township doesn't have a plan for that right now.

John Manson, 3048 Jewell: Mr. Manson said we've been at this since July and he's asked questions of the township's attorney, who never got back with him. But since the township's been at this since July, why isn't there a plan?

Mr. Hanvey said for the scenario Brian Manson presented, the township doesn't have a plan. For the scenario that suggests that the plan presented by the operators is feasible and that the engineers have reviewed, that the township will attempt to proceed with and get Mr. Kizer's problems resolved is the plan.

Mr. Manson said again that his concern is that the operator won't finish. If the operator came in with enough money to solve the problem, he wouldn't object.

Dan Lowe said there has been some talk that once the operator takes out the 200,000 yards, if they can't go on to the 10 acres, there's some ways to put retaining walls in and still make it work out with the grades.

Mr. Manson asked if the township has looked at the plan that was presented.

Mr. Hanvey said yes. Mr. Manson asked if it's a feasible print? Mr. Hanvey said it seems viable so far.

Mr. Manson asked if the setbacks were measured, etc, and what if they walk.

Mr. Lowe said the township has been furnished with a bond for \$40,000, and that needs to be worked out. The engineer estimated \$149,000.

Mr. Manson asked if that amount is adequate.

Phil Westmoreland, OHM: Mr. Westmoreland said in his opinion as a licensed Professional Engineer in

the State of Michigan, yes. Mr. Westmoreland said they did actual quantity takeoffs; they didn't pull the number out of the air. They took the plans, did the quantity takeoffs, compared it to real-life numbers that are typically bid on not only municipal projects, but private projects, of this nature and type. There are some assumptions that there is enough topsoil on the site to restore it, and that the quantity of dirt on the adjacent property can legally be used. If that were not used, then this estimate wouldn't fix it.

John Manson: Mr. Manson asked if the \$149,000 falls short and the township has that in bond money, would the township back it up? If Mr. Westmoreland is going to put his name on it and says it can be fixed for \$149,000 and it costs \$500,000, will the township back it up? Does OHM have insurance?

Paul Damon, 2992 Jewell: Mr. Damon asked Mr. Hanvey if he's measured at the site and are they 150 feet from the lot line? Mr. Hanvey said they are not, they are approximately 75 feet.

John Manson asked Mr. Hanvey if it was safe. Mr. Hanvey said he chose not to walk to the edge. Mr. Manson asked if someone falls off of that, does that make the township liable? Mr. Hanvey said it's a private piece of property and it's the same as if someone fell in Mr. Manson's backyard. Mr. Damon asked if the township is going to stop them. Mr. Hanvey said not today. Dan Lowe asked to clarify a couple of items with Mr. Damon. Mr. Lowe stated he has not hauled anything out of the gravel pit, although he could if he wanted to. Mr. Lowe said if he hears any more rumors to the effect that he's hauling out of there and getting some kind of deal cut, then Mr. Damon will be hearing from Mr. Lowe's attorney. Dave Hamann motioned to table this agenda item until the attorneys can get together. Sue Lingle seconded. **Motion carried 5-0.**

### **Rainbow Final Billing**

Mike Arens said a final payment is being requested by Rainbow Construction, which has been presented to the Livingston County Board of Public Works without action by the Marion Township Board. Mr. Arens said basically, the county doesn't have sufficient funds to pay off this final pay request. One of the reasons the resolution was written is because there are insufficient funds in the county bond funds to handle this. Any final payment of this amount would have to come from the township. Regarding the issue in the change order, Mr. Hanvey and Mr. Lowe have explained to the county board concerns the township has with the quality of work that was done, problems with items that may have not been done by the contractor, some alleged concerns about the lack of oversight by the engineer on the project. Mr. Arens shares those concerns. The nub of the issue is that the township officials authorized the work at the time, and the township engineers approved it. The concern the County Board has is that they have no standing to withstand a lawsuit on the part of the contractor if they elect to sue the county. If the township fails to come through on this, the county would have to borrow internal funds in order to pay off the final pay request. Those funds would have to be borrowed on the condition that they would be reimbursed through proceeds of a lawsuit. Specifically, Mr. Arens is concerned about where this might be headed as a technical and legal matter if this request for approval of the final pay estimate and the forwarding of the funds isn't taken care of. Mr. Hanvey said he's looked at the minutes of the November 4 DPW board meeting and he doesn't see the resolution in the minutes. The minutes indicate everything was deferred until January 6. Mr. Hanvey asked when the resolution was done. Brian Jonckheere said it was done at the DPW meeting; it should be in the minutes. Mr. Arens said this item was discussed after Mr. Hanvey left the meeting. Mr. Hanvey said in his opinion, if the township can find a way to pay the money without having to go through the process of saying it approved the change order for landscaping at about \$2,300, he would be willing to do that. Mr. Jonckheere said it is his intent to make sure this doesn't move down the wrong path; nobody wins in that case. Sue Lingle said she would go along with that. Mr. Jonckheere said he would attempt to negotiate. Dan Lowe said at the very least, they should drop off the \$2,311.96. Mr. Jonckheere will talk with Rainbow. Sue Lingle motioned to approve payment per the request of the Livingston County Board of Public Works of \$17,074.84, less the amount of \$2,311.96 unless authorized by legal counsel. Dave Hamann seconded. Roll call vote: Dan Lowe, Dave Hamann, Sue Lingle, Tammy Beal, Bob Hanvey—all yes. **Motion carried 5-0.**

### **Lucy Road**

Mr. Hanvey said the township has been working with the property to get this situation resolved. They have a land balancing permit from the township and a restoration permit from the Drain Commission. Instead, they decided to mine sand. They took out more sand than they should have, and they decided to bring in some clay. They decided that the land-balancing permit that called for an elevation of 906

wasn't appropriate. Mark Hathaway has visited the site and said as far as the erosion and sedimentation, they're doing okay. The township is concerned about the stabilization of the banks and the irregular slopes on the south side. The property owner has ignored two stop work orders from the township and ignored the judge's temporary restraining order and kept on cutting down trees, etc. Brian Jonckheere asked Mr. Hanvey if he has seen the activity that's being reporting out there. Mr. Hanvey said yes, he has seen activity coming in and going out. He also had a DEQ violation. He did take down trees after the restraining order was in place. Ken Recker said he believes they have a bond and will check with Mark Hathaway.

### **NEW BUSINESS Marion**

#### **3 Drain**

Ken Recker said he approached the board in September regarding this drain. At that time, it was decided to hold off. He now has a better idea of what the school's doing with discharge. A portion will go into Livingston 20 at the corner of Wright Road and D-19, and a portion will go to Marion 3, which discharges to the south under Davis Road and meets back up with Livingston 20. The school has taken the information provided and restricted the discharge substantially.

Bob Hanvey read the following resolution:

Whereas, the Livingston County Drain Commissioner has advised the Marion Township Board of Trustees that pursuant to Section 196 of the Michigan Drain Code, MCL 280.196 MSA 11.1196, an inspection has been made of the Marion No. 3 drain and, as a result of the inspection, it has been determined that certain maintenance must be performed upon the drain; and Whereas, the Livingston County Drain Commissioner has authority to expend \$2,500 per mile any one year for the interim maintenance of the drain, and where it is estimated that the expenditures in excess of \$2,500 per miles are necessary, those amounts may not be expended until approved by resolution of the governing body of each township, city or village affected by more than 20% of the cost; and Whereas, the Livingston County Drain Commissioner has advised the Marion Township Board of Trustees that it will be necessary to expend funds in excess of \$2,500 per mile for the interim maintenance of the Marion No. 3 drain, and that the Township of Marion is affected by more than 20% of the cost; and Whereas, the Livingston County Drain Commissioner estimates that the cost for the maintenance of the Marion No. 3 drain will be approximately \$12,100, which constitutes \$7,100 in excess of the authorized \$2,500 per mile. Now, therefore, it is hereby resolved by the Marion Township Board of Trustees that pursuant to Section 196 of the Drain Code, the Livingston County Drain Commissioner is authorized to expend money for the maintenance and repair of Marion No. 3 drain in excess of \$2,500 per mile, and to the extent that the drain fund for the drain contains insufficient funds for the payment of costs incurred for the interim maintenance and repair to the drain, then the Livingston County Drain Commissioner is authorized to levy a special assessment as allowed by law. Mr. Recker provided the board with a map of the assessment district. The district roughly constitutes 500 to 600 acres. Sue Lingle asked how many people would be involved? Mr. Jonckheere said about 25. A public hearing will be held next fall to levy the assessments. Ms. Lingle asked the time period for the special assessment. Mr. Recker said over one or two years, but wouldn't suggest more than two years. Ms. Lingle asked if the school would be involved. Mr. Jonckheere said schools, by law, are exempt from special assessments. Mr. Recker said they could approach the school. The Drain Commissioner approached the school on a separate drain a few years ago, and the implication at the time was "please don't come back and see us in the next couple years." Dan Lowe moved to approve the resolution as read. Tammy Beal seconded. Roll call vote: Dave Hamann, Bob Hanvey, Sue Lingle, Tammy Beal, Dan Lowe—all yes.

#### **Resolution passed 5-0.**

#### **Crossroads Apostolic Church**

Mr. Hanvey said the Crossroads Church is present for site plan approval for a daycare center. Mr. Hamann said also a Special Use Permit. Information, including a drawing, is included in the board packets. Keith Richards, representing the church, was present for the meeting. Mr. Hamann summarized the Planning Commission's action on this item. Mr. Richards asked to have the date on the paperwork changed from January 9, 2005 to February 1, 2005. Dave Hamann motioned to approve the site plan reviewed by the Planning Commission for the Crossroads Apostolic Church at 144 Schroeder Park Drive. Sue Lingle seconded. **Motion carried 5-0.**

Dave Hamann motioned to approve the Special Use Permit based on the conditions for special use to be signed by Mr. Richards, Ms Cook and Ms. Beal, and to amend the date to February 1, 2005. Sue Lingle seconded. **Motion carried 5-0.**

#### **Text Amendments**

Dave Hamann gave a summary of this agenda item. Section 7.10—Schedule of Regulations, needs clarification by adding a footnote item (i) for minimum lot area. Dave Hamann motioned to approve the change to Section 7.10—Schedule of Regulations. Sue Lingle seconded. **Motion carried 5-0.**

#### **Appoint Board of Review Members**

Sue Lingle motioned to reappoint Cheryl Range, Richard Dell and Cindy Hodge to the Board of Review. Tammy Beal seconded. **Motion carried 5-0.**

#### **Clark-Hill Invoices**

The amount for the October invoice is \$6,725, and the amount for the November invoice is \$10,005. Dave Hamann motioned to approve the invoices. Sue Lingle seconded. Roll call vote: Dan Lowe, Tammy Beal, Bob Hanvey, Sue Lingle, Dave Hamann—all yes. **Motion carried 5-0.**

#### **Emerald Ash Borer**

Mr. Hanvey provided an update on this agenda item. Local municipalities will have the option of participating in this program.

#### **Carlisle/Wortman Contract**

A review letter from the township attorney was included with the packets. Mr. Kehoe suggested that the termination period be changed to 30 days. Dave Hamann motioned to approve the Carlisle/Wortman contract as amended. Sue Lingle seconded. **Motion carried 5-0.**

#### **Sewer Rates Study**

Mr. Hanvey said the sewer rate study indicates that the township is in serious trouble with the amount of money being charged for sewers. The current contract with the City of Howell states the township has to charge the same rate the city charges. In July, the city raised the rate by three cents. Based on the maintenance charges from the City of Howell, etc., the rates should be raised to about \$5.30. The township is waiting for a letter of understanding from the city. Dave Hamann motioned to table this item. Dan Lowe seconded. **Motion carried 5-0.**

#### **OHM Maps Approval**

A proposal from OHM for zoning map administration is included in the packets. Dan Lowe motioned to table this item. Dave Hamann seconded. **Motion carried 5-0.**

#### **Parks and Recreation (Partnerships for Change)**

A resolution prepared by the City of Howell is included in the packets for the board members to review. Ms. Lingle said this would be a more professional way of looking at what we have now, what we need, the overviews of locations, defining where the growth is going at this point of time, etc. The grant is between \$35,000-45,000. Mr. Hanvey said he would like to see the grant application. Mr. Hamann recommended the attorney review Dave Hamann motioned to table this item for more information from the City of Howell. **Dan Lowe seconded. Motion carried 5-0.**

#### **Township Annual Audit**

The audit is included in the packets. An updated version is forthcoming. Dan Lowe motioned to table this item until a Special Meeting to be held by the end of year. Sue Lingle seconded. **Motion carried 5-0.**

#### **Approval for Present Clerk to Sign Land Division Amendment**

Sue Lingle motioned to authorize the present clerk to sign land division amendment. Dave Hamann seconded. **Motion carried 5-0.**

#### **Holiday Hours**

Sue Lingle said that Christmas and New Year's Day fall on Saturday, which is a holiday for the staff. Christmas Eve and New Year's Eve are on Friday, which is not a regular workday. Generally speaking, if a holiday falls on the weekend, the offices are closed either Friday or Monday. Ms. Lingle suggested closing on both Thursdays, and pay the staff for working on the Mondays after the holidays. Sue Lingle motioned to approve the holiday hours as stated. Tammy Beal seconded. **Motion carried 5-0.**

#### **Employee Handbook**

Tammy Beal indicated a line needs to be added to the employee handbook to include retiree benefit coverage. Dave Hamann motioned to add this line to the employee handbook. Sue Lingle seconded.

**Motion carried 5-0.**

**PLANNING COMMISSION REPORT**

Dave Hamann said the Planning Commission held three meetings in November. A public meeting was held on November 10 for the comprehensive plan. A workshop was held on November 15. The regular meeting was held on November 23.

**PARKS & RECREATION REPORT**

Sue Lingle said the meeting would be held next week.

**ZBA REPORT**

Dan Lowe said the ZBA met on December 6. The first request was from Earl Meier for a setback variance. The second request was from Adler for three variances: five lots on a cul-de-sac, number of units with single access, and a greenbelt requirement. All requests were granted.

**ZONING ADMINISTRATOR REPORT**

Provided in packets.

**DPW REPORT**

Provided in packets.

**FOR THE GOOD OF THE TOWNSHIP**

Mr. Hanvey reported that two residents have responded to the watershed wizard question in the township's newsletter. Dan Lowe asked Mr. Westmoreland about getting the private roads classified. Mr. Hanvey said progress has been made and will be presented to the Planning Commission. Sue Lingle said the township received a letter from Susan Pless, the treasurer for the City of Howell, thanking the township for the \$2,350 contribution to the skate park.

**CALL TO THE PUBLIC**

Charlie Musson asked what land division ordinance was just amended. Mr. Hanvey said G-2-92. Mr. Musson said there's another land division ordinance dated 1997.

**TREASURER'S REPORT**

Sue Lingle presented reports for September, October and November. Also included is an information sheet on the second MHOG water expansion, and so far the township has spent \$975,000. Dave Hamann motioned to approve the treasurer's reports. Dan Lowe seconded. **Motion carried 5-0.**

**ADJOURNMENT**

Dave Hamann motioned to adjourn the meeting at 9:43 p.m. Sue Lingle seconded. **Motion carried 5-0**