

**BOARD OF TRUSTEES  
MINUTES - JANUARY 13, 2005**

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

**MEMBERS ABSENT:** None

**OTHERS PRESENT:** Mike Kehoe, Township Attorney (part of meeting)  
Phil Westmoreland, OHM, Township Engineer

\*\*\*\*\*

**CALL TO ORDER**

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

**PLEDGE TO FLAG**

**BOARD MEMBERS PRESENT**

The board members introduced themselves.

**CALL TO PUBLIC**

Larry Sefton, 1172 County Farm: Mr. Sefton asked about the hours of operation for the Northern Materials gravel pit. Mr. Hanvey said the proposed change is from 8:00 am-1:00 pm on Saturday, and 7:00 am-5:30 pm during the week. Mr. Sefton said the website indicated 7:00 am-7:00 pm weekdays. Mr. Hanvey said that's incorrect and will be changed.

**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, December 9, 2004**

Dave Hamann motioned to approve the minutes as presented. Tammy Beal seconded.

**Motion carried 5-0.**

**Board of Trustees Special Meeting, December 20, 2004**

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

**Motion carried 5-0.**

**Ways & Means Meeting, January 10, 2005**

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

**Motion carried 5-0.**

**OLD BUSINESS**

**Northern Materials**

Bob Hanvey asked the township attorney, Mike Kehoe, and Northern Materials' attorney, Raymond Feul, to discuss the draft consent order provided in the board packets. Mr. Feul said a draft proposed order was sent to Mr. Kehoe, who made revisions. A couple of other minor changes were made. This would permit an order to be entered with the court that would dispose of the lawsuit, including the counterclaim against the township, and would rely on the soil and erosion plan that's already been approved by the board, as well as the proposed development plan. Both of these plans will be attached as exhibits. Mr. Hanvey added that the project would proceed as any other normal project would once excavation is complete. Mr. Feul said that is correct, and it provides for a bond. Mr. Hanvey also said the fence has been put up. Larry Sefton, 1172 County Farm: Mr. Sefton said there is no fence on the south side.

Mr. Hanvey said as soon as this is approved, the south side is going to be where they will start doing the restoration work. The agreement calls for excavation and restoration

to be going on simultaneously. Mr. Sefton asked what is meant by restoration. Mr. Hanvey asked Glen Caverly to explain. Mr. Caverly said grading the slopes; there's no more mining to be done on the south side. Mr. Sefton said that's the truck entrance and there's a lot of noise. Mr. Caverly clarified the area that Mr. Sefton was asking about, along County Farm. Mr. Caverly said there wouldn't be any grading there yet. Mr. Sefton said he would like to see them get away from that corner. Mr. Caverly said they couldn't get away from the corner until the pit is done, because that's where the county approved the driveway to be. Mr. Sefton asked about the time frame. Mr. Hanvey said the only restriction in the agreement is that the whole excavation project be completed within three years. Mr. Hanvey also informed the residents that once this order is signed, a copy could be obtained through the courts. Mr. Kehoe said the one modification that was requested is on page 5, and will read as follows: IT IS FURTHER ORDERED that the Defendants may pursue and undertake such excavation and mining operations and activities including, but not limited to, removal of trees, earth moving and grading that is not inconsistent with the proposed Grading and Soil Erosion plan attached hereto as Exhibit A. Sue Lingle motioned to authorize Mike Kehoe and Tom Meagher to execute the consent order as revised, contingent upon execution by opposing counsel. Dave Hamann seconded. Roll call vote: Bob Hanvey, Sue Lingle, Tammy Beal, Dan Lowe, Dave Hamann—all yes. **Motion carried 5-0.**

#### **Act 425**

A letter from Shea Charles, Howell city manager, is provided in the packets. Mr. Hanvey said no action is required from the board at this point; however, this would be an excellent time to ask Mr. Kehoe any questions. Mr. Hanvey also said one of the items not in the letter is that the city has apparently agreed to waive the tap fees on the sewer for the development, but not on the water. It may be in the township's best interest to arrange some sort of agreement whereby the water and sewer are at some point removed from that project and transferred somewhere else with the condition that there be no cash flow damage done to the township and there's no extraordinary expenses in maintaining and monitoring this transfer.

Gary Riser, 860 Lucy Road: Mr. Riser asked what exactly is happening with this property. Mr. Hanvey said the most recent proposal that was made to the city is for the company known as Highland to change the plan from a manufactured home park to attached condos. There would eventually be approximately 300-500 units over the next several years. The proposed loop road that at one time was going to go out to Lucy Road as the only outlet has been proposed to be changed so that the major outlet will be to National Street and there will be another paved road that will exit on Lucy Road. The proposal is to close the railroad crossing at Lucy Road. Dan Lowe asked if the sewer taps would be dealt with later. Mr. Hanvey said he and Ms. Lingle attended a meeting with Shea Charles and Terry Wilson, and it seems that they are looking at this as two separate issues. The annexation is separate from the resolution of the special assessment situation. Mr. Lowe asked Mr. Kehoe if the township loses its leverage once the property is annexed. Mr. Kehoe said he doesn't believe so, although he's still in the process of looking at the finer details of the process. Mr. Hanvey said one of the interesting provisions of the 425 agreement is that Public Act 425 provides for a sharing of revenue between the two units of government for a 30-year period. When the agreement was written, the township millage was 1.28 mils, and that's the millage rate that the development will be paying on, even though the township's current millage rate is .84. This would provide an increase in tax revenue for 30 years. Mr. Lowe asked if

they were delinquent on their assessments, would that make it harder for the township to do anything. Mr. Kehoe said the consequences should remain the same, but he will check further.

#### **Allied Construction Invoice**

A draft letter to Allied Construction is provided in the board packets regarding the Norton Road repairs. Mr. Kehoe suggested that the amount of the refund also be included in the letter. Sue Lingle motioned to authorize township clerk to send the letter to Allied Construction. Dan Lowe seconded. **Motion carried 5-0.**

#### **AT&T/Cingular Lease**

A packet of information is included in the board packets. Dan Lowe motioned to table this item until next month. Tammy Beal seconded. **Motion carried 5-0.**

#### **Peavy Force Main**

Phil Westmoreland from OHM discussed the options for the Peavy force main. There is a Panhandle gas line nearby with a cathodic protection system, which prevents that pipe from rusting. It appears that this cathodic protection system, which is within feet of the township's ductile iron force main, is eroding the force main. One option is to do nothing and continue to make repairs, although that will be expensive. Mr. Westmoreland believes a break will happen again within another year or two. Another option is to replace the force main with plastic pipe using a method called pipe bursting. A third option would be to weld anode bags on the pipe, which is relatively inexpensive. Dan Lowe suggested directional boring. Mr. Westmoreland said directional boring and pipe bursting is approximately the same cost. Dan Lowe motioned to have Phil Westmoreland of OHM provide a proposal. Tammy Beal seconded. **Motion carried 5-0**

#### **NEW BUSINESS**

##### **Howell Schools Request for Sewer/Water**

Rick Terres from Howell Public Schools was present to request water and sewer service for the new high school, which will be complete in the fall of 2007. Mr. Hanvey said the details involve the engineering specifications and the number of REUs. Mr. Hanvey said the township would install a service lead as opposed to a sewer main. Dan Lowe motioned to table until written opinions are received from both attorneys. Tammy Beal seconded. **Motion carried 5-0.**

##### **Lucy Road Maintenance**

Mr. Hanvey said the township received letters from two residents of Lucy Road requesting the board look at the maintenance situation. Part of the issue is the number of residents, which is only 10 or 11 houses, versus the length of the road. The cost to update the road would be approximately \$100,000. That is more money than the township can afford for the small number of residents. It wouldn't be the best way the board could spend that amount of money. Dan Lowe suggested that Genoa Township should participate in paying for road maintenance given the fact that the businesses on Lucy Road are in Genoa Township.

##### **Abend Show Cause Hearing**

Alan and Lisa Abend, 2741 Black Eagle Ridge, were present in response to a violation notice sent by the zoning administrator. Mr. Abend provided the board members with photographs of the structure, which he is using to store wood. The structure has a wood floor, but no footings. Mr. Abend feels this is not a structure and shouldn't have to meet the setbacks. Dan Lowe motioned to have the Abends move the shed by July 1, 2005 to meet the required side yard setback. Tammy Beal seconded. **Motion carried 5-0.**

## **OLD BUSINESS (continued)**

### **Emerald Ash Borer**

Mr. Hanvey said the role of the township would be to administer the project. The rules are still being formulated. It seems that the work would exceed the benefit. Dan Lowe motioned to continue to follow the progress of this project. Sue Lingle seconded.

**Motion carried 5-0.**

### **Carlisle/Wortman Contract**

Dave Hamann motioned to approve the Carlisle/Wortman contract as presented. Tammy Beal seconded. Roll call vote: Dan Lowe, Tammy Beal, Bob Hanvey, Sue Lingle, Dave Hamann - all yes. **Motion carried 5-0.**

### **Sewer Rate Study**

Dan Lowe moved by resolution to change the rate to \$3.50 per thousand and the flat rate will remain the same. Sue Lingle seconded. Roll call vote: Dave Hamann, Dan Lowe, Sue Lingle, Tammy Beal, Bob Hanvey—all yes. **Resolution passed 5-0.**

### **OHM Maps**

Dave Hamann motioned to table this item. Sue Lingle seconded. Motion carried 5- 0. Sexton/Peavy/Keddle Road Petition No residents were present to discuss this item. The petition has been received and filed.

## **NEW BUSINESS (continued)**

### **Text Amendment**

After discussion by the board, Dave Hamann motioned to table this item. Sue Lingle seconded. **Motion carried 5-0.**

Dan Lowe had questions about the ground floor living space for ranches and two-story homes and felt this should be clarified.

### **Striler Show Cause Hearing**

The property owner was not present for the show cause hearing. Sue Lingle motioned to have the zoning administrator pursue action against the owner. Dave Hamann seconded. **Motion carried 5-0.**

### **CIRAB Appointment and Report**

Sue Lingle motioned to appoint John Lowe to the CIRAB Board as the Marion Township representative. Dave Hamann seconded. **Motion carried 5-0.**

Mr. Hanvey reported that at the last CIRAB meeting, held last week, the engineer from Williams & Works presented some plans for attempting to resolve the odor problem at the sewer treatment plant. The solutions ranged from \$70,000 to about \$600,000, and more details will be provided. Another issue that was discussed is the need for a filter system. Another meeting will be held in March.

### **LCRC**

Dan Lowe had questions for Phil Westmoreland about tar and chip. Dave Hamann suggested getting recommendations from the Road Commission. Mr. Westmoreland will provide supplies and prices, and define the process.

### **2005 Fire Authority Budget**

Sue Lingle moved by resolution to approve the 2005 Fire Authority budget. Dave Hamann seconded. Roll call vote: Dave Hamann, Sue Lingle, Bob Hanvey, Tammy Beal, Dan Lowe—all yes. **Resolution passed 5-0.**

### **Resolution of Indemnification**

Tammy Beal made the following Resolution of Indemnification of Township Officers and Employees: Whereas, Public Act 170 of 1964, as amended, authorizes indemnification of public officers and employees while acting on behalf of the township within the scope

of their authority:

NOW, THEREFORE, BE IT RESOLVED that whenever a claim is made or a civil action is commenced against an officer or employee of Marion Township for injuries to persons or property allegedly caused by the officer or employee while acting within the scope of his or her authority, Marion Township shall pay for, engage, or furnish the services of an attorney to advise the officer or employee as to the claim and to appear for and represent the officer or employee in the action. The Township Board may compromise, settle, and pay the claim before or after the commencement of a civil action whenever a judgment for damages is awarded against an officer or employee of the Township as a result of a civil action for personal injuries or property damage cause. Dave Hamann seconded. Roll call vote: Dave Hamann, Dan Lowe, Tammy Beal, Sue Lingle, Bob Harvey—all yes. **Resolution passed 5-0.**

#### **Mileage Reimbursement Rate**

Sue Lingle motioned to increase the mileage reimbursement rate to 40.5 cents per mile. Dave Hamann seconded. Roll call vote: Tammy Beal, Sue Lingle, Bob Harvey, Dave Hamann, Dan Lowe—all yes. **Motion carried 5-0.**

#### **Snow Removal**

Sue Lingle motioned to terminate the contract with Rocky Ridge for snow removal. Tammy Beal seconded. Motion carried 4-1. Tammy Beal motioned to select Tom Rogers to provide snow removal services. Dave Hamann seconded. Roll call vote: Dave Hamann, Sue Lingle, Bob Harvey, Tammy Beal, Dan Lowe—all yes. **Motion carried 5-0**

#### **Land Division Ordinance**

Dave Hamann motioned to table this item. Tammy Beal seconded. Motion carried 5-0.

#### **Consolidated School Elections**

Tammy Beal said she needs approval from the board to sign a form allowing the township to hold the consolidated school election. Sue Lingle motioned to authorize the clerk to sign the form for the Howell School District election. Dave Hamann seconded.

**Motion carried 5-0.**

Dave Hamann motioned to authorize the clerk to sign the form for the Pinckney School District election. Sue Lingle seconded. **Motion carried 5-0.**

Sue Lingle motioned to authorize the clerk to sign the form for LESA. Dave Hamann seconded. **Motion carried 5-0.**

#### **Summer Tax Collection**

Sue Lingle reported that the Livingston County Treasurer's Association held a special meeting. Howell Schools has offered to pay \$1 per parcel for summer tax collection. Up until now, Ms. Lingle had negotiated a price of \$4.50 per parcel. Another meeting will be held next week, and Ms. Lingle would like the board to authorize her the ability to negotiate at that time.

#### **PLANNING COMMISSION REPORT**

Dave Hamann reported the Planning Commission held two meetings in December. A workshop was held on December 13, and the regular meeting was held on December 20.

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

Sue Lingle provided reports for the December and January meetings.

#### **ZBA REPORT**

Dan Lowe reported that no meeting was held in December.

#### **ZONING ADMINISTRATOR REPORT**

Provided in packets.

**DPW REPORT**

Provided in packets.

**FOR THE GOOD OF THE TOWNSHIP**

Bob Harvey reported that he attended the Solid Waste Committee meeting. They are moving along with the challenge grant. Electronic recycling will probably be done again this year. A new feature for 2005 is selling 80-gallon composting bins for \$20, along with instructions and training on how to use them. Mr. Harvey also attended the Natural Features Coalition meeting. This group would like to attend the February Ways & Means meeting to make a presentation.

**CALL TO THE PUBLIC**

Phil Westmoreland reported that his associate, Kristen Lundeen, is leaving OHM. Mr. Westmoreland also attended a recent MDOT meeting. One of the items on the list for 2007 is resurfacing and reconstruction work on the bridge of M-155, from Norton to end of route.

**OHM INVOICE**

Sue Lingle motioned to pay the OHM invoice for the Peavy force main in the amount of \$3,697.25. Dave Hamann seconded. Roll call vote: Dan Lowe, Dave Hamann, Sue Lingle, Tammy Beal, Bob Harvey—all yes. **Motion carried 5-0.**

**TREASURER’S REPORT**

Sue Lingle presented the treasurer’s report for December 2004, with expenses of \$58,815.23. Tammy Beal motioned to accept the report as presented. Dave Hamann seconded. **Motion carried 5-0.**

**ADJOURNMENT**

Sue Lingle motioned to adjourn the meeting at 10:26 p.m. Dave Hamann seconded. **Motion carried 5-0.**

**MINUTES - FEBRUARY 10, 2005**

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

**MEMBERS ABSENT:** None

**OTHERS PRESENT:** Phil Westmoreland, OHM, Township Engineer  
Angela Campbell, OHM  
Annette McNamara, Zoning Administrator

\*\*\*\*\*

**CALL TO ORDER**

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

**PLEDGE TO FLAG**

**BOARD MEMBERS PRESENT**

The board members introduced themselves.

**CALL TO PUBLIC**

None.

**APPROVAL OF AGENDA**

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

**APPROVAL OF MINUTES**

**Board of Trustees Regular Meeting, January 13, 2005**

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

**Motion carried 5-0.**

**Ways & Means Meeting, February 7, 2005**

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

**Motion carried 5-0.**

**NEW BUSINESS**

**Radick Show Cause Hearing**

Bob Hanvey asked Annette McNamara to explain the reason for the show cause hearing. Ms. McNamara said Mr. and Mrs. Radick have a hobby kennel at the corner of Coon Lake Road and Dutcher in the RR zoning district. Hobby kennels are a use permitted by right with special conditions. The Radicks have had a hobby kennel permit since 1999. In the fall of 2004, two complaints were made against the Radicks for the noise level of the dogs barking, and that she exceeds the number of dogs allowed for a hobby kennel by five. Ms. McNamara and Mrs. Radick discussed applying for a commercial kennel permit. However, people usually apply for commercial kennel permits for a profit-making kennel. Mrs. Radick decided to discuss this issue with the board prior to applying for a commercial kennel permit. Mrs. Radick said there was an incident in September when a puppy came into heat, so she was howling every hour for five or six nights. There was an anonymous complaint and Mrs. Radick put the dog in the garage. She hasn't made any noise since. The primary complaint has been and continues to be the German Shepard dog, unrelated to the hobby kennel. She was in a kennel in the backyard and the barking upset Mr. Goers. He called to complain, so they put her in the house during the quiet times, 10 pm to 7 am. He complained three more times in 14 months. The last complaint occurred at 9:30 p.m. The Radicks were not home. Their son came home and the dog barked because there was somebody in the yard. The huskies do make noise, during the day while they're exercised, and when they are fed. They are quiet at night. Several neighbors submitted information to the township saying they have not heard the dogs at night since September. Mrs. Radick said she is a very conscientious pet owner and she does her best to keep them quiet, but she feels she does have the right to exercise them. During a full moon, they will howl for about two minutes. During the six years they've been here, they have always asked the neighbors to let them know if anything was disturbing them. There are other barking dogs in the neighborhood. Mrs. Radick feels that because she has a hobby kennel, every barking dog in the neighborhood is thought to be hers. The neighbor has a dog that barks, and there are dogs all around that bark. Mr. Radick said they had an issue with the German Shepard that has been addressed. Whenever they've received a call, they try to be very up front about it. They have their kennels inspected regularly by the county, vets have come out to the house. They have a statement from the vet indicating the cleanliness of the kennel and the health of the dogs. They aren't a puppy factory, they aren't breeders. Mrs. Radick said that's why she didn't apply for the commercial kennel. Mr. Radick said this is a family sport. Mrs. Radick said the numbers account for the fact that eight of the 15 dogs are between the ages of 9-13. Mrs. Radick feels that after the dogs have given their time and service, she can't just ship them off, they're part of the family. They also help train the new dogs. Mrs. Radick runs a six-dog team, Matthew runs a three-dog team, Rachel runs a two-dog team, and Erin runs a two-dog team. That's 13 dogs. Mr. Radick said they actually borrow dogs from others in the sport. That's why they are asking to be allowed to keep the dogs they have. Mrs. Radick said she can't help but feel that this is personal. There's other noise in the neighborhood. Bob Hanvey said it appears there are several concerns, some of which are subjective

and some of which are objective. The simple one is that there are more dogs than the ordinance allows. It seems there would be one of two choices for the objective part of the concern: either maintain 10 or less dogs, or apply for a commercial license. The special use permit would require review by the Planning Commission. A public hearing will be held where all of the people within 300 feet of the property will be invited. A posting will be printed in the newspaper. The Planning Commission will determine if the requirements for the special use permit have been met. Another option may be the Zoning Board of Appeals. Another option would be to ask the Planning Commission to change the hobby kennel ordinance. There are no guarantees on success with any of these procedures. The subjective issue is the noise. Mr. Hanvey asked Ms. McNamara if there had been complaints about anything other than noise.

Ms. McNamara said the noise is the issue. At one point in time, the buffering by the dog runs was brought up, but a previous zoning administrator waived that requirement because there wasn't a home on the other side.

Mrs. Radick showed an aerial map of the property. She said the two people who filed complaints live the furthest away. It's confusing because the people who are closer say they don't hear them, and the people furthest away say they do.

### **Call to the Public**

Joe Goers, 5920 W. Coon Lake Road: Mr. Goers said the barking has really only been going on for the last two years.

The first problem was with the German Shepard, and he had to call Mr. Radick at 3:00 am to do something about it. Mr. Goers said people aren't hearing them bark now because it's winter and people don't have windows open. You can't leave your windows open during the spring and summer. It would not be a problem whatsoever except for the barking. If Mrs. Radick could quiet that down, he wouldn't have a problem.

Bill Atkinson, 3219 Dutcher: Mr. Atkinson lives just north of the Radicks. He said he hears the dogs all the time during the summer.

David Lynch, 3300 Dutcher: Mr. Lynch said he's lived there since 1991. This issue with the noise has been in the past two year. Whatever change has been made, that's what has disrupted the neighborhood. Prior to that, no one really cared how many animals they had. The farm is well-kept. The noise isn't just for 10 or 15 minutes. It's when the barking goes on from 9 pm until 7 am and it's all night long, that's when it becomes a problem.

Mark Reizen, 3210 Dutcher: Mr. Reizen said he lives at least ¼ mile away, and the Radicks must live in a different neighborhood because they cannot open the windows in the summertime at all. The dogs bark from 3:30 pm all night long every night. It's not a matter of a dog being in heat or a dog being moved into the house. It's disruptive, it's a nuisance, and in show cause hearing, the respondent has the duty of going forward and showing why they shouldn't be held in contempt, or why an action shouldn't be started. They've admitted they exceed the number for a hobby kennel. There's a serious noise problem that's a nuisance. No one cares how many animals they have. They're barking all night long, every night.

James Smith, 3264 Dutcher: Mr. Smith said he can hear the dogs howling late at night, and it wakes him out of a sound sleep. The noise is a problem.

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

Dan Lowe asked if there's anything the Radicks can think of that's changed in the past two years. Mrs. Radick said she really doesn't know what to say. She sleeps with her bedroom window open. Mr. Lowe asked if there were more dogs or different dogs. Mr.

Radick said the only dog they've gotten in the past two years is the German Shepard, which is now in the house. Sue Lingle said that four or five neighbors have complained tonight. Ms. Lingle suggested giving the Radicks a time period to take care of the problem about the number of dogs. If they apply for a commercial kennel, there are different restrictions as far as buffering. Ms. Lingle said she understands they love their animals, and everyone says they keep a clean farm. However, other people in the area shouldn't have to listen to dogs barking all night. Mr. Hanvey said there's been very little contradictory evidence. Ms. Lingle said it's not all personal when you have that many people who haven't wanted to come out and say anything, who have now said that they really don't want to put up with it for another summer. Mr. Hanvey said the responsibility for keeping the dogs quiet is the Radicks. Mr. Lowe asked if this is an outside kennel. Mrs. Radick said it has to be because they're sled dogs. Mr. Hanvey suggested one solution might be to put the kennels inside a building. Mr. Radick said they would do some research. Jack Lowe, 345 Woodcreek Drive: Mr. Lowe said most of the complaints seem to be about the dogs barking at night. Is it possible to put sound-deadening material on the building and keep the dogs in the building at night. Sue Lingle motioned to allow the Radicks 30 days to come back to this board with a plan on how they're going to correct the situation. Tammy Beal seconded.

**Motion carried 5-0.**

**Hometown Village**

Mr. Burke presented a petition signed by residents, along with a photo. Mr. Burke said basically they are seeking a temporary construction entrance. Mr. Burke read the following:

The residents of Hometown Village of Marion request approval for a temporary construction entrance off of Peavy Road during construction of the development. This would facilitate the safe ingress and egress of construction traffic. The purpose is simply to protect the health, safety and welfare of Marion residents. The only construction entrance to the development is off of D-19. It requires large trucks to use the residential streets, even where construction is complete. The construction of this development is proceeding from D-19 west toward Peavy Road. The current roads in the development are narrow in width, there's barely enough room for a car parked on the street and a large truck to pass. The number of school-age children in the neighborhood is substantial and growing. The only school bus pick-up is at the front of the development. In addition, there are many pre-school children in the development that regularly play in their yards. This number is also rapidly growing. Collectively, the residents are very concerned. The risk presented by large trucks on narrow streets with a sizable population of children and pets is a potential for a serious accident. There are many pet owners who walk their dogs down the street and have to scramble out of the way when a large truck approaches. This often results in being too close for safety. Recent weather has emphasized the risk as ice and high snow banks have further narrowed the streets. The distance of most homes to the street approximates only 30 feet. The distance from most sidewalks to the street approximates only nine feet. In the situation of a child or pet chasing a ball or other item into the oncoming traffic, there would be inadequate time to stop a large, fully loaded truck. There's also a major concern for visibility by the drivers of these large trucks. This represents another serious risk. I, myself, have operated an 18-ton truck and there is a 10-foot blind spot from the hood to the street and from the passenger side. We understand the access would alter traffic to Keddle and Peavy Roads. These roads can easily accommodate the occasional traffic. It occurs

now for residents living off and on those roads for their own additions, landscaping and repairs that require large trucks. Hometown Village of Marion construction has only been averaging a few houses a month. We are aware of a petition by residents of Sexton, Keddle and Peavy to restrict traffic to and from a gravel pit on County Farm Road. It's been suggested that would include all large trucks. The petition does not appear to state a reason for their request, so there the consideration that to prohibit a builder from using a public road to bring materials safely to a building site is discriminatory. With all due respect, the residents of Sexton and Peavy Roads are set well back from those roads. So safety for them is not the same as it is with us. Again, this is a temporary situation for the health, safety and welfare of Marion Township residents. God forbid a resident, or in particular a child, were to be seriously injured or worse. It would be a very difficult time knowing it could have been easily avoided. In support of this request, I offer a photo and petition signed by 115 residents.

Mr. Hanvey asked Mr. Burke if they have talked to any of the operators of the project? Mr. Burke said yes, he talked with the developer. Mr. Burke said the developer couldn't correct the problem of trucks that size on that narrow road which is his only access at this point. He is willing to put signs up, further restricting the speed limit. However, Mr. Burke is concerned. Anytime you put something that big in the vicinity of children, something bad is likely to happen.

Mr. Hanvey said the construction process at Hometown Village has been to develop lots according to the buyer's wishes, so that means that houses will be put on lots between two existing homes a couple years from now potentially. There's always going to be the need for large trucks to go down streets that are inhabited. Mr. Hanvey agrees that this is an awkward situation. Mr. Burke asked what the downside is to the solution they've proposed? Ms. Beal asked what the speed limit is. Mr. Burke said it's 15 MPH and he's trying to get it reduced to 5 MPH for anything over 18 tons.

George Sellar, 1118 Hudson Drive: Mr. Sellar said they are in Phase 1, which is complete. Phase 2 is more toward Peavy Road. The builder indicated that Phase 2 and 3 would have the traffic coming in off of Peavy Road. More than once, Mr. Sellar has stopped cement mixer trucks and lumbers trucks from speeding through. A street sweeper came through and threw dust up in the air with small children around. Most of the building now is on the northwest side, which is Phase 2.

Mr. Burke said he's on the homeowner's board, and he's speaking on behalf of the residents, not as an individual. The board has targeted and dealt with speeders.

Dan Rossbach, 603 Cobblestone Trail: Mr. Rossbach said the speed limit on Keddle is 55 MPH and there's low terrain and a lot of cars in the winter end of going right through the end of that street into his neighbor's yard. He's concerned about construction vehicles—if they're going to speed at 15 MPH, they're going to speed at 55 MPH.

Mr. Burke said he believes Keddle Road is very level.

Mr. Hanvey asked for input from the Planning Commission members at the meeting.

John Lowe, 345 Woodcreek Drive: Mr. Lowe said there are sidewalks within the subdivision that kids should be walking on, not in the street. Peavy Road has an 18-ton bridge that does not allow construction traffic to come from the north, and there's a very dangerous 90-degree turn south of the subdivision, which is very dangerous for large trucks. That was the main reason the Planning Commission did not want truck traffic on the rear of the development because of the visibility. This was a phase development, and from what he sees, it would be totally within the discretion of the builder to address the issues that have been raised, particularly the speed of the

vehicles. There could be additional signage and penalties for the people that bringing materials into the site. The dirt and dust is an internal housekeeping issue the developer should be responsible for. This is a phase development. It was always designed from the beginning to the end. This should have been made that clear to the residents.

Mr. Burke said he is well aware of the bridge, they are suggesting Keddle to Peavy. The roads are 24 feet wide. Speed limits are posted, the builder is fining people. As a board member, they have dealt with residents speeding. They are asking for 5 MPH signs. We're looking at a situation that harms few people, if any, and takes a tremendous risk off of several hundred people that are living there now. Dan Lowe said he thinks the best thing would be to talk with Kevin from Delcor and see whether he can put a temporary road on the north side. Mr. Burke said if there's room for a road, he is very receptive to pursuing that. Bob Hanvey will set-up a meeting with the township, the developer, and Mr. Burke.

### **OLD BUSINESS**

#### **Summer Tax Collection**

Rick Terres from Howell Public Schools said this has been done since 1983.

Sue Lingle said the township charges the schools \$3 per parcel. Ms. Lingle is asking for a resolution approving this item. Sue Lingle made a resolution to enter into an agreement with the Howell Schools for the collection of summer taxes for 2005 as outlined in the agreement at the rate of \$3 per parcel. Dave Hamann seconded. Roll call vote: Sue Lingle, Dave Hamann, Bob Hanvey, Tammy Beal, Dan Lowe—all yes.

**Resolution passed 5-0.**

#### **Sewer Service to the New High School**

Rick Terres said the new high school on Wright Road is very interested in getting into the water and sewer district. He believes they provide a public benefit. They are looking for a lead. The discussion will lead in the future into the question of REUs. Based on similar situations with the City of Howell, Oceola and Genoa Townships, typically they are given a general agreement. They are in the design phase of the building and it's the intent to make that building as green as they possibly can, so it's not 100% sure yet exactly what kinds of fixtures, etc. Mr. Hanvey said one of the problems with the calculations is that the school used 350 gallons to define an REU, and the township typically uses 260. Dan Lowe said he would much rather know the number of REUs before the township says yes or no. Phil Westmoreland said 50 sounds a little low. Mr. Terres said he believes the minimum number is 53 or 54 REUs. It's between 53 and 73. Mr. Terres said the engineers could meet with the township engineers within the next 90 days Dave Hamann made a resolution to approve agreement with the high school for hook-up for water and sewer, contingent upon a 90-day resolution of the REUs, to include involvement of the township engineer. Tammy Beal seconded. Roll call vote: Dan Lowe, Tammy Beal, Bob Hanvey, Sue Lingle, Dave Hamann—all yes.

**Resolution passed 5-0.**

#### **Northern Materials**

Bob Hanvey provided information in the packets and indicated that this issue has been resolved Land Division Ordinance No. G-11-9

Mr. Hanvey suggested that this item be postponed until the Planning Commission has acted on the private road ordinance. Dave Hamann motioned to postpone this item until the next board meeting. Sue Lingle seconded. **Motion carried 5-0.**

#### **Text Amendment**

Dave Hamann made a resolution to approve the text amendment for Section 6.07 as

suggested by the Planning Commission. Tammy Beal seconded. Roll call vote: Dan Lowe, Tammy Beal, Bob Harvey, Sue Lingle, Dave Hamann— all yes.

**Resolution carried 5-0.**

**AT&T Cell Tower**

Dan Lowe motioned to postpone this item until a response is received from Cingular. Sue Lingle seconded. **Motion carried 5-0.**

**LCRC Road Improvements**

Bob Harvey said a budget showing the current year is included in the packets. Last year's month, for the budget that ended 6/30/04, the money that wasn't spent was folded into the fund balance. What was allocated for the fiscal year 7/1/04 through 6/30/05 is on the handout. If this money isn't spent by 6/30/05, it will be put back in the fund balance. Phil Westmoreland will get measurements for a more detailed estimate to fix Cedar Lake between Coon Lake and Jewell. Dave Hamann motioned to postpone this item for additional input from OHM. Sue Lingle seconded.

**Motion carried 5-0.**

**Peavy Force Main**

Phil Westmoreland provided information on four options for repairing Peavy force main: directional drilling, open trench construction, pipe bursting, and open trench construction—removal and replacement. After discussion, Dan Lowe motioned to accept the directional drilling option. Sue Lingle seconded. Roll call vote: Dave Hamann, Dan Lowe, Tammy Beal, Bob Harvey, Sue Lingle—all yes. **Motion carried 5-0.**

**OHM Maps**

Sue Lingle motioned to postpone this item until next month's meeting. Tammy Beal seconded. **Motion carried 5-0.**

**Act 425**

Sue Lingle motioned to reject the current offer and have the township supervisor continue with negotiations. Tammy Beal seconded. **Motion carried 5-0.**

**NEW BUSINESS (continued)**

**Lucy Road** Bob Harvey said a few years ago, the Chilson Road Genoa-Oceola plant had a problem with the sodium that was being discharged into the groundwater, which resulted in a plume of sodium migrating over to Lucy Road. Now, there are several homes along Lucy Road that have elevated sodium levels in their well water and they've been on bottled water for a few months. It's time for a more permanent solution, so what the G-O people want to do is hook them up to the MHOG water line that's running right along Lucy. The question is does the township charge for the REUs for those homes; if yes, how much? The homeowner will pay for the installation and any usage fee. The fee at the time the installation was done was \$3000 frontage fee and \$3100 for the REU. Those numbers are now up to about \$3800 each. Dave Hamann motioned to ask Genoa-Oceola to fund the \$6100 per hook up due to the sodium issue on Lucy Road from the Genoa-Oceola discharge. Tammy Beal seconded. **Motion carried 5-0.**

**Hall Basement Finishing**

Sue Lingle motioned to ask Robert Diepert to go forward with architectural plans to finish the basement. Dave Hamann seconded. **Motion carried 5-0.**

Sue Lingle motioned to have the Building Committee work on this project. The committee will consist of Dan Lowe, Tammy Beal, Cindy Hodge, and Jim Barnwell. Tammy Beal seconded. **Motion carried 5-0.**

**Policy on Hall Use**

Tammy Beal said she has emailed all of the townships in the state, and is still putting a

proposal together. Tammy Beal motioned to postpone this item. Dave Hamann seconded. **Motion carried 5-0.**

#### **Clark Hill Invoice**

Sue Lingle motioned to pay the Clark Hill invoice for \$4300. Dave Hamann seconded. Discussion: Dan Lowe asked if Mr. Goodman is aware of the current negotiations. Bob Hanvey said the filing dates have been postponed. Roll call vote: Dan Lowe, Dave Hamann, Sue Lingle, Tammy Beal, Bob Hanvey—all yes. **Motion carried 5-0.**

#### **Lawn Mowing Specs**

Dave Hamann motioned to postpone this item. Dan Lowe seconded.

**Motion carried 5-0.**

#### **LexisNexis Request for Data**

Bob Hanvey said the main issue is the charge. The township does have an Enhanced Access to Data Policy, which is basically the same as the county's policy. However, we don't have the rate table. Dave Hamann motioned to postpone this item until the rate table is available. Sue Lingle seconded. **Motion carried 5-0.**

#### **Sewer Bond Refinancing**

Dave Hamann motioned to postpone this item for more information. Tammy Beal seconded. **Motion carried 5-0.**

#### **Cedar Lake Board Member Appointment**

Sue Lingle motioned to appoint Charles Musson to the Cedar Lake Board as one of the Marion Township representatives. Tammy Beal seconded. **Motion carried 5-0.**

#### **Land Information Access Association Agreement**

Dan Lowe motioned to postpone this item until the next meeting. Tammy Beal seconded. **Motion carried 5-0.**

#### **PLANNING COMMISSION REPORT**

Dave Hamann reported the Planning Commission met twice in January. A workshop was held on January 10. Public hearings and the regular meeting were held on January 25. Agenda items included Copperfield Villas, Pinebrook Meadows, Marion Pines, and the woodland ordinance.

#### **ZONING ADMINISTRATOR REPORT**

Provided in packets.

#### **DPW REPORT**

Provided in packets.

#### **ZBA REPORT**

Dan Lowe reported that the ZBA met on February 7, and all three cases were tabled.

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

Tammy Beal motioned to accept the treasurer's report with expenses of \$74,136.82. Dave Hamann seconded. **Motion carried 5-0.**

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

Sue Lingle provided a report in the packets. One of the items discussed was lifeguards or some type of supervision at Thompson Lake.

#### **CALL TO THE PUBLIC**

None.

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

Bob Hanvey reported that Steve Williams, the new county commissioner, stopped by the office and left a packet of business cards. Mr. Williams said there is a county effort toward improving the county's bond rating. Dan Rossbach, 603 Cobblestone Trail: Mr. Rossbach asked how sodium is traveling? Is it through the ground?

Mr. Hanvey said when the Chilson Road plant first went in, it had a ground water discharge, so the processed water that was treated from the sewer plant was discharged into the ground. So many people were using water softeners that the level of sodium coming into the plant was quite high, and it wasn't treated adequately at the plant. The problem has since been corrected.

**ADJOURNMENT**

Dave Hamann motioned to adjourn the meeting at 10:05 p.m. Sue Lingle seconded.

**Motion carried 5-0.**

**SPECIAL MEETING - February 24<sup>th</sup>, 2005 @ 4:00 p.m.**

**Meeting Called to Order:** 4:01 p.m.

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

**Members Absent:** None

**Call to Public:** None Heard

**Approval of Agenda:**

Addition of the Hometown PUD Floor Plans, Addition of the Federal Guidelines for Poverty Exemptions for the Board of Review. Lingle motioned to accept the Agenda as amended. Hamann seconded. Motion Carried 5-0. **REFINANCING OF BONDS;** Supervisor Hanvey explained the Bonds and discussion took place. Hamann made a Resolution to accept the Refinancing of Bonds; Series 1997A, dated March 1, 1997 and Series 1999, dated June 1, 1999; the total principal amount and not to exceed \$14,300,000.00. Seconded by Beal. Roll Call Vote: Dave Hamann, Sue Lingle, Bob Hanvey, Tammy Beal, Dan Lowe—All Yes. **Resolution Passed 5-0.**

**RECREATION GRANT:** Resolution was made by Lingle to have Supervisor Hanvey sign Grant for Partnership for Change Project. Beal seconded it. Roll Call Vote Hamann-Yes; Lingle-Yes, Hanvey-Yes, Beal-Yes, Lowe-No. **Resolution Passed 4-1.**

**CLARK HILL INVOICE:** Lingle made a motion to pay Invoice #228496 for \$2,780.00. Hamann seconded. **Motion Carried 5-0.**

**RESOLUTION TO CONSOLIDATE PRECINCTS:** Clerk Beal explained the consolidating of precincts for the May 3<sup>rd</sup>, 2005 School Election required by the County Clerk. Noting that the Election Committee were the only members that needed to approve it. Lingle made a Resolution for the Clerk to sign the Consolidating Precincts for the May 3<sup>rd</sup>, 2005 School Election. Beal seconded it. Roll Call Vote; Hanvey-Yes, Lingle-Yes, Beal-Yes. Resolution Passed 3-0. **HOMETOWN PUD FLOOR PLANS;** Discussion was heard and options explored. Motion was made by Hamann to allow the developer of Hometown (Delcor) to have 25% of the homes to have a garage accessible from the front in Phase 2-A and 2-B. Lowe seconded. **Motion Passed 5-0.**

**FEDERAL GUIDELINES FOR POVERTY EXEMPTIONS FOR BOARD OF REVIEW;**

Motion was made by Lingle to approve the Federal Poverty Guidelines for Board of Review. Seconded by Hamann. **Motion Passed 5-0.**

**Call to the Public:** None Heard

**Adjournment:** Motion was made by Lingle to Adjourn; Seconded by Hamann.

**Adjournment:** 4:58 p.m.

## **MINUTES - MARCH 10, 2005**

### **CALL TO ORDER**

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

### **PLEDGE TO FLAG**

**BOARD MEMBERS PRESENT:** The board members introduced themselves.

**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, February 10, 2005**

Dave Hamann motioned to approve the minutes as presented. Tammy Beal seconded.

**Motion carried 5-0.**

#### **Board of Trustees Special Meeting, February 24, 2005**

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

**Motion carried 5-0.**

#### **Ways & Means Meeting, March 7, 2005**

Dave Hamann motioned to approve the minutes as presented. Tammy Beal seconded.

**Motion carried 5-0.**

### **OLD BUSINESS**

#### **Radick Show Cause Hearing**

Sue Radick introduced her attorney, William Szobonya. Mr. Szobonya said he takes exception to the show cause hearing held on February 10, 2005. The allegor is to present legitimate, bonafide, factual evidence, and then the respondent responds. On February 10, the respondent spoke first. Mr. Hanvey said he didn't think that's correct. Mr. Szobonya said that is correct according to the minutes. Mr. Hanvey said that Ms. McNamara presented the case. Mr. Szobonya said the allegors did not present the case, and Ms. McNamara is not the allegor. The Radicks spoke without evidence even being presented against them. Secondly, there is no factual evidence whatsoever regarding the noise. There were no decibel readings taken, although Mr. Reizen suggested that there was some statement that there were more than 55 decibels. However, there was no factual evidence submitted; it was all subjective. It was from two statements made in September 2004, ironically within seven days of each other. The three other individuals who responded in the hearing made no complaints. Mr. Reizen stated in his complaint that they were at least 55 decibels that he could ascertain. There is a machine that is required in order to ascertain decibels. It's expensive, it has to be placed at the common lot line, it has to have a reading, it has to be certified, there has to be a person who knows who to certify it. Mr. Hanvey said the board agrees with all of that. Mr. Szobonya said there were also five individuals who submitted affidavits on behalf of Mr. and Mrs. Radick that there are no problems with the noise. Two of them are on common lots. Four of the five people who suggested there was noise are on common lots. Mr. Reizen is one lot removed. There are two subjective situations: five are saying there is noise and five are saying there isn't. The issue about the number of dogs is not in dispute; there are five additional dogs. However, this is a hobby. The Radicks have no intention of buying and selling dogs. It will cost the Radicks thousands of dollars to erect buildings and come up to compliance. They have no intention of buying and selling dogs. Their only intent is to have a hobby. The additional five dogs are 9-13 years old. Mr. Szobonya

is suggesting some kind of compromise. If these are legitimate complaints that the dogs are making noise, prove it, because there's no proof that he can see that these dogs are making noise. The Radicks are willing to purchase a decibel meter. They will put it on a common lot line and will do it over the course of a month or two to see if there's any noise. Both Mr. Goers and Mr. Lynch said it's not the amount of dogs that a problem, it's the noise. Also, Mr. Reizen and Mr. Goers had the same language in their complaints, almost identical. If there's nothing subjective going on against the Radicks, there is certainly subjective information being provided to the board members as of February 10. Mr. Szobonya said if it couldn't be proven that there's a noise issue, then we have to deal with the five extra dogs. If this is a hobby that's not disrupting the neighborhood, why can't the Radicks get a variance with the ZBA or Planning Commission. Why make the Radicks spend at least \$10,000 erecting a building, getting all of the necessary approvals, etc. These dogs are not the kind of dogs that are going to be inside of a building. These dogs have to be outside. They have proper housing for these dogs, proper water, and they're complying with every other ordinance. They testified before, on February 10, that they don't understand what the problem is. They corrected the German Shepard. They corrected the dog that was in heat. The dogs that remain are not making noise. The Radicks feel like this is personal, but objectively, all you're seeing is five additional dogs. Mr. Hanvey said that's a 50% increase over what the ordinance calls for. That's a fairly substantial variation from what the standard is. Mr. Hanvey asked Mr. Szobonya was his suggestion is. Mr. Szobonya said that the Radicks go in front of the Planning Commission and/or the Zoning Board and ask for a variance for the additional five dogs. Mr. Hanvey said the Planning Commission can potentially change the ordinance, but they can't grant a variance. Mr. Szobonya said then they would have to attempt to change the ordinance. It would be a terrible thing to destroy the dogs. Mr. Hanvey said no one on the board has suggested destroying the dogs. Mr. Szobonya said the Radicks have 13 acres and that should be enough for five extra dogs. There have never been complaints, there have been no sheriff's calls, and no one has ever come on to their property who has said there was a problem. Sue Lingle asked what the township should do in the interim while they're trying to get the ordinance changed. It takes a long time for the Planning Commission to change an ordinance. Dave Hamann said from the ZBA's point of view, because the ZBA members have to look at practical difficulties, this is a situation that is self-created by the applicant. Mr. Hanvey said it's also hard to see if this is a dimensional variance or a use variance. It sounds like it might be more of a use variance. Mr. Szobonya said they would concentrate on the use. Mr. Hanvey asked if the ZBA did grant a variance, what would happen if they retired more dogs. They will keep getting older. Mr. Szobonya said they would not exceed 15 dogs. Mr. Hanvey asked why they couldn't not exceed ten. Mr. Szobonya said he would have to defer to Mr. and Mrs. Radick because of their expertise in that area. Mr. Radick said they have a core team of dogs who are between two and three years. A handful are 9-13 years. Mrs. Radick said she made the mistake when she got into this sport by doing a lot with rescue dogs and pet dogs. Now they've moved into the racing circuit. The older dogs were rescue dogs, and they're all the same age. Mrs. Radick explained her reasons for not applying for a commercial permit. Mr. Hanvey said it might be more in keeping with the spirit of the variance if she were to get variances on the commercial kennel items that don't apply, rather than saying they can have 15 dogs and still be a hobby kennel. Sue Lingle asked Mrs. Radick how many dogs she had at the time she applied for a hobby kennel. Mrs. Radick said she started out with four. The dogs she has

now will run until their 9-11 years old because they were born and bred for racing. The dogs that are currently 9-13 years old are the pet rescue dogs that were never bred for racing. Ms. Lingle asked Mrs. Radick if she knew of anyone who could take the older dogs. Mrs. Radick said it's an option she could try. Ms. Lingle said she has a problem with letting her have more than 10 dogs. Also, there's the issue of the barking. Mrs. Radick said the noise has to be proved. Mr. Hanvey said there's a catch-all category of nuisance and if the noise is an ongoing nuisance, whether it meets a particular point on the decibel scale or not. Mr. Szobonya said there are five people saying it's a problem and five saying it's not. You have to make sure that it's not personal with the five people saying it is a problem. Mrs. Radick said there are coyotes and other dogs barking. Mr. Szobonya said what they'll have to do is spend the money to purchase a decibel meter, put it on the common lot lines with all of the neighbors, do it for a period of time, have it certified and registered, and present it to the board. If there's no noise, there's no noise, no matter what the neighbors say. Mr. Hanvey said they still have 15 dogs. Mr. Radick said they'll apply for a variance and explore options after that, up to and including petitioning to have the ordinance changed. He said it's not acceptable to them that they are told to get rid of dogs. Mr. Hanvey said which is also saying that it's not acceptable that they have to follow the ordinance. Mrs. Radick said there are exceptions that are made. Animal Control told her to come to the board and do this. They have been guiding her hand, because she's not running a commercial kennel. Dan Lowe said the biggest problem is the noise, although the number of dogs is a problem. There is some kind of noise that's irritating people. It seems there should be some way to get them inside so people don't hear them. Mrs. Radick asked if he meant all of the time or just at night. Mr. Lowe said mostly at night from what he's heard. Mr. Hanvey asked if the decibel meter is directional—will it be able to determine if it's Mrs. Radick's dog versus a dog that's a mile down the road. Mr. Szobonya said they're supposed to be quite specific. Mr. Hanvey asked Mrs. Radick if there are any dogs between her and the lot line of the complainant two houses down. Mr. Radick said he doesn't believe there are. Mr. Hanvey said the noise issue would come back to the Board of Trustees. The variance request for the number of dogs would go to the Zoning Board of Appeals. If there is objective data that the dogs aren't barking, he's not sure what it would take to satisfy this board that the sound is really not an issue. Would it be one day, two days, a month, a month in the spring, a month in the fall. It was suggested that there are time of year issues—when the moons out, they behave differently. Mrs. Radick said yes. For example, on February 23 they did a two-minute howl at 2:50 am, but that's different than constant noise from 3:30 pm until 7:00 am, every night, all night long. That's two minutes worth of noise. Dan Lowe said if it's 3:00 am and it lasts 15 minutes, that would be enough to aggravate him. Mrs. Radick said it's not 15 minutes. Mr. Lowe said one of the main criteria for the ZBA is that it's not self-created. Mr. Hanvey said the other issue is that the Radicks are not being deprived of any rights that somebody else has. He said he suspects that if this board were to agree with the objective reading, it would want to have the readings done by someone selected by the township engineer. It doesn't make sense that the board would let the Radicks pick out the person who does the readings. Ms. Lingle asked if they would make application for the next ZBA. Mr. Szobonya asked when the meetings are, and said they would probably apply for the May meeting. Ms. McNamara said she would also want to ask the township attorney to make sure this isn't viewed as a use variance.

### **Call to the Public**

Chris, 3450 Dutcher: Chris lives directly across the street from the Radicks' pole barn. With the exception of when the dogs are fed, he doesn't hear the dogs at all. He goes to work at 5:30 am and he's never heard the dogs. He comes home anytime from 3:00 pm until 10:00-11:00 pm and he's never heard the dogs at that time of night. The only dogs he's heard were, he believes, across from Mr. Reizen. Nothing constant from 3:00 pm until 7:00 am.

Allison Bower, 5757 Lange Road: Ms. Bower said since the February 10, she and her husband visited the Radicks' property on several occasions: February 15 at 8:30 pm; February 17 at 8:00 pm; on February 21, she called Mrs. Radick at 6:00 pm, who was in the barn and the dogs weren't making noise; February 23 at 5:00 pm and she was again in the barn and the dogs weren't making noise; February 25 at 5:30 pm; March 1 at 6:30 pm she drove by and sat in the driveway for five minutes and never heard the dogs; March 3 at 7:45; Saturday at 9:00 am, she drove by and never heard the dogs. Ms. Bower said for the past three or four months, people have been coyote hunting. They've been running the coyotes with dogs.

Todd Dickinson, 5956 W. Coon Lake Road: Mr. Dickinson said his property adjoins the Radicks and he's probably the second closest house to the Radicks. There was one time last fall when he did hear the dogs for a few days. That's probably been the only time he's heard the dogs barking. In the summertime, he has his windows open and he's never heard them.

Frank Soerries, 5945 W. Coon Lake Road : Mr. Soerries said his children feed the remaining dogs when the Radicks are out on the dog sleds. He's driven over there many times and there's no noise, he doesn't hear them. In the summer, his windows are wide open and he doesn't hear them.

Phil Westmoreland suggested the readings are better in the winter because sound travels better. That would be the worst-case scenario. If the readings are below in the winter, it would be logical to say that they're probably going to be below the rest of the time. Ms. Szoboyna suggested that the monitoring be done between 10:00 pm and 7:00 am, seven days a week, probably over the course of a month. Phil Westmoreland said 30 days would probably give the best data. Sue Lingle motioned to direct the Radicks to obtain decibel readings for approximately 30 days at different boundaries of the property, to be cleared with the township engineer, and proceed to the Zoning Board of Appeals if possible. Dan Lowe seconded. **Motion carried 5-0.**

### **Hall Spring Clean-up Specs**

Tammy Beal provided information in the packets. It includes three proposed newspaper notices and bid specs. Sue Lingle asked to have the bid specs include an item concerning the insurance rider produced specifically for the township.

Bob Hanvey said he thought there should be a time specified for the opening of the bids. Phil Westmoreland said he could provide sample language.

Mr. Hanvey said there should be a required walk-through of the property for the tree cutting specs. Sue Lingle motioned to have the clerk proceed with the advertisements and bid specs. Dave Hamann seconded. **Motion carried 5-0.**

### **REUs for Howell High School**

Mr. Hanvey said he attended a meeting with the high school representatives, their attorney and engineer, Phil Westmoreland and Angela Campbell from OHM to discuss REUs. There are probably some energy-saving devices that are available in the high school that will be presented to the engineers for their review. A likely number is .038

REU per student, which is approximately .75 REU per classroom.

Tammy Beal motioned to postpone this item until more information is received from the school's engineer. Dave Hamann seconded. **Motion carried 5-0.**

### **Roads**

OHM provided a proposal with estimated cost. Mr. Hanvey said he and Mr. Musson attended a meeting with the Livingston County Road Commission, and the LCRC agreed to begin the studies to see if it is appropriate to tar and chip Cedar Lake Road between Coon Lake Road and Jewell. Phil Westmoreland said the estimate is for the best-case scenario for doing the road—three applications of chip seal, adding 21AA, taking care of the soft spots, etc. It doesn't mean the township couldn't do less. This estimate will provide the best long-term result. Mr. Hanvey said the LCRC also stated that the township is in store for repairs on D-19 near McGowan's. It's a 75-day project and during that time, the road will be closed completely for about two weeks. In 2006, they are planning to do the new high school entrance and widen Michigan Avenue from the expressway toward the city. Mr. Hanvey said the township also received a letter from Steve Wasyk from the LCRC indicating the township has approximately \$20,000 in GRIP money available this year, and they would like to have answers from the township by April 15. Sue Lingle motioned to postpone this item for additional information. Dave Hamann seconded. **Motion carried 5-0.**

### **OHM Peavy Force Main**

Mr. Hanvey said that last month, the board elected to do the boring and a proposal was received from OHM for the engineering at \$24,000.

Dan Lowe motioned to accept OHM's proposal for design and construction services for the Peavy Road Force Main for \$24,000 and to authorize the township clerk and supervisor to sign the contract. Tammy Beal seconded. Roll call vote: Dave Hamann, Sue Lingle, Bob Hanvey, Tammy Beal, Dan Lowe—all yes. **Motion carried 5-0.**

### **NEW BUSINESS**

#### **Pinebrook Meadows**

Jim Lawrence and his engineer from Advantage Civil Engineering were present to request approval for Pinebrook Meadows. The property is on Norton Road just south of Mason. The township attorney, engineer and planner have reviewed the documents. The attorney suggested minor changes to the documents. Bob Hanvey had several questions on items in the Master Deed, which he reviewed and discussed with Mr. Lawrence.

Mr. Lawrence said he didn't see anything substantive that would affect his request.

Sue Lingle asked if the verbiage regarding the number of units was changed.

Mr. Hanvey said yes. Dan Lowe said the print indicated the 7-9 trees across the front would be transplanted. He said they are sitting on fiber optic lines.

Mr. Lawrence said they are trying to save as many trees as possible. If they can't be transplanted, then they will buy new ones. Mr. Lowe said the wetlands area on the north side had been dammed up, and that needs to be taken out. Mr. Lawrence said he was told it was taken out; if not, it will be. Mr. Lowe said most of the sewer is 10-11 feet deep. The leads should be run to within 4-5 feet of the surface so when they make the taps, they're not into the water table. Sue Lingle asked about the road maintenance agreement. Mr. Lawrence said it's outlined in the master deed. Each lot owner is required to contribute an equal share. Ms. Lingle asked how it would be enforced.

Mr. Lawrence said the board of the homeowner's association is required to take action. He said he is willing to make changes to the agreement so the board is more comfortable. John Lowe, chairman of the Planning Commission, suggested the board

members review the items that they are concerned about with the township attorney. Dave Hamann motioned to grant final site plan approval for Pinebrook Meadows site condominium, a development of 17 residential lots on 12 acres, subject to finalizing any clarification that the township attorney feels needs to be made on the final copy; also, contingent on approval of final Exhibit B by attorney; and that the sewer leads are 4-5 feet from finished grade. Tammy Beal seconded. **Motion carried 5-0.**

#### **OLD BUSINESS (continued)**

##### **Hometown Village**

Sue Lingle said she is concerned that Hometown Village was originally approved with multiple variances, including the width of the roads, and there needs to be enough room to park cars between the sidewalk and the garage. Dan Lowe said he doesn't think allowing front-entrance garages will change it significantly. Sue Lingle motioned to allow the developer of Hometown Village of Marion (Delcor) to build the Chesapeake, Barrington or Kensington models on up to 25% of the lots in the total project, and that the buildings be situated in such a fashion on the envelope to allow 28 feet between the garage door and the back (inside) of the sidewalk; and to record as an amendment to the PUD if the township attorney feels it's necessary. Dave Hamann seconded.

**Motion carried 5-0.**

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

##### **Copperfield Villas**

Bob Hanvey said there is a letter in the packets from Mike Boss requesting that the township special assess the 28 parcels in Copperfield Villas for sewer and water. It has been verified with John Axe that if the three lots along the road are separated, the remaining lots would be considered unserved and could be special assessed. Dan Lowe motioned to proceed with requirements for forming a special assessment district for 28 lots in Copperfield Villas. Dave Hamann seconded. **Motion carried 4-1 (Lingle.)**

##### **Burnham & Flower Insurance**

Tammy Beal motioned to pay the Burnham & Flower insurance premium invoice. Sue Lingle seconded Roll call vote: Dave Hamann, Bob Hanvey, Sue Lingle, Tammy Beal—yes; Dan Lowe—no. **Motion carried 4-1.**

##### **Hall Policy**

Sue Lingle has concerns with the \$50 key deposit, and believes it should be less.

Tammy Beal said if the group uses the hall every month, the deposit is paid once and given back when the group no longer uses the hall each month.

Dave Hamann motioned to table this item. Tammy Beal seconded. **Motion carried 5-0.**

##### **Recycle Livingston Solid Waste Challenge Grant**

Bob Hanvey said this involves both the electronic recycling and matching funds for the regular spring clean up. Sue Lingle motioned to approve the electronic recycling with Recycle Livingston for \$1000. Dave Hamann seconded. Roll call vote: Tammy Beal, Dan Lowe, Dave Hamann, Bob Hanvey, Sue Lingle—all yes. **Motion carried 5-0.**

##### **Zoning and Wellhead Protection Area Maps**

A proposal from OHM is included in the packets, and a memo from the zoning administrator requesting the board's review. Ms. McNamara said she would like the zoning map updated. Typically, after the comprehensive plan is adopted, the zoning map is updated to reflect any changes. Mr. Hanvey had a question about the private road issue. Mr. Westmoreland said they would provide a list of the approved private roads and create an overlay on GIS. Discussion ensued about various issues (county updates, training township staff to update, software, etc.) Sue Lingle motioned to accept

OHM's proposal, with the modification that the zoning districts will follow parcels lines with no split zoning parcels Tammy Beal seconded. Roll call vote: Dan Lowe, Dave Hamann, Tammy Beal, Sue Lingle, Bob Hanvey—all yes. **Motion carried 5-0.**

**PLANNING COMMISSION REPORT**

Dave Hamann reported that two meetings were held in February. A workshop on private roads was held on February 15. The regular meeting was held on February 22.

**DPW REPORT**

Provided in packets.

**ZBA REPORT**

Dan Lowe reported that the ZBA met on March 7, and all three cases were tabled until the April meeting.

**ZONING ADMINISTRATOR REPORT**

Provided in packets.

**TREASURER'S REPORT**

Tammy Beal motioned to accept the treasurer's report with expenses of \$63,951.61. Dave Hamann seconded. **Motion carried 5-0.**

**PARKS & RECREATION REPORT**

Provided in packets.

**CALL TO THE PUBLIC**

Charlie Musson had comments about the dog ordinance.

**FOR THE GOOD OF THE TOWNSHIP**

Bob Hanvey said the Parks & Recreation partnership grant has been signed

**ADJOURNMENT**

Sue Lingle motioned to adjourn the meeting at 10:45 p.m. Dave Hamann seconded. **Motion carried 5-0.**

**MINUTES - APRIL 14, 2005**

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

**MEMBERS ABSENT:** None

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

\*\*\*\*\*

**CALL TO ORDER**

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

**PLEDGE TO FLAG**

**BOARD MEMBERS PRESENT**

The board members introduced themselves.

**CALL TO THE PUBLIC**

Charlie Musson, 333 Triangle Lake Road: Mr. Musson asked the board to consider chloride for the roads.

**APPROVAL OF AGENDA**

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

**Motion carried 5-0.**

**APPROVAL OF MINUTES**

**Board of Trustees Regular Meeting, March 10, 2005**

Dave Hamann motioned to approve the minutes as presented. Tammy Beal seconded.

**Motion carried 5-0.**

## **Ways & Means Meeting, April 11, 2005**

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

**Motion carried 5-0.**

### **CALL TO THE PUBLIC**

Bruce Love, 2876 Cedar Lake Road: Mr. Love said it was decided at the last election to have two more trustees. Mr. Hanvey said they would be elected at the general election in 2006. Mr. Love said he doesn't want them at \$7,500 a piece, because then there's \$30,000 worth of trustees. Mr. Hanvey said they're a valuable asset to the board.

### **OLD BUSINESS**

#### **Hometown Village Garage Entrances and Setbacks**

Kevin Wilson from Delcor was present to request a revision to the PUD agreement for Hometown Village of Marion. The current models have side-entry garages with a 30' front setback. The new Craftsman model has a front-load garage and would require a 22' front setback from the back of the sidewalk, or 36' from the back of the curb.

Dan Lowe motioned to revise the Hometown Village of Marion PUD agreement to allow the Craftsman model to have a 36' front setback from the back of the curb to the front of the garage, not to exceed 25% of the homes in the total project. Tammy Beal seconded. **Motion carried 5-0.**

#### **Approval of Bond Sale**

Peter Ecklund from Axe & Ecklund, Marion Township's bond counsel, introduced himself. A bond sale was held for \$13,525,000, which is a refunding bond issue on behalf of the township. It refunds two of the township's outstanding bonds: one from 1997 for sanitary sewer, and one from 1999 for both sewer and water. This will save the township approximately \$927,000 in true interest cost. Mr. Ecklund is requesting the township board approve three resolutions:

The first resolution is to authorize use of surplus funds to defease in part the Livingston County-Marion Sanitary Sewer System No. 1 Bonds, Series 1997A and the Livingston County-Marion Sanitary Sewer System No. 1 and Water Main Extension Bonds, Series 1999. Sue Lingle asked if the interest that's going to be charged to the residents includes the 1% administration fee. Mr. Ecklund said it does.

Tammy Beal moved by resolution to authorize use of surplus funds to defease in part the Livingston County-Marion Sanitary Sewer System No. 1 Bonds, Series 1997A and the Livingston County-Marion Sanitary Sewer System No. 1 and Water Main Extension Bonds, Series 1999. Sue Lingle seconded. Roll call vote: Dave Hamann, Sue Lingle, Bob Hanvey, Dan Lowe, Tammy Beal—all yes. **Resolution passed 5-0.**

Sue Lingle motioned to approve the resolution to approve the undertaking to provide continuing disclosure by the Township of Marion. Tammy Beal seconded. Roll call vote: Dan Lowe, Dave Hamann, Tammy Beal, Sue Lingle, Bob Hanvey—all yes. **Resolution passed 5-0.**

Sue Lingle motioned to approve the resolution to award the bonds to J.P. Morgan as specified in the document. Tammy Beal seconded. Roll call vote: Bob Hanvey, Sue Lingle, Tammy Beal, Dave Hamann, Dan Lowe—all yes. **Resolution passed 5-0.**

#### **Radick Show Cause**

Bob Hanvey indicated the bids for sound testing arrived yesterday. Phil Westmoreland said he's waiting for another bid from Memtech. Both companies have said that putting equipment out there for 30 days may not be the most accurate way to do this. The recommendation is to have a person on site in four-hour increments and they can definitely tell what's making noise and where it's coming from. Mr. Westmoreland is

waiting to hear from the Radick's attorney. Tammy Beal motioned to have the assistant zoning administrator contact the Radicks and inform them of the board's motion to have the four-hour test started within 10 days. Sue Lingle seconded. **Motion carried 5-0.**

### **Township Roads**

Bob Hanvey said Dan Lowe and Dave Hamann will attend a Livingston County Road Commission (LCRC) meeting on Saturday. Mr. Hanvey is meeting with them on Friday. One of the short-term issues is whether the township should start applying dust control as soon as possible. Tammy Beal provided a bid from Dave Barr for brine. The board discussed the benefits of brine versus chloride. John Green, 4500 Hinchey: Mr. Green asked if any studies have been done on brine and chloride and which is more corrosive to vehicles. Dan Lowe said the brine is 30% and chloride is 38%. The brine is supposed to be less harmful. Tammy Beal motioned to have Dave Barr do the first application of brine as soon as possible for the entire 38 miles of road. Dan Lowe seconded. Roll call vote: Sue Lingle, Dave Hamann, Bob Hanvey, Tammy Beal, Dan Lowe—all yes. **Motion carried 5-0.**

In regard to road repairs, the township has done some investigation on Cedar Lake Road. In the budget starting in July, it appears the township could spend as much as \$200,000 and still have money for everything else. That's not enough to fix Cedar Lake Road. One approach might be to look at the gravel roads that need work such as Sexton near Peavy. One of the issues that need to be clarified is what the LCRC uses for its criteria when selecting roads, and what the township gets as part of the regular maintenance. Dan Lowe said possibly some ditching could be done on Cedar Lake Road. Bruce Love, 2876 Cedar Lake Road : Mr. Love said he's lived on Cedar Lake Road for 75 years. It was ditched about 53 years ago and it hasn't been ditched since then. Last fall, some ditching was done on Cedar Lake Road and the road is in good condition. Mr. Love is suggesting that the township should try to get the ditches put on Cedar Lake Road. Next year, the township can start doing something to it.

John Green, 4500 Hinchey: Mr. Green said Vines off of Cedar Lake Road is also a bad spot. Mr. Hanvey said the township needs to get prices and suggested a special meeting be held next week. He suggested making Cedar Lake Road and Davis Road priorities.

### **REUs for High School**

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

### **Eagles REUs**

Bob Hanvey said he thinks the township could move the water REUs from the Eagles to the school. The Eagles have 45 REUs more than they need. The billing isn't available yet for the first quarter. Dave Hamann motioned to table this item until the first quarter bill is available. Tammy Beal seconded. **Motion carried 5-0.**

### **Hall Policy**

Sue Lingle motioned to adopt the township hall policy as presented at the March meeting. There will be no fee for the key. Dave Hamann seconded. **Motion carried 5-0**

### **NEW BUSINESS**

#### **Clark Hill Invoice**

Dave Hamann motioned to pay the Clark Hill invoice for \$4,400. Dan Lowe seconded. Roll call vote: Dave Hamann, Dan Lowe, Tammy Beal, Sue Lingle, Bob Hanvey—all yes. **Motion carried 5-0.**

#### **Michigan Emergency Management**

Bob Hanvey is requesting the board to authorize the township to join this group to

provide funding for any major disasters or equipment that's brought in from the outside. The Howell Area Fire Authority belongs and each township should also belong individually. Dave Hamann asked if there was any cost. Mr. Hanvey said no. Dave Hamann motioned that the township join the Michigan Emergency Management Assistance Compact. Sue Lingle seconded. **Motion carried 5-0.**

#### **Resolution Opposing State Senate Bill 220**

Tammy Beal explained there is a bill that says that townships will have no jurisdiction over shooting ranges. The bill states that a sport shooting range is exempt from any noise ordinances or regulations of a local unit of government.

Dan Lowe made a resolution to oppose State Senate Bill 220, which would exempt gun ranges from local noise ordinances or regulations. Sue Lingle seconded.

Roll call vote: Bob Hanvey —yes; Dan Lowe—yes; Dave Hamann —no; Sue Lingle—yes; Tammy Beal—yes. **Resolution passed 4-1.**

#### **2005 Census**

Sue Lingle motioned that the township not participate in a special census for 2005.

Dave Hamann seconded. **Motion carried 5-0.**

#### **Township Charge Card**

Bob Hanvey is requesting the township get a charge card that will facilitate the disposal of excess equipment on eBay or another auction site. The county is also starting an auction site. A charge card and a bank account are required to do that. Dan Lowe motioned to authorize the supervisor and/or clerk to obtain a charge card and separate bank account for disposal of excess equipment on auction sites. Dave Hamann seconded. **Motion carried 5-0.**

#### **Employee Expense Procedure**

Bob Hanvey suggested that this should be discussed with the township accountant and/or attorney. Dan Lowe motioned to table this item. Tammy Beal seconded.

**Motion carried 5-0.**

#### **Garden Club Funding**

Sue Lingle said the Garden Club meets next week. The club wants to amend the soils in front of the building and redoing the center area. Dave Hamann motioned to authorize the Garden Club to replenish landscaping for an amount not to exceed \$500. Tammy Beal seconded. Roll call vote: Dave Hamann, Sue Lingle, Bob Hanvey, Dan Lowe, Tammy Beal—all yes. **Motion carried 5-0.**

#### **Irrigation REU**

Bob Hanvey said the issue is whether the township should be charging the same REU fee for irrigation service as is paid for household service. There isn't a policy clearly in place, but the practice has been to charge substantially less for an irrigation REU. It might be more appropriate to charge the same fee as a household REU because the irrigation REUs tend to boost up the usage of system during the time of the year when the usage is highest, therefore contributing toward the maximum size of the plant.

Sue Lingle motioned to increase irrigation REUs to correspond with household REUs.

Dave Hamann seconded. **Motion carried 5-0.**

#### **Maintenance Bids**

Sue Lingle motioned to approve the bid from Shepp's Tree Service for tree cutting in the three cemeteries for \$4,775, leaving log portions on site. Dave Hamann seconded. Roll call vote: Dan Lowe, Tammy Beal, Bob Hanvey, Dave Hamann, Sue Lingle—all yes.

**Motion carried 5-0.**

Sue Lingle motioned to approve the bid from Wilson & Sons as the low bidder for lawn

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

#### **Joint Meeting**

Bob Hanvey indicated a joint meeting would be held on Monday, May 16 with the Township Board, Planning Commission and Zoning Board of Appeals. Agenda items include a presentation by John Enos from Carlyle/Wortman and private roads. No motions or decisions will be made at this meeting.

#### **425 Agreement**

Information is included in the packets. The City Council has approved the application for annexation. The process for handling special assessments still needs to be worked out.

#### **Preliminary Budget**

Bob Hanvey provided a budget summary handout for July 1, 2005-June 30, 2006.

#### **PLANNING COMMISSION REPORT**

Dave Hamann reported that the Planning Commission held three meetings since the last board meeting. A workshop on private roads was held on March 14. Public hearings and the regular meeting were held on March 22. Another workshop on private roads was held on April 11.

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

Provided in packets. Sue Lingle asked the board members to read the Howell Area Parks & Recreation Authority Articles of Incorporation so they are prepared to vote at the May meeting.

#### **ZBA REPORT**

Dan Lowe reported that the ZBA met on April 4. A variance was approved for the Eagles sign, Spruce Run was granted a variance for the number of lots, and the variance request from Fred Brown was tabled.

#### **ZONING ADMINISTRATOR REPORT**

Provided in packets.

#### **DPW REPORT**

Provided in packets.

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

Dave Hamann motioned to approve the treasurer's report with expenses of \$168,869.85. Tammy Beal seconded. **Motion carried 5-0.**

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

Bob Hanvey reported that the township attorney suggested that Frank Lover wants to meet with members of the board at his excavation site. Dan Lowe said he's not interested in a site visit. Sue Lingle asked if the township has a court order regarding Mr. Lover's site. Bob Hanvey said yes. Bob Hanvey also said the township has been invited to meet with representatives from Landtec.

#### **CALL TO THE PUBLIC**

Bruce Love, 2876 Cedar Lake Road: Mr. Love said the audience can't hear what the members of the board are saying because the microphones don't work. Mr. Hanvey explained the microphones are used for recording the meeting. Mr. Love also asked who the zoning administrator is. Bob Hanvey said Annette McNamara. Mr. Love would like the zoning administrator to visit the parcel at Coon Lake Road and Pingree where there are two horse trailers and a number of cars without license plates. Mr. Love said it's the supervisor's job to look for these types of violations.

## **ADJOURNMENT**

Tammy Beal motioned to adjourn the meeting at 9:25 p.m. Dave Hamann seconded.  
**Motion carried 5-0.**

## **MINUTES - MAY 12, 2005**

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

**MEMBERS ABSENT:** None

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

### **CALL TO ORDER**

Bob Hanvey called the meeting to order at 7:40 p.m.

### **PLEDGE TO FLAG**

**BOARD MEMBERS PRESENT:** The board members introduced themselves.

### **CALL TO THE PUBLIC**

None.

### **APPROVAL OF AGENDA**

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

**Motion carried 5-0.**

### **APPROVAL OF MINUTES**

#### **Board of Trustees Regular Meeting, April 14, 2005**

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

**Motion carried 5-0.**

#### **Ways & Means Meeting, May 9, 2005**

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

**Motion carried 5-0.**

### **OLD BUSINESS**

#### **Recreation Authority**

Sue Lingle asked Eric Reickel, the interim director for Howell Parks & Recreation, to attend and answer any questions the board members might have. Dave Hamann had a question on page 12 regarding the Marion Township hall open space, the Sundance parcel open and the Knolls. Sue Lingle said they will not be part of the authority, and has asked for that to be taken out. Mr. Reickel said a final copy would be sent with a cover letter for the board's review. Once all municipalities agree, the articles will be published jointly. Bob Hanvey asked if public hearings needed to be held. Mr. Reickel said the procedure is to publish the articles. A public hearing was held on the strategic plan. Mr. Hanvey asked if there's a period for public comment. Mr. Reickel said that isn't addressed. Sue Lingle said those are questions the board can ask the township attorney. Mr. Reickel said he would get answers to those questions. Dan Lowe motioned to table this item until the June meeting. Dave Hamann seconded. **Motion carried 5-0.**

The Radicks were not present for the hearing.

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

David Lynch, 3300 Dutcher Road: Mr. Lynch asked the Board's permission to play a short audiotape. Mr. Lynch said on April 4, he was working inside his home with the windows open. The noise started as just one dog barking for 20 minutes. Tammy Beal asked what time of day it was. Mr. Lynch said it was approximately 10:00 pm. Mr. Lynch said from behind the Radick's barn to his office window is about 1000 feet west. Mr. Lynch played the tape of the dogs barking and howling. Mr. Lynch said this is just an

example of one event.

Mr. Hanvey asked Mr. Lynch if his equipment provides information on the decibel level. Mr. Lynch said the decibel level at his house is 42 decibels. The most recent recording he made was last week. The nuisance is the frequency and the times rather than the intensity of the sound. Mr. Hanvey asked if the neighbors had noticed any change since last Saturday. Mr. Goers said the noise woke him up two nights ago. Mr. Hanvey said the Radicks put up stockade fence around the dog area. Mr. Lynch said that stockade fencing isn't a sound barrier.

Mark Reizen, 3210 Dutcher: Mr. Reizen said he is concerned about Mr. Hanvey's comment that he didn't record anything. It's irrelevant whether Mr. Hanvey recorded anything. This is a show cause hearing and the board is charged with carrying forward. It's not up to the people who are complaining that there's a nuisance to show that there's a nuisance; it's up to the Radicks to step forward and show cause—they have the burden of proof, just like in a court. The Radicks aren't even here tonight. Mr. Hanvey said Mrs. Radick was at Monday's meeting. Mr. Reizen said he doesn't care if she was here Monday. Tonight is the scheduled board meeting and that's why the neighbors are here. The board hasn't made the Radicks show cause. They haven't met any burden of proof. Mr. Reizen said decibel level is irrelevant, as it is to his neighbors. If the board doesn't do something, Mr. Reizen said he would. He doesn't believe the board is meeting its duty to carry forward. Mr. Reizen provided the following dates: March 31—2:55 am to 3:40 am; April 4—started at 9:40 pm and he doesn't know what time they quit; April 6—12:40 am to 1:48 am and 11:30 am to 12:27 pm; April 28—barking and howling in the morning and night; the same on April 29; April 30—started at 11:44 pm and went to 12:06 am. Mr. Reizen said whatever happened on Monday is really offensive to him, that the board is discussing Township business outside of a meeting. Mr. Hanvey said it wasn't outside of a meeting; it was during a regularly scheduled meeting. Mr. Reizen asked why the neighbors weren't invited. Mr. Hanvey said they are invited to every meeting the board has; the dates are published annually. Mr. Reizen said this is the meeting it's scheduled for, not Monday. The board needs to do something about it now. Its annoying Mr. Reizen, it's annoying his neighbors, his wife is awakened almost every night by these animals. These people are looking for variances. Variances can't be granted except in case of hardship. A person can't create their own hardship and then ask for a variance. Mr. Hanvey said Mrs. Radick indicated she is going to apply to the Planning Commission for a special use permit for a commercial kennel. David Lynch, 3300 Dutcher Road: Mr. Lynch said at the last meeting he attended, the Radicks were supposed to have done something to alleviate the sound by a certain date. Something was said about enclosing the area and putting in sound deadening. That's the only way that the sound will be abated. Mr. Hanvey again said he measured the sound with a decibel meter during feeding time and his observations don't indicate a violation of the ordinance. The Planning Commission will deal with the special use permit issue at the time she applies. Mr. Lynch asked how to get in touch with the Planning Commission and refuse this immediately. Mr. Hanvey said the agenda is published. She hasn't filed yet, but the next meeting would be the fourth Tuesday in June. Mr. Reizen asked what the board is doing to correct the situation. She's not doing anything to abate the nuisance. Is the board saying it's going to let the Planning Commission worry about this? Mr. Hanvey said his observation didn't indicate a violation of the ordinance. Mr. Reizen said it doesn't violate the decibel level—the ordinance talks about a nuisance.

Mr. Lynch said the decibel level isn't the issue. The issue is listening to these dogs howl all night long. Mr. Reizen asked about the number of dogs. Mr. Hanvey said that is still an issue. One approach for that is to apply with the Planning Commission for a commercial kennel special use permit. Mr. Hanvey said anyone within 300 feet of the property line will be invited to the meeting directly. Anyone else is welcome to come. It will be published twice in the newspaper. Mr. Reizen asked if the board is making a finding that there is no nuisance based on the tape heard tonight and all of the complaints. Dan Lowe said he's pretty convinced there's a problem. Mr. Hanvey said he's been by the site several times and has never heard anything like the tape. Mr. Lowe asked why the Radicks aren't here. Mr. Hanvey said Mr. Radick is out of town and Mrs. Radick was unable to make it. Mr. Lowe said the previous motion was that within 30 days, the Radicks would have a plan showing how they're going to eliminate the noise. He said they should get rid of the additional dogs immediately or provide the township with an absolute plan of how they're going to stop the noise. Dan Lowe motioned to contact the township attorney, provide him with a copy of the audiotape, and have him proceed with whatever steps are necessary to abate the sound nuisance. Tammy Beal seconded. **Motion carried 5-0.**

Bob Hanvey said he would call Mrs. Radick on Monday and offer to play the tape for her. Dave Hamann asked the residents if anyone has ever filed a violation with the county. Mr. Goers said with the township, not the county. Mr. Hamann said the county has a dog violation ordinance which is a misdemeanor fine for the individuals who are causing the nuisance. Mr. Reizen said he's not interested in criminal prosecution.

#### **REUs for High School**

Phil Westmoreland attended a meeting with the engineers for the high school, Mr. Terres and the attorneys and arrived at 54 REUs based on the actual usage at the current high school and applying a modifying factor for the water conserving features installed in the new school. It was agreed that the actual usage would be measured for two years. The REU count could be adjusted after two years data of actual usage. Dan Lowe asked if it could go down. Mr. Hanvey said yes. Mr. Lowe said it should be able to go up, not down. Mr. Westmoreland said the school was comfortable with that number because they feel it's probably going to be lower than the initial use. Mr. Westmoreland said he would be nervous to recommend much above 54 at this point. Mr. Hanvey said he would have preferred a fixed number with no changes also, but on the outside chance that it could go up, he thinks the board should approve it. Jim Barnwell said the first two years isn't the peak flow. He also had a concern about how the usage is averaged. The system should be designed for the peaks, not the average. Mr. Westmoreland said the flow calculation is based on 180 days. Sue Lingle motioned to table this agenda item. Dave Hamann seconded. **Motion carried 5-0.**

#### **Eagle's REUs**

Sue Lingle motioned to table this item until the high school REU situation is settled. Dave Hamann seconded. **Motion carried 5-0.**

#### **NEW BUSINESS**

##### **Copperfield Villas Site Plan Review**

Tom Dumond from Boss Engineering was present to request final site plan approval for Copperfield Villas, and approval of the Master Deed, Exhibit B, and private road. There's still an outstanding issue on the emergency access to the west. What he's asking for tonight is at least approval of the private road and tabling the site plan, Master Deed and Exhibit B.

Sue Lingle had a question about the clearing staking. It's supposed to be about 35 feet out from the boundary and the staking is about 3 feet out. Tom Dumond said it's based on the approved construction plans, which the surveyors are using. Bob Hanvey asked Phil Westmoreland if that's something the construction people would monitor during clearing. Mr. Westmoreland said yes, they will take a look at it.

Ms. Lingle said there have been mishaps before where things have been approved, and the next thing you know, all the trees are gone. Mr. Dumond said there's no problem walking the site with township representatives. Mr. Hanvey said when township representatives walked a site with Boss Engineering's landscape architect before, and then when the contractors cut the trees down, they were gone anyway. Dan Lowe suggested someone from the township, the contractor, and the owner. Byron Hartman from the Eagles asked about access through the Eagle's property. Mr. Hanvey said it's not through the Eagles property, it's at the edge—it's 33 feet on the Eagles property and 33 feet on the church's property. Mr. Hartman asked the purpose of the access.

Mr. Hanvey said emergency access with a locked gate. Mr. Dumond said he believes it will be beneficial for both parties. Mr. Hartman has concerns about the Eagles festival held each year. He also asked who would maintain the road. Mr. Dumond said the association. Mr. Hanvey said the easement restrictions aren't going to be changed. The review letter from the township attorney indicated a concern about the easement being assigned to Mr. and Mrs. St. Onge, but there's no documentation showing it was assigned to Adler. The attorney suggested that the board could approve the project as a site condominium and allow a land balancing permit to be issued, but not allow any individual land use permits for single-family homes until the easement assignment issue is resolved. Dave Hamann said when the Planning Commission approved the site plan, there were four items. The third item was that the final site plan should reflect and instruct each individual lot owner to submit with each land use application to the township for its review and approval indicating tree preservation for each lot.

Mr. Dumond said they added a note to the site plan, and it's also in the Master Deed. Sue Lingle motioned to approve Copperfield Villas site condominium contingent upon land use permits for individual parcels not being issued until the assignment of the easement from St. Onge to Adler is approved by the attorney, and the clearing limits are agreed upon and a site visit is made, to include the contractor who will do the clearing, the township engineer, and a board member. Tammy Beal seconded.

**Motion carried 5-0.**

#### **Meadows West Site Plan Review**

Jim Barnwell from Desine, Inc. was present to request site plan approval for the Meadows West. This is an expansion of the current Meadows development. Mr. Barnwell provided drawings for the board's review. Bob Hanvey asked about access to Peavy Road. Mr. Barnwell said it has been proposed as an emergency access. Phil Westmoreland indicated he hasn't seen the revised site plan, and asked Mr. Barnwell about the rear-yard drainage. Mr. Westmoreland was satisfied with the changes. Dave Hamann motioned to approve the site plan for Meadows West condominiums contingent upon pre-construction walk-through to include the owner, the engineer, and a township representative. Sue Lingle seconded. Motion carried 5-0.

#### **OLD BUSINESS (continued)**

##### **Employee Expense Procedure**

Tammy Beal said the motion was originally made on September 12, 2002 to pay members for workshop expenses but no hourly pay, except for staff members during

regular hours. Tammy Beal motioned to pay hourly employees for workshop expenses and to pay hourly wages up to 40 hours, and after 40 hours in the same week, they shall be paid overtime (time and one-half) regardless of which day of the week the extra hours are accrued. Dave Hamann seconded. **Motion carried 5-0.**

### **Cell Tower Lease**

Bob Hanvey reported that the township has received multiple contacts from a company called Black Dot wanting the township to improve the terms of the lease with Cingular. The township also just received an application for Verizon to co-locate. If the Verizon equipment can fit within the leased space that's already there, the township probably won't get any extra rent. The application submitted by Verizon to Cingular had a conflict with the number of square feet they are requesting. The cell tower probably won't be moved, the existing lease won't have to be changed, and there will probably be a co-locator.

### **Township Roads**

Bob Hanvey said he tried to get in touch with Jody at the Livingston County Road Commission (LCRC) regarding the re-evaluation for potential tar and chip on Cedar Lake Road between Jewell and Coon Lake Road. She indicated they wouldn't be able to respond for another 3 weeks. She's also not sure the GRIP money can be used on limestone roads. Mr. Hanvey will try to get an answer to that question. The other most likely road is Davis, where the drainage needs improvement. The intersection of Vines and Cedar Lake Road is also a problem. Mr. Hanvey provided copies of traffic counts from the LCRC. Dan Lowe motioned to have Livingston County Road Commission provide an estimate for ditching and gravel on East Davis Road from D-19 to Fisk. Sue Lingle seconded. **Motion carried 5-0.**

### **Sewer Data**

Bob Hanvey provided a chart showing sewer flows. For some reason, the amount of sewage delivered to the plant per day has been pretty consistently 30 gallons per day per person more than the amount of water than the meter reads. That's been pretty consistent for the past few years, except for the months of January, February, and March when it goes up to 60 gallons per day. Mr. Hanvey said it could be sump pumps going into the sanitary sewer, it could be illegal hook-ups, it could be infiltration, or some combination of all of those things. Dan Lowe said he believes there's a severe problem in Groveland and Maple Farms. During rain events, there are still huge spikes in those two pump stations. It could be infiltration in the manhole covers. Phil Westmoreland said the manhole covers should be checked on a routine basis. He also said the meters should be calibrated annually. Mr. Westmoreland will provide additional information. Dave Hamann motioned to table this agenda item. Sue Lingle seconded.

**Motion carried 5-0.**

### **Irrigation**

Dave Hamann motioned to have the rate on an irrigation REU changed to the same amount as a standard residential REU. Tammy Beal seconded. **Motion carried 5-0.**

### **Peavy Force Main**

Phil Westmoreland said he has been working on the Peavy force main situation. The Ductile Iron Pipe Research Association (DIPRA) has been helping out with the problem associated with the cathodic protection system. Mr. Westmoreland provided a copy of a letter from DIPRA dated May 2000 indicating that 1200 feet of the pipe is in jeopardy because of the cathodic protection system; same thing with the water main. This is a very big area that may be in jeopardy. There are some options, but none are great.

First, you have to replace both pipes with a different type of pipe. Another option that DIPRA had recommended at the time was sacrificial galvanic nodes. A third option would be to drive anodes next to the pipe. Jim Barnwell said one option might be to work with Mitch Harris when his project is done. Dave Hamann motioned to table this item.

Tammy Beal seconded. **Motion carried 5-0.**

### **NEW BUSINESS (continued) Proposed Text Amendments**

Section 6.20 E 1: Sue Lingle motioned to approve the text amendment for Section 6.20 E 1. Dave Hamann seconded. **Motion carried 5-0.**

Section 6.24: Sue Lingle motioned to approve the text amendment for Section 6.24.

Dave Hamann seconded. **Motion carried 5-0.**

### **Mr. Lover Discussion**

Sue Lingle said Mr. Lover has been bringing material onto his land again. She feels the board shouldn't continue to allow this, and if he continues, perhaps the township should take him back to court. Tammy Beal said she agrees. A copy of the court is provided in the packets. Ms. Lingle said Mr. Lover has been "land balancing" for two years. Dan Lowe said he has talked with Ken Recker and Mark Hathaway from the Drain Commission. Nothing other than reclaiming should be done at this point. Mr. Hanvey said Mr. Lover has clearly violated the existing order by cutting trees down. Now he's violating the existing excavation ordinance by being less than 20 acres, by stockpiling material in the setbacks, not putting fence up, etc.

### **Clark Hall Invoice**

Sue Lingle motioned to approve the Clark Hall invoice in the amount of \$400. Dave Hamann seconded. Roll call vote: Dan Lowe, Tammy Beal, Bob Hanvey, Sue Lingle, Dave Hamann—all yes. **Motion carried 5-0.**

### **PLANNING COMMISSION REPORT**

Dave Hamann reported that one meeting was held on April 26. Four ordinance amendments were sent to the county and public hearings were set.

### **PARKS & RECREATION REPORT**

Provided in packets.

### **ZBA REPORT**

Dan Lowe reported the ZBA met on May 2 and granted variances for Fred Brown's Sundance Lake development.

### **ZONING ADMINISTRATOR REPORT**

Provided in packets.

### **DPW REPORT**

Provided in packets.

### **TREASURER'S REPORT**

Dave Hamann motioned to accept the treasurer's report with expenses of \$72,452.88.

Tammy Beal seconded. **Motion carried 5-0.**

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

Bob Hanvey reported that land balancing has started on the township park.

### **CALL TO THE PUBLIC**

None.

### **ADJOURNMENT**

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

**Motion carried 5-0.**

**MEETING - JUNE 9, 2005**

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

**MEMBERS ABSENT:** None

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

\*\*\*\*\*

**CALL TO ORDER**

Bob Hanvey called the meeting to order at 7:50 p.m.

**PLEDGE TO FLAG**

**BOARD MEMBERS PRESENT**

The board members introduced themselves.

**CALL TO THE PUBLIC**

None.

**APPROVAL OF AGENDA**

Dave Hamann motioned to approve the agenda as amended. Tammy Beal seconded.

**Motion carried 5-0.**

**APPROVAL OF MINUTES**

**Board of Trustees Regular Meeting, May 12, 2005**

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

**Motion carried 5-0.**

**Ways & Means Meeting, June 6, 2005**

Dave Hamann motioned to approve the minutes as presented. Tammy Beal seconded.

**Motion carried 5-0.**

**OLD BUSINESS**

**Radick Show Cause Hearing**

Bill Szobonya, the Radicks' attorney, asked why we are here? According to the minutes from the last meeting, Dan Lowe motioned to contact the township attorney, provide him with a copy of the audiotape, and have him proceed with whatever steps are necessary to abate the sound nuisance. Mr. Szobonya said he has not heard from the township's attorney. Mr. Hanvey said the attorney has received the audiotape. The board is looking at two issues today. One is the determination of whether or not the sound constitutes a nuisance and determine what the board is going to do about the number of dogs. Mr. Hanvey said the township hasn't received a written comment from the attorney yet. The issue presented to the attorney was regarding the nuisance. The head count issue is one of the issues the board is looking at right now. Mr. Szobonya asked the board why they wouldn't allow the Radicks to choose the person to do the decibel reading, but would allow a resident submit a tape they made themselves. Mr. Hanvey said the distinction is that the tape that was presented makes no claim for a violation on the decibel reading, it only speaks to the nuisance issue. Mr. Lynch provided us with a number that was below the ordinance number, so there's no issue with regard to the violation on the reading. The issue is with regard to the nuisance. Mr. Szobonya said it's still submitted by an interested party subjectively, not someone who is an expert in the field of decibel readings. Mr. Hanvey said again that the decibel level is not an issue, just the nuisance issue. Mr. Szobonya said if that's the case, then his clients would like to submit not partial tapes, not combined tapes, but all tapes from an extended period of time and would like to have those heard by the board today. Mr. Hanvey said no, because the absence of a nuisance at a particular period of time is not

proof that a nuisance does not exist at some other time. Mr. Szobonya stated that the board is going to deny the Radicks complete taping for an extended period of weeks from 10:00 pm to 6:00 am, and accept one tape that could be dubbed, spliced, whatever. Mr. Hanvey said there's no doubt there are extended periods of time during which there is no noise. No one is suggesting that the tape the Radicks would present would provide the board with any indication of anything other than times when there is no noise. Mr. Szobonya asked if the board is aware of the legal definition of "nuisance." Mr. Szobonya read the legal definition of "nuisance", which is "...a condition or situation such as a loud noise or foul odor that interferes with the use and enjoyment of property. Liability might or might not arise with regard to the condition or situation." A nuisance is not something that happens now and then. A nuisance is something that's fairly consistent and has to really upset the enjoyment of someone's sleep, someone's ability to live within his or her habitat. Mr. Hanvey asked Mr. Szobonya to read page 4-5 of the ordinance. Evidence has been presented to the board that indicates that there are reasonably frequent occurrences when the dogs make a substantial amount of noise. The board gets to decide whether or not that constitutes a nuisance and provide a remedy or correction period during which the resident can correct the situation. Dan Lowe said regardless of the sound, there are too many dogs. Mr. Hanvey read from the ordinance that "habitual barking or unusual noise from the kennel, which results in a nuisance to neighboring landowners or residents, is prohibited." Mr. Szobonya said define "habitual." Mr. Szobonya said the comments back in February suggested that this was happening 24/7. Now it's not happening all the time. At the last meeting, it was happening five days out of 12 or 14 days according to Mr. Reizen.

### **Call to the Public**

Joe Goers, 5920 W. Coon Lake Road: It doesn't seem like there's been much of an effort to quiet them. Mr. Goers said the situation has improved since last year, but the dogs still howl and bark. It's not an everyday thing like it was before, but the tape doesn't lie. David Lynch, 3300 Dutcher: Mr. Lynch said the dogs were barking on March 31, April 4, April 6, April 28, April 29, April 30. Mr. Lynch said he's been doing audio for a long time. When the noise inhibits his work, it's a nuisance. When it wakes him at 3:00 a.m., it's a nuisance. Mr. Lynch said the Radicks were given 30 days to come up with a plan for noise abatement, not a stockade fence. He said you could clearly hear someone on the tape reprimand the dogs twice. If it's not a nuisance, why was someone reprimanding the dogs. This shows it's a nuisance even on their own property. Mr. Hanvey asked the Radicks if they could propose a solution to the noise issue that can be implemented rapidly. Mr. Szobonya said if the Radicks did submit a proposal for the noise that could be implemented rapidly, would that do away with the issue of the amount of dogs? Mr. Hanvey said no. He said there is a potential for the Radicks to go to the Zoning Board of Appeals for a variance on the number of dogs. This board cannot do anything to grant the Radicks a variance for the number of dogs. The ZBA is the only board that can do that. Sue Radick read the following: Mr. Reizen and Mr. Lynch are distorting facts to make a point. Let's look at Mr. Reizen's original written formal complaint. He says they constantly bark all night long. He says they do not have screened kennels or runs are required. The noise level exceeds 55 decibels. Numerous other animals not kept in conformity with local ordinances. All written statements are false, can be proven so by Mr. Hanvey's multiple visits at night to include, when in the company of Ms. Lingle, and a neighbor from across the street, came out and stated he doesn't hear the dogs except in the evening. That includes a

visit on Mother's Day when a decibel reading was obtained. A reading taken at feeding time when the dogs are the noisiest that was 57 decibels. A car traveling down the road measured 65. Ms. McNamara also has been out on several occasions, at which the only time she heard noise was when we were hooking up for a training run. The Bauers submitted statements as to many anonymous drive-bys to monitor dog noise—none heard. At the February 10 meeting, Mr. Lynch states that the noise is not just 10 or 15 minutes; it's when the dogs are barking from 9:00 p.m. to 7:00 a.m. and it's all night long. Mr. Reizen says dogs bark from 3:30 p.m. all night long every night. Again, these are false statements proven by Mr. Lynch's very CD recording. He has a recording of one dog making noise that starts at 9:41 p.m. That is before the all-quiet time of 10:00 p.m. That one dog barks for 10 minutes, and nothing on the tape until you hear a community howl that lasts a minute. There's no documentation as to when, date, time, but lasts one minute at best. The CD has to be turned up loud enough to hear past the peepers, frogs, and crickets. A 20-minute recording that only contains at best 11-12 minutes of actual dog noise recorded by Mr. Lynch before the all-quiet time of 10:00 p.m. I have 20 tapes here. I'm not a multi-media producer as Mr. Lynch is. We have a camera on the front porch; we tape eight hours every single night. In 20 recordings, I have 166 seconds of noise, 2.76 minutes. On the night Mr. Goers is talking about, the dogs howled for 27 seconds. I also kept a log for 30 days in February and March and total nighttime noise was five minutes in 30 days of keeping track. Multiple neighbors came in March to support what we say about the dogs making no noise, but they must be irrelevant, as Mr. Reizen states to all findings that don't support his claims. Neighbors who don't have air conditioning, by the way, and whose windows are open all the time and who are just as close as the Lynchs and the Reizens. Now Mr. Reizen and Mr. Lynch want to change their complaint to nuisance. Now the dogs don't bark, they howl. We're down to almost every night instead of 16 hours every night. Not once have these Iosco Township neighbors been neighborly or honest. When Mr. Lynch's son was harassing my son at school, I didn't call the authorities, or the sheriff, or the principal, I called Mr. Lynch and spoke to him about it—the neighborly thing to do. Too bad I didn't have a recording of that conversation in October when Mr. Lynch assured me that he had indeed heard one dog making, but he and his wife decided to wait and see what would happen because we've always been real responsible pet owners and no, they hadn't heard the dogs recently. And when I invited him to call me with any problems as I have done with Mr. Goers, these people have not done that. They're not interested in being neighborly. I've not heard anything from anyone. What's next? Do roosters have to be decrowded, the DNR is going to come out and kill the peepers and frogs and crickets, the donkey's going to have to wear a shock collar. What about the gravel haulers that travel down the road late at night. These don't wake Mr. Reizen's wife and only my dogs do. As close as they sit to the road, I can't believe that she's not wakened by these big trucks traveling down the road. People in this township who have made valid complaints regarding vicious dogs and their concern for their safety to the township and authorities and nothing's done. God help those of us who have dogs that make noise. What is a nuisance and how is it proven. At some point, my rights are being infringed upon, my right to enjoy my property and my hobby without harassment. I, my family and dogs feel threatened right now by Mr. Reizen's comments that if the township doesn't do something about the noise, he will. By Mr. Lowe's comments that we should get rid of the additional dogs immediately or provide an absolute plan to stop the noise. What is the purpose of an ordinance with specific data related to noise in

reference to decibel levels if there are ways to get around that issue by claiming a nuisance. Yes, I'm over on the dogs, five extra well-loved, well-cared for members of my family who gave us their time and athleticism to enjoy a hobby that me and my family feel passionate about and who now deserve a quality retirement. Animal Control has no issue with the extra dogs and says that it's five less dogs in their shelter. Township residents should be on notice. Someone out there could decide that your hobby or activities are a nuisance to them and you will have to come up with a way to appease your neighbors that don't even reside in your township. One has to question why the township allows activities that in and of itself creates noise. For example, day care facilities, home businesses and shops, hobby kennels, farms, riding and boarding stables, landscape businesses and nurseries, and then not allow the very noise that's created while enjoying these activities and deem them a nuisance. What's next? Snowmobiles, dirt bike riders, farmers, when will it end. It saddens me that people living are so bored and unfulfilled and have meaningless lives that they have nothing better to do than to scrutinize the activities happening on my property. I work midnights. I don't expect the whole community to be quiet during the day while I sleep. Where is the tolerance and acceptance? Mr. Radick said it's very hard for them to come to the township meeting every month where the direction from the board is always open-ended. In February, we're told to come back with a plan. We came back and discussed what we're doing in terms of analyzing a commercial kennel requirements and how we could address the sound issue. At the March meeting, we were told that we really needed to address the sound issue before we could even talk about the number of dogs because they seem to be interrelated and at that time, we opened up discussions with the township and our attorney to get an engineering study done to measure the sound level because the decibel issue seemed to be questionable. For a number of reasons, and I'm satisfied with the results, the decibel issue is off the table. But I resent the implication in the minutes that we are not cooperating with the township board, that we're dragging this on, and that we have been in violation of specific direction. Until the May meeting, we were not told that we had to have a specific plan to abate the noise. It was an open-ended, what are we going to do about the noise, is the noise really an issue. At this point, my wife and I are considering several alternatives including taking the animals to Illinois to be treated by a professional veterinarian to have them debarked in such a way that is humane to them and won't interfere with our hobby. That is a significant expense. We're looking at \$10,000-\$20,000 worth of expenses if we debark the dogs and then have to go through all of the requirements to build a commercial kennel when we're not a commercial operation. We're a hobby with an additional number of dogs that are trying to enjoy their retirement. Mr. Hanvey said let's go back to the part about the Planning Commission and going for a commercial use permit. That's certainly an option. He doesn't believe it's a good option, because that option requires several variances. Mrs. Radick asked why she was told that was the route she needed to take. Mr. Hanvey said he never told her what she should do. He gave several options of things she could do. He also said that going to the ZBA is the least expensive and quickest way to get a potential solution to part of the problem. He can't predict what the ZBA would do. Mr. Hanvey said he hasn't heard the dogs making the noise heard on the tape. He asked Mrs. Radick if she has any reason to believe that the dogs recorded on the tape are not hers. Mrs. Radick said she's not sure about the one dog barking, but the community howl is definitely her dogs.

Tammy Beal asked the Radicks if they're going to spend that much to have the dogs debarked, why not just build a building. Mrs. Radick said they can't be brought in at night. Dan Lowe asked why not. Mrs. Radick said they can't be brought in part of the time. Sue Lingle said they can't be left out to howl at night. Mr. Szobonya said the board hasn't presented enough information to prove a nuisance, but wants the Radicks to spend thousands of dollars to do something somewhat inhumane to the dogs, to debark them, and that's going to be the only way that they're going to satisfy these people. Also, they're not going to debark all of the dogs. They're only going to debark the ones that are young enough. The board is allowing a tape to dictate to a certain degree its determination. Mr. Szobonya said that tape is going to be very well scrutinized, and the board is disallowing the Radicks to submit tapes not spliced, but 10:00 p.m. to 7:00 a.m. every day. He also said it's not fair for the Radicks to have to take those dogs every night into a shelter. Tammy Beal said they feed them every night. Mrs. Radick said it's utter chaos when the kennels are opened up and the dogs think they're going someplace. Dan Lowe suggested some kind of air exchange system instead of air conditioning. David Lynch, 3300 Dutcher Road: Mr. Lynch said he doesn't like this attorney calling him a liar. He has no reason to edit the tape. Mr. Szobonya said he didn't say that. Mr. Hanvey said this board is not going to deal with the head count issue. If the Radicks choose, they have the option of going to the ZBA. If they choose not to, then the board will find them in violation of that section of the ordinance which is pretty straightforward. A nuisance issue is for this board to decide at this point. Sue Lingle said township worked hard on creating the hobby kennel ordinance and the board shouldn't disregard it. Tammy Beal motioned that there is a nuisance issue from the Radick's hobby kennel. Sue Lingle seconded. **Motion carried 5-0.** Bob Hanvey also said nobody on the board has suggested that the dogs be debarked. Sue Lingle motioned to allow 30 days to eliminate the nuisance. Dan Lowe seconded. **Motion carried 5-0.**

Mr. Szobonya said the Radicks will file for the July ZBA meeting. Dan Lowe motioned to find that 16 dogs are six more than allowed by the ordinance. Sue Lingle seconded.

**Motion carried 5-0.**

Sue Lingle added that the last date to file for the July ZBA meeting is June 21.

### **Marion Township Roads**

A detailed breakdown of the cost for repairs on Davis Road is included in the packets. Dan Lowe said he doesn't think anything needs to be done on Davis Road. He feels limestone and ditching on Cedar Lake Road should be done instead. Bob Hanvey will discuss this further with Phil Westmoreland on Monday. He also will talk with Steve from the Livingston County Road Commission.

### **Ivey Show Cause Hearing**

Annette McNamara said an anonymous complaint was received in the mail about the Ivey's backyard. She sent a violation notice and the Geers wrote a letter to the township in response. Mr. Geer said he doesn't consider the items to be junk and that they were going to sell some of the things in the yard, but couldn't do that within 15 days. They are present tonight to discuss with the board what they plan to do with the numerous items in the backyard. Mrs. Ivey-Geer said numerous items have been disposed of since they received the letter. She said because of health constraints, 60-90 days is a more realistic time frame. Mr. Hanvey asked if the Geers had a plan to remove the rest of the items. Mrs. Ivey-Geer said not all of the stuff will be disposed of. There are travel trailers, boats, and campers, and they're not leaving. Mr. Geer asked when

the ordinance was implemented. Mr. Hanvey said 1996. Mr. Geer said some of the stuff in his backyard has been there for 30 years. Two campers that he built in 1971, and they're not junk. There's a 21' boat that was brand new in August 1979. There's a canoe and fishing boat. There's another boat that he just bought, only to sell. There are also two yard tractors, only to sell. There are two travel trailers that aren't junk. Mr. Geer said Dick Irish came to his house about four years ago on a personal complaint. He toured the backyard and told Mr. Geer not to worry about it. Mr. Geer said he's going to stand on the grandfather clause on the travel trailers, campers and boats because he's had them for 30 years. Dan Lowe asked Ms. McNamara if she had been to the site. She said yes, although she hadn't been on the property, just from the roadway. Sue Lingle motioned to have the Geer's property reasonably cleaned up within 90 days, and have site visits, with the Geers present, in 30 days and 60 days to evaluate progress, beginning on June 10. Tammy Beal seconded. **Motion carried 5-0.** Mrs. Ivey-Geer said the township will have to make an appointment, and they will be on vacation in 30 days.

### **McCracken Show Cause Hearing**

Annette McNamara said an anonymous complaint was received by the township that Mr. McCracken was building an accessory structure without a permit. Not only was the accessory structure built without a land use permit, it was built in the front yard which requires a variance. She also noticed that Mr. McCracken has a pool, and it appears he didn't get a land use permit for the pool either. A notice of violation was sent and Mr. McCracken came in to submit a land use permit. The application was denied, which was discussed with him before he applied. He was given the dates for the ZBA meeting to request a variance. In the meantime, another neighbor called and pointed out that Mr. McCracken had a ZBA case to build his house within the front yard setback. A review of the ZBA case showed there were conditions that were placed on the variance request for trees along the front property line, trees to hide the propane tank, and Ms. McNamara's not certain whether those conditions have been met. Ms. McNamara would like Mr. McCracken to file for a ZBA case, apply for a land use permit for the pool, and allow her to enter his property to verify the conditions of the previous ZBA case have been met. Mr. McCracken said he called Livingston County Building Department (LCBD) and was told he didn't need anything to build the pole barn. He was told he didn't have to do anything with the township, and Mr. McCracken didn't even know about the township. Mr. McCracken said his recommendation is that the township deal with the LCBD and then come deal with him. Mr. McCracken said he did get a permit for the pool. Mr. McCracken said he called the LCBD, actually he went there, and was told he didn't need anything. Mr. Hanvey explained that the fact that Mr. McCracken received bad information from a different agency doesn't change the situation with the township. Mr. McCracken said "Dan" from the LCBD told him he would call the township and try to work it out. Mr. Hanvey said it's his understanding that the building is in a position that makes it non-compliant with the township ordinance. In order to correct that situation, one solution is to apply to the ZBA and request a variance. The July ZBA meeting is July 11. Mr. McCracken said he shouldn't have to pay for something when someone else made the mistake, and the township should deal with the county. Mr. Hanvey said that's not the way it's going to work. Mr. McCracken said then we'll be in court. Mr. Hanvey said that's fine. He again explained to Mr. McCracken that his obligation with the township is not influenced by what somebody at the county tells him. Mr. McCracken has the choice of going to the ZBA to request a variance. If Mr. McCracken

would like to cooperate, the zoning administrator would like to come out and verify the compliance with the previous ZBA. Mr. McCracken asked who called. Ms. McNamara said it was an anonymous complaint. Mr. McCracken said he knows who called. He has a dirt bike track on the side of his house and a lady is harassing him all the time. He said he'll be out there tonight—the township is going to get phone calls. He'll be out there with dirt bikes at 12:00 tonight making noise like you never heard. Dave Hamann pointed out that the size of the pole barn exceeds anything that the county would not require a permit for. Sue Lingle said Mr. McCracken needed a land use permit for the house, so he's aware of the process. Mr. McCracken said his builder took care of that. Ms. Lingle asked if the barn is in the front yard. Ms. McNamara said he's on a flag lot, and it is the front yard. The building needs to be 100' off the front lot line. Mr. McCracken asked how many acres he needs to call it a farm. Mr. Hanvey said it can't just be called a farm; you have to actually farm. Mr. McCracken says he was told that if his property was zoned agricultural, he could put up as many pole barns as he wanted. Ms. McNamara said no. Ms. McNamara said again she would like to see the land use permit for the pool or else Mr. McCracken applies for one. She would like to see him apply for a variance, or else move the structure to be in compliance with the zoning ordinance. Finally, she would like to be allowed on to the property to make sure that the conditions from the previous ZBA case have been met. Mr. McCracken said the guy from the LCBD told him where to put the building. Sue Lingle motioned that Mr. McCracken apply for a land use permit for the pool; make application to the Zoning Board of Appeals for the accessory structure, or move the accessory structure; allow the zoning administrator to inspect his property to verify conditions from previous ZBA have been met; and provide a copy of the waiver received from LCBD for accessory structure. Dan Lowe seconded. Discussion: Dave Hamann said if Mr. McCracken moves the barn, he still needs a land use permit and building permit. Mr. McCracken said the building permit for the accessory structure was waived, and he has a waiver at home. **Motion carried 5-0.**

#### **REUs for High School**

Dan Lowe motioned to table this item. Tammy Beal seconded. **Motion carried 5-0.**

#### **Frank Lover Gravel Pit**

Bob Hanvey said he talked with the attorney who suggested that even though the violation of cutting down the tree was cut and dried, it probably isn't sufficient to make the judge find him in contempt of the previous court order. Mr. Hanvey also reported that Mr. Lover wants to put up a fence, and anything he wants to do will require site plan review by the Planning Commission, which can assure the requirements are met.

#### **Peavy Force Main**

Phil Westmoreland said not a lot has changed from last month. He's attempted to make contact with the gas company to see if moving the cathode protection system is an option. Mr. Westmoreland also needs to verify with Mitch Harris on when they will be doing the road extension. Mr. Hanvey said he told Karla Davidson from the DEQ that the township is working on this, and she may be calling back to verify.

#### **Handicap Handrail/Automatic Door**

Dan Lowe motioned to table the handrail item until the next meeting. Tammy Beal seconded. **Motion carried 5-0.**

Sue Lingle motioned to accept the bid from Great Lakes Automatic Door for \$1,470. Dan Lowe seconded. Roll call vote: Dave Hamann, Sue Lingle, Bob Hanvey, Tammy Beal, Dan Lowe—all yes. **Motion carried 5-0.**

## **NEW BUSINESS**

### **Proposed Text Amendments**

Section 3.02: Bob Hanvey suggested some changes in verbiage. Dan Lowe motioned to send this text amendment back to the Planning Commission. Sue Lingle seconded.

**Motion carried 5-0.**

Section 6.19 B: Sue Lingle motioned to send this text amendment back to the Planning Commission. Tammy Beal seconded. **Motion carried 5-0.**

### **Article XVIII—Site Plan Review Requirements**

Dave Hamann motioned to recommend that the Planning Commission include wording in Section 18.03 for the preliminary site plan process saying that the Planning Commission submit to the Board for approval. Sue Lingle seconded. **Motion carried 5-0.**

### **Sewer Rates**

Bob Hanvey said the township received a letter from the City of Howell saying they are raising the rates by three cents.

### **2005-2006 Meeting Schedule**

Bob Hanvey suggested that the board meet twice a month as regular meeting rather than having a ways & means meeting. Tammy Beal suggested a three-hour time limit on meetings. Sue Lingle motioned to approve the 2005-06 meeting schedule with two board meetings each month on the second and fourth Thursday at 7:30 p.m. with a three-hour time limit; the second meeting in November will be eliminated. Dave Hamann seconded. **Motion carried 5-0.**

### **Grave Purchasing Guidelines**

Sue Lingle said the policy could define what immediate family is. Tammy Beal said this could be referred to the cemetery committee that will be formed.

### **Township Investment Policy**

This policy has to be approved every four years. Dave Hamann motioned to approve this item. Tammy Beal seconded. **Motion carried 5-0.**

### **Clark Hall Invoice**

Sue Lingle motioned to approve the Clark Hill invoice for \$700. Dave Hamann seconded. Roll call vote: Dan Lowe, Dave Hamann, Bob Hanvey, Sue Lingle, Tammy Beal—all yes. **Motion carried 5-0.**

### **OHM Inspection Procedures**

Sue Lingle motioned to table the OHM inspection procedure and submit to the Planning Commission for its review. Dave Hamann seconded.

### **Fee Schedule**

Sue Lingle motioned to set the fee for the comprehensive plan at \$40 and add to the fee schedule. Dave Hamann seconded. **Motion carried 5-0.**

### **Fire Station Lease**

Dave Hamann motioned to approve the fire station lease. Sue Lingle seconded.

**Motion carried 5-0.**

### **Board and Staff Pay Rates**

Tammy Beal motioned to increase the pay rate for hourly employees by fifty cents per hour. Sue Lingle seconded. Roll call vote: Dan Lowe, Tammy Beal, Bob Hanvey, Sue Lingle, Dave Hamann—all yes. **Motion carried 5-0.**

Dave Hamann motioned to increase the supervisor's salary by 3%. Tammy Beal seconded. Roll call vote: Dave Hamann, Sue Lingle, Bob Hanvey, Tammy Beal, Dan Lowe—all yes. **Motion carried 5-0.**

Sue Lingle motioned to increase the clerk's salary by 3%. Dave Hamann seconded. Roll call vote: Dan Lowe, Bob Hanvey, Tammy Beal, Sue Lingle, Dave Hamann—all yes.

**Motion carried 5-0.**

Tammy Beal motioned to increase the treasurer's salary by 3%. Dave Hamann seconded. Roll call vote: Bob Hanvey, Dave Hamann, Dan Lowe, Sue Lingle, Tammy Beal—all yes. **Motion carried 5-0.**

#### **Approval of 2005-2006 Budget**

Tammy Beal moved by resolution to approve by activity the General Fund Proposed Budget Amendments for the Year Ending 6/30/05. Dave Hamann seconded. Roll call vote: Dave Hamann, Tammy Beal, Bob Hanvey, Sue Lingle, Dan Lowe—all yes.

**Resolution passed 5-0.**

Sue Lingle moved by resolution to approve by activity the General Fund Proposed Budget for the Year Ending 6/30/06. Dave Hamann seconded. Roll call vote: Dave Hamann, Bob Hanvey, Tammy Beal, Sue Lingle, Dan Lowe—all yes.

**Resolution passed 5-0.**

Tammy Beal moved by resolution to approve by activity the Sewer Fund Proposed Budget for the Year Ending 6/30/06. Sue Lingle seconded. Roll call vote: Dan Lowe, Tammy Beal, Bob Hanvey, Sue Lingle, Dave Hamann—all yes. **Resolution passed 5-0.**

Dave Hamann moved by resolution to approve by activity the Water New User Fund Proposed Budget for the Year Ending 6/30/06. Sue Lingle seconded. Roll call vote: Bob Hanvey, Sue Lingle, Tammy Beal, Dave Hamann, Dan Lowe—all yes.

**Resolution passed 5-0.**

Tammy Beal moved by resolution to approve by activity the Water Assessment Fund Proposed Budget for the Year Ending 6/30/06. Dave Hamann seconded. Roll call vote: Dan Lowe, Tammy Beal, Sue Lingle, Bob Hanvey, Dave Hamann—all yes.

**Resolution passed 5-0.**

Sue Lingle moved by resolution to approve by activity the Loves Creek Fund Proposed Budget for the Year Ending 6/30/06. Dave Hamann seconded. Roll call vote: Dave Hamann, Sue Lingle, Bob Hanvey, Tammy Beal, Dan Lowe—all yes.

**Resolution passed 5-0.**

Sue Lingle moved by resolution to approve by activity the Road Assessment Fund Proposed Budget for the Year Ending 6/30/06. Dave Hamann seconded. Roll call vote: Tammy Beal, Bob Hanvey, Dave Hamann, Dan Lowe, Sue Lingle—all yes.

**Resolution passed 5-0.**

Tammy Beal moved by resolution to approve by activity the Cemetery Fund Proposed Budget for the Year Ending 6/30/06. Dave Hamann seconded. Roll call vote: Bob Hanvey, Dave Hamann, Dan Lowe, Sue Lingle, Tammy Beal—all yes.

**Resolution passed 5-0.**

Sue Lingle moved by resolution to approve by activity the Recreation Fund Proposed Budget for the Year Ending 6/30/06. Tammy Beal seconded. Roll call vote: Bob Hanvey, Dave Hamann, Sue Lingle, Tammy Beal, Dan Lowe—all yes.

**Resolution passed 5-0.**

#### **PLANNING COMMISSION REPORT**

Dave Hamann reported that two meetings were held in May: a workshop on May 16, and a public hearing and regular meeting on May 24.

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

Sue Lingle reported that the June meeting hasn't been held yet. She will provide the report at next month's meeting.

**ZBA REPORT**

Dan Lowe reported that no meeting was held in June.

**ZONING ADMINISTRATOR REPORT**

Provided in packets.

**DPW REPORT**

Provided in packets.

**TREASURER'S REPORT**

Dave Hamann motioned to accept the treasurer's report with expenses of \$67,206.14.

Tammy Beal seconded. **Motion carried 5-0.**

**FOR THE GOOD OF THE TOWNSHIP**

None.

**CALL TO THE PUBLIC**

Charlie Musson asked if anyone in the township figured out what the percentages are for the money budgeted for each department. Bob Hanvey said no. Mr. Musson said there's a lot of money spent in zoning. Annette McNamara made a suggestion that she talk with the attorney about no more show cause hearings, and take care of the complaints in a different fashion. Mr. Hanvey said the ordinance would have to be changed. It does give the public the opportunity to become aware that the township is looking at what's going on around the township and they have a chance to state their case.

**ADJOURNMENT**

Sue Lingle motioned to adjourn the meeting at 10:10 p.m. Tammy Beal seconded.

**Motion carried 5-0.**

**MINUTES - JULY 14, 2005**

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

**MEMBERS ABSENT:** None

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

\*\*\*\*\*

**CALL TO ORDER**

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

**PLEDGE TO FLAG**

**BOARD MEMBERS PRESENT**

The board members introduced themselves.

**CALL TO THE PUBLIC**

None.

**APPROVAL OF AGENDA**

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

**Motion carried 5-0.**

**APPROVAL OF MINUTES**

Board of Trustees Regular Meeting, June 9, 2005

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

**Motion carried 5-0.**

**Board of Trustees Budget Public Hearing, June 9, 2005**

Sue Lingle motioned to approve the budget public hearing minutes as presented. Tammy Beal seconded. **Motion carried 5-0.**

### **OLD BUSINESS**

#### **Recreation Authority**

Sue Lingle made a resolution to approve proposed Recreation Authority Articles of Incorporation for publication, as follows:

Whereas, the Marion Township Board of Trustees have reviewed the proposed Articles of Incorporation which create the Howell Area Recreation Authority;

Whereas, the proposed Articles of Incorporation have been reviewed by and the same meet with the written approval of the Marion Township attorney as to form;

Whereas, the Howell Area Recreation Commission will hold a public hearing at its regularly scheduled meeting on August 9, 2005 at 7:00 p.m. to take any public comment on the proposed Articles;

Whereas, it is required by law that the proposed Articles of Incorporation be published in its entirety prior to formal adoption by the township;

Therefore, be it resolved that the Marion Township Board of Trustees approve the proposed Howell Area Recreation Authority Articles of Incorporation as to form and authorize its publication in the Livingston County Press & Argus on July 31, 2005.

Be it further resolved that the Marion Township Board of Trustees approve the payment of publication of the proposed Articles through the 2005-06 budget of the Howell Parks and Recreation Commission.

Tammy Beal seconded. Roll call vote: Dave Hamann, Sue Lingle, Bob Hanvey, Tammy Beal, Dan Lowe—all yes. **Resolution passed 5-0.**

### **NEW BUSINESS**

#### **Article XII of the Howell Area Fire Authority Articles of Incorporation**

Sue Lingle made a resolution to approve the amended Articles of Incorporation. Tammy Beal seconded. Roll call vote: Dan Lowe, Bob Hanvey, Tammy Beal, Sue Lingle, Dave Hamann—all yes. **Resolution passed 5-0.**

### **"OLD BUSINESS (continued)"**

#### **Cingular Cell Tower**

Dave Hamann motioned to postpone this agenda item until Unison contacts the township. Tammy Beal seconded. **Motion carried 5-0.**

#### **Radick Show Cause**

Dan Lowe, the ZBA representative, said the variance request was tabled until a special meeting scheduled for July 19. The township attorney asked for time to investigate the debarking issue. Dave Hamann said the noise isn't an issue for the ZBA and shouldn't have been discussed. Dan Lowe said the ZBA is trying to negotiate an arrangement.

Charlie Musson commented that debarking a dog is inhumane and should not be done. Dan Lowe motioned to postpone this agenda item until the next board meeting. Tammy Beal seconded. **Motion carried 5-0.**

#### **Marion Township Roads**

Phil Westmoreland said he talked with Jody from the Livingston County Road Commission (LCRC), and the LCRC will provide an estimate for Cedar Lake Road. Bob Hanvey said the contract needs to be in place before the first of August.

Sue Lingle motioned to approve payment for July dust control. Tammy Beal seconded. Roll call vote: Dan Lowe, Dave Hamann, Tammy Beal, Sue Lingle, Bob Hanvey—all yes.

**Motion carried 5-0.** Tammy Beal motioned to authorize a third dust control application, date to be determined. Dave Hamann seconded. Roll call vote: Tammy Beal,

Sue Lingle, Dave Hamann, Dan Lowe, Bob Hanvey—all yes. **Motion carried 5-0.**

#### **High School REUs**

Bob Hanvey reviewed a proposed agreement between the Howell School Board and the township. Sue Lingle motioned to postpone this agenda item until the next regular board meeting to complete REU arrangements with Howell Public Schools. Tammy Beal seconded. **Motion carried 5-0.**

Phil Westmoreland explained that the plans for the sanitary sewer system are basically approved at this point. An MDEQ permits needs to be obtained, which takes 3-4 weeks. Bob Hanvey said the township can't sign the permit until the contract has been approved.

#### **Peavy Force Main**

OHM provided a revised estimate for replacement of the sanitary sewer force main next Peavy Road. Dan Lowe motioned to authorize OHM to have bid documents prepared. Sue Lingle seconded. **Motion carried 5-0.**

#### **Handicap Handrail**

An additional bid was received for \$5800 for both sides or \$3100 for one side. Tammy Beal motioned to postpone this agenda item. Sue Lingle seconded. Motion carried 5-0.

#### **OHM Inspection Procedures**

Sue Lingle motioned to postpone this agenda item. Tammy Beal seconded.

**Motion carried 5-0.**

#### **McCracken Show Cause**

Dave Hamann motioned to have this item forwarded to the township attorney. Dan Lowe seconded. **Motion carried 5-0.**

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

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

Dave Hamann motioned to pay the Clark Hill invoice for \$7,680. Sue Lingle seconded. Roll call vote: Dan Lowe, Bob Hanvey, Sue Lingle, Tammy Beal, Dave Hamann—all yes.

**Motion carried 5-0.**

##### **Petition to LCRC**

Tammy Beal said the residents of Schadel subdivision on Cedar Lake Road have requested that 25 mph speed limit signs be installed. There would be no cost to the township. Dave Hamann motioned to request the LCRC install 25 mph speed limit signs in the Schadel subdivision. Tammy Beal seconded. **Motion carried 5-0.**

##### **Retention Schedule**

Tammy Beal provided the board members with copies of the Michigan Township Record Retention General Schedule #10. Sue Lingle motioned to adopt this schedule. Tammy Beal seconded. **Motion carried 5-0.**

##### **New Agenda Format**

Tammy Beal presented the board members with a proposed format for meeting agendas. The length of the minutes will also be reduced. This format will be followed beginning with the July 28, 2005 meeting. Ms. Beal also suggested using e-packets in the future.

#### **PLANNING COMMISSION REPORT**

Dave Hamann reported that the regular PC meeting was held on June 28.

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

Sue Lingle provided a report on the P&R meeting.

**ZBA REPORT** Dan Lowe reported that the Radicks' variance request was tabled and a special meeting will be held on Tuesday, July 19.

**ZONING ADMINISTRATOR REPORT**

Provided in packets. Bob Harvey asked to have the number of condo units verified.

**DPW REPORT**

Provided in packets.

**TREASURER’S REPORT**

Dave Hamann motioned to accept the treasurer’s report with expenses of \$106,774.96.

Tammy Beal seconded. **Motion carried 5-0.**

**FOR THE GOOD OF THE TOWNSHIP**

Bob Harvey asked to have a review of staff assignments added to the next board agenda.

**CALL TO THE PUBLIC**

Barney Cole, 918 Francis Road: Mr. Cole said he thought that Adler was going to pave Francis Road to the entrance of Copperfield. Dave Hamann said it was a discussion item only. Charlie Musson, 333 Triangle Lake Road: Mr. Musson said he has completed the gate he was asked to build. Mr. Musson also commented on haul routes and recommends that the gravel ordinance be amended. Jack Lowe, 345 Woodcreek: Mr. Lowe said the “speed bumps” on Norton Road are becoming more of a problem with the gravel trains from Northern Materials. He asked about having the spots blended with a milling machine. Phil Westmoreland said it would require a grinding machine and he will check on prices.

**ADJOURNMENT**

Dave Hamann motioned to adjourn the meeting at 9:30 p.m. Tammy Beal seconded.

**Motion carried 5-0.**

**MINUTES - JULY 28, 2005**

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

**MEMBERS ABSENT:** None

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

\*\*\*\*\*

**CALL TO ORDER**

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

**PLEDGE TO FLAG**

**CALL TO THE PUBLIC**

None.

**APPROVAL OF AGENDA**

Bob Harvey asked to have three items added to the agenda. Tammy Beal motioned to approve the agenda as amended. Dave Hamann seconded. **Motion carried 5-0.**

**APPROVAL OF MINUTES**

**Board of Trustees Regular Meeting, July 14, 2005**

Dave Hamann motioned to approve the minutes as presented. Tammy Beal seconded.

**Motion carried 5-0.**

**RADICK SHOW CAUSE**

Dave Hamann motioned to postpone this agenda item until the August 11, 2005 Board meeting. Tammy Beal seconded. **Motion carried 5-0.**

**ROADS**

Dan Lowe motioned to instruct the Livingston County Road Commission (LCRC) to spend the GRIP money, along with matching funds from the township, on Cedar Lake Road

repairs. Tammy Beal seconded. Roll call vote: Dave Hamann, Dan Lowe, Tammy Beal, Sue Lingle, Bob Harvey—all yes. **Motion carried 5-0.**

#### **NORTON ROAD MANHOLE COVERS**

Phil Westmoreland said he would have prices for the repair at the next board meeting. Dan Lowe said contacted CD Hughes Company from Charlotte and was quoted a price of \$2,000 to mill out all four spots. Phil Westmoreland said he would contact Tom Rogers about the job. Dan Lowe motioned to have OHM pursue the Norton Road repair project. Sue Lingle seconded. **Motion carried 5-0.**

#### **HIGH SCHOOL REUS**

Bob Harvey said a meeting was held and the township attorney's suggestions will be added to the contract. The contract will be presented at the August 11 board meeting for review and approval. Sue Lingle motioned to postpone this agenda item until the next board meeting. Tammy Beal seconded. **Motion carried 5-0.**

#### **PEAVY FORCE MAIN**

Phil Westmoreland reported that OHM is working on the design.

#### **OHM INSPECTION PROCEDURES**

Dave Hamann motioned to postpone this item until the August 11 Board meeting. Dan Lowe seconded. **Motion carried 5-0.**

#### **CLARK HILL INVOICE**

Sue Lingle motioned to approve the Clark Hill invoice for \$10,900. Dave Hamann seconded. Roll call vote: Dave Hamann, Sue Lingle, Bob Harvey, Tammy Beal, Dan Lowe—all yes. **Motion carried 5-0.**

#### **HANDICAP HANDRAIL**

Tammy Beal motioned to postpone this agenda item. Dan Lowe seconded.

**Motion carried 5-0.**

#### **BASEMENT BIDS**

Tammy Beal presented the two bids received for this project. Sue Lingle motioned to accept the bid from Runyon Brothers Construction Company for \$13,200 plus permit fees. Tammy Beal seconded. Roll call vote: Dave Hamann, Dan Lowe, Sue Lingle, Tammy Beal, Bob Harvey—all yes. **Motion carried 5-0.**

#### **STAFF ASSIGNMENTS AND JOB BALANCING**

Bob Harvey suggested each employee compile a list of job responsibilities and how much time is spent on each. Dave Hamann motioned to postpone this agenda item. Sue Lingle seconded. **Motion carried 5-0.**

#### **SPECIAL ASSESSMENT SUBORDINATION**

Sue Lingle asked to have a resolution passed stating Marion Township's policy on subordination of special assessments.

Dave Hamann made a resolution as follows:

Whereas, Marion Township has adopted various special assessments, including but not limited to water, sewer, road paving, road maintenance; and

Whereas, Marion Township has been advised by its special assessment counsel that the township should keep these special assessments in first position of collection; and

It is hereby resolved that the Marion Township Board of Trustees establishes that it will not subordinate any special assessment to another entity.

Tammy Beal seconded. Roll call vote: Sue Lingle, Tammy Beal, Bob Harvey, Dave Hamann, Dan Lowe—all yes. **Resolution passed 5-0.**

#### **SEWER USAGE**

Bob Harvey reported that the second quarter billing from MHOG for sewer and water.

The billing shows that the gallons of water sent to the homes and the amount received at the plant is within ½%. This has never happened before.

**425**

Bob Hanvey reported that he has received copies of the two 425 agreements. He will provide copies of both to the board members.

**WATER BONDS**

Bob Hanvey provided a handout from John Axe regarding the water bonds, and asked to have this item placed on the next agenda.

**ZBA REPORT**

Dan Lowe reported that the ZBA held a special meeting on July 19 regarding the Radick variance request. A variance, with conditions, was granted for the number of dogs.

**FOR THE GOOD OF THE TOWNSHIP**

Bob Hanvey reported on the MHOG meeting. There is a change in the backfill requirement for trenches in the water system. Howell Township requested a variance from a standard that was changed in February. Dan Lowe asked Phil Westmoreland his opinion of the variance request. Phil Westmoreland said this is not standard practice. Secondly, Mr. Hanvey reported that MHOG recently won the regional water "taste off." Mr. Hanvey also reported that there is a leak in the fire hall roof.

**CALL TO THE PUBLIC**

None.

**ADJOURNMENT**

Sue Lingle motioned to adjourn the meeting at 8:50 p.m. Dave Hamann seconded.

**Motion carried 5-0.**

**MINUTES - AUGUST 11, 2005**

**MEMBERS PRESENT:** Bob Hanvey, Sue Lingle, Dave Hamann, and Tammy Beal

**MEMBERS ABSENT:** Dan Lowe

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

\*\*\*\*\*

**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 introduced themselves. Dan Lowe was absent.

**CALL TO THE PUBLIC**

None.

**CONSENT AGENDA**

Dave Hamann motioned to approve the consent agenda items. Tammy Beal seconded.

**Motion carried 4-0.**

**WATER AND SEWER BONDS**

Peter Ecklund from Axe & Ecklund, the township's bond counsel, was present to ask that the board consider a refunding bond resolution; the information is included in the packets. He would like to set the bond sale for September 8, so the board can approve at it's meeting that evening. Bob Hanvey asked about the bond rating fee; Mr. Ecklund said the rating is good for pproximately one year. Sue Lingle asked about the escrow account. Mr. Ecklund said this is being done directly with Marion Township, not with Livingston County. Mr. Ecklund is providing the county treasurer with updates.

Dave Hamann made a resolution to approve the Refunding Bond Resolution proposed by Axe & Ecklund. Tammy Beal seconded. Roll call vote: Sue Lingle, Bob Hanvey, Dave Hamann, Tammy Beal—all yes. **Resolution passed 4-0.**

Sue Lingle made a resolution to approve the Resolution Approving the Undertaking to Provide Continuing Disclosure by the Township of Marion presented by Axe & Ecklund. Dave Hamann seconded. Roll call vote: Dave Hamann, Tammy Beal, Sue Lingle, Bob Hanvey—all yes. **Resolution passed 4-0.**

#### **RADICK SHOW CAUSE**

Bob Hanvey reported on the site visit he made with the zoning administrator. The zoning administrator's report is included in the packet.

#### **TOWNSHIP ROADS**

Dave Hamann motioned to authorize the clerk and supervisor to sign a contract with the Livingston County Road Commission (LCRC) per the Road Improvement Contract, dated August 9, 2005. Sue Lingle seconded. Roll call vote: Bob Hanvey, Tammy Beal, Sue Lingle, Dave Hamann—all yes. **Motion carried 4-0.**

#### **NORTON ROAD MANHOLE COVERS**

Phil Westmoreland said he when he contacted MHOG to flag this project, he was informed that MDOT would be making the necessary repairs in September.

#### **HIGH SCHOOL REUS**

Bob Hanvey said attorneys for both parties have reviewed the agreement and are satisfied. Dave Hamann made a resolution to approve the Sanitary Sewer and Water Connection Agreement as written. Sue Lingle seconded. Roll call vote: Tammy Beal, Dave Hamann, Bob Hanvey, Sue Lingle—all yes. **Resolution passed 4-0.**

#### **PEAVY FORCE MAIN**

Phil Westmoreland said he would have the plans at next month's meeting.

#### **GEER SHOW CAUSE UPDATE**

The zoning administrator provided a written summary in the packets. Sue Lingle asked if the zoning administrator had been able to schedule an appointment for a site visit. Bob Hanvey said no. Ms. Lingle suggested the board should wait until the 90-day time limit originally set has passed. Sue Lingle motioned to postpone this item for 30 days. Dave Hamann seconded. **Motion carried 4-0.**

#### **OHM INSPECTION PROCEDURES**

Discussion was held regarding the inspection procedures. Charlie Musson asked why this would be done in a subdivision. Phil Westmoreland said it's only done when there are public-type improvements involved. If it's in an existing subdivision with roads that are already there, there's nothing to do. Also, if land splits are being done on a road that's already in, there's nothing to do. When there's water, sanitary, storm or private roads, then inspections are done. Sue Lingle made a resolution to incorporate the OHM Inspection Procedures, dated June 3, 2005, as part of the township's engineering standards. Tammy Beal seconded. Roll call vote: Dave Hamann, Tammy Beal, Bob Hanvey, Sue Lingle—all yes. **Resolution passed 4-0.**

#### **BOOK EXCHANGE**

Sue Lingle provided the board members with a suggested policy and procedures for the township's book exchange for their review and discussion at the next meeting.

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

Sue Lingle provided a written report in the packet. She also added that the Parks & Rec committee is asking the city council to recommend that no feeding of wildlife be posted

at the boat launch in the city park, and to recommend that cars without boat trailers are not to park in the launch area.

**ZBA REPORT**

Bob Hanvey reported in Dan Lowe’s absence. The ZBA met on August 1, 2005 and granted a variance for a side-yard setback.

**FOR THE GOOD OF THE TOWNSHIP**

Charlie Musson, 333 Triangle Lake Road: Mr. Musson said the zoning ordinance mentions protecting the health, safety and welfare of the residents of Marion Township. He asked if the township is enforcing that. Ms. Lingle said as best we can. Mr. Musson said it was his understanding that Verizon would like to have a cell tower in this area and that the township has told them they would never get another tower in this area. Mr. Hanvey said Verizon wants to co-locate in the existing tower. Mr. Musson said he was told by Verizon that the township said no. Mr. Hanvey said the information Mr. Musson has is different than the information the township has and he will verify on Monday. Bob Hanvey said the 425 agreement to move the Darakjian and Highland-Howell property to the city is done, with a July 27 effective date. Mr. Hanvey said he recommends that the zoning map not be published until the new information is incorporated. Dave Hamann said the township is left with no zoning for manufactured homes or light industrial zoning. He asked if the board wants to have the Master Plan readdressed to provide those. Mr. Hanvey said there is some resistance to that.

Allison Bauer, 5757 Lange Road: Mrs. Bauer expressed concern that this might leave the township open to a developer wanting to put manufactured housing anywhere in the township, and feels the Master Plan should be addressed. Mrs. Bauer said there are laws that require townships to designate land. Mr. Hanvey said the law is stated on a regional basis, and the definition of “region” is not clear. There are manufactured home facilities close to Marion Township that are not filled. Mr. Musson said he’s concerned about a developer wanting to do subsidized housing. Mrs. Bauer also expressed her desire to have speed limits posted and reduced to 45 mph on dirt roads. She’s talked with the LCRC; she’s talked with Chris Ward. They both said the township does have a say. She said cars travel 80 mph on her road and it’s a bus route. There’s too much growth to have traffic going that fast.

**CALL TO THE PUBLIC**

None.

**ADJOURNMENT**

Sue Lingle motioned to adjourn the meeting at 8:57 p.m. Tammy Beal seconded.

**Motion carried 4-0.**

**MINUTES - AUGUST 25, 2005**

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

**MEMBERS ABSENT:** None

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

\*\*\*\*\*

**CALL TO ORDER**

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

**PLEDGE TO FLAG**

**MEMBERS PRESENT**

The members of the board introduced themselves.

### **CALL TO THE PUBLIC**

None.

### **APPROVAL OF AGENDA**

Tammy Beal requested the agenda be amended to include Parks & Recreation Report and Fire Authority, and to postpone the Pines at Kingswood until contacted by the applicant. Sue Lingle motioned to approve the agenda as amended. Tammy Beal seconded. **Motion carried 5-0.**

### **APPROVAL OF AUGUST 11, 2005 REGULAR BOARD MINUTES**

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

**Motion carried 5-0.**

### **VERIZON/CELL TOWER REPORT**

Bob Hanvey reported that he contacted Cingular and confirmed that Verizon has applied and been approved as a co-locator on the cell tower. He also contacted Verizon and was told they are interested in using our cell tower. However, between now and the Super Bowl, work is only being done in the Detroit area.

### **TEXT AMENDMENTS**

Bob Hanvey said the amendments would remove crematories as a Special Use in the Rural Residential (RR) and Suburban Residential (SR) zoning districts. However, the definition of cemetery needs to be redone because it also includes a reference to crematories. Dave Hamann motioned to send these text amendments back to the Planning Commission until the definition of cemetery is also amended. Dan Lowe seconded. **Motion carried 5-0.**

### **CLARK HILL INVOICE**

Dave Hamann motioned to approve the Clark Hill invoice in the amount of \$3,280. Tammy Beal seconded. Roll call vote: Dan Lowe, Bob Hanvey, Sue Lingle, Tammy Beal, Dave Hamann—all yes. **Motion carried 5-0.**

### **BOOK EXCHANGE**

Dave Hamann motioned to adopt the Book Exchange Policy as presented. Tammy Beal seconded. **Motion carried 5-0.**

### **CEMETERY COMMITTEE REPORT**

Tammy Beal reported the first meeting was held on August 16 and a committee was formed with ten members. A walk-through of the cemeteries is scheduled for Tuesday, August 30. A suggestion was made for the township to have curb carts available for one month in both the spring and fall to facilitate clean up. Sue Lingle motioned to approve spending \$120 per year for curb carts. Tammy Beal seconded. Roll call vote: Dave Hamann, Sue Lingle, Bob Hanvey, Tammy Beal, Dan Lowe—all yes.

**Motion carried 5-0.**

Charlie Musson mentioned there are some fence posts in need of repair at Harger Cemetery.

### **LIVINGSTON COUNTY MTA CHAPTER**

A letter from Bill Thurner, Cohoctah Township Trustee and treasurer of the Livingston County chapter of the MTA, is included in the packets. Mr. Thurner is asking whether the Marion Township Board wishes to reactivate this organization or deactivate it.

Tammy Beal motioned to have Sue Lingle respond to Mr. Thurner's request and advise him of Marion Township's desire to have the organization deactivated. Dave Hamann seconded. **Motion carried 5-0.**

### **EAGLES REUS**

A spreadsheet is included in the board packet. Mr. Hanvey said the property was

purchased by the Eagles with 53 water REUs purchased by the previous owner, and the various owners have been paying on them for ten years. After investigating the current usage, it was decided that a more appropriate number of REUs would be eight. The Eagles have requested that the money be refunded. Art Munsell, the Eagles representative, said he felt the refund on the frontage fee should be modified. Dan Lowe motioned to adjust the frontage fee by \$10,000 and refund the Eagles a total of \$46,742.35. Tammy Beal seconded. Roll call vote: Sue Lingle, Dave Hamann, Bob Hanvey, Tammy Beal, Dan Lowe—all yes. **Motion carried 5-0.**

#### **CARLISLE/WORTMAN FEES**

A memo from the zoning administrator is included in the packets. Discussion ensued regarding the number of meetings the Planning Commission has each month.

Dave Hamann motioned to postpone this agenda item until additional information (contract, invoices, etc.) is provided. Sue Lingle seconded. **Motion carried 5-0.** Bob Hanvey added that most of this information would be provided by the clerk's office.

#### **PEAVY FORCE MAIN**

Phil Westmoreland reported that soil borings would be done in about a week.

#### **COPPERFIELD SPECIAL ASSESSMENT**

##### **Motion**

Tammy Beal motioned to receive and file the petitions for the proposed sewer special assessment district. Dave Hamann seconded. **Motion carried 5-0.**

##### **Resolution**

Dave Hamann motioned to adopt the following resolution:

BE IT HEREBY RESOLVED the township board does hereby tentatively declare its intent to provide sewer service to the following described area in Marion Township:

Tax Code Numbers: 4710-01-301-003; 4710-01-301-004; 4710-01-301-005; 4710-01-301-007; 4710-01-301-008; 4710-01-301-009; 4710-01-301-010; 4710-01-301-011; 4710-01-301-012; 4710-01-301-013; 4710-01-301-014; 4710-01-301-015; 4710-01-301-016; 4710-01-301-017; 4710-01-301-018; 4710-01-301-019; 4710-01-301-020; 4710-01-301-021; 4710-01-301-022; 4710-01-301-023; 4710-01-301-024; 4710-01-301-025; 4710-01-301-026; 4710-01-301-027; 4710-01-301-028; 4710-01-301-029; 4710-01-301-030

in accordance with the petition filed by the property owners.

BE IT FURTHER RESOLVED that the township board does tentatively designate the special assessment district against which the costs of the service is to be placed as Copperfield Sewer District which shall include the lands and premises more particularly described above.

BE IT FURTHER RESOLVED that a hearing on any objections to the petition for the service, to the cost, and to the special assessment district proposed to be established for the assessment of the cost of such service, shall be held on September 8, 2005, at a regular meeting of the township board at the Marion Township Hall, 2877 W. Coon Lake Road, Howell, MI 48843, commencing at 7:15 p.m.

BE IT FURTHER RESOLVED that the clerk is instructed to give the proper notice of such hearing by mailing and publication in accordance with law and statute provided.

BE IT FURTHER RESOLVED that all resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution be and the same are hereby rescinded. Sue Lingle seconded. Roll call vote: Dan Lowe, Tammy Beal, Bob Hanvey, Sue Lingle, Dave Hamann—all yes. **Resolution passed 5-0.**

##### **Motion**

Tammy Beal motioned to receive and file the petitions for the proposed water special assessment district. Dave Hamann seconded. **Motion carried 5-0.**

### **Resolution**

Dave Hamann motioned to adopt the following resolution:

BE IT HEREBY RESOLVED the township board does hereby tentatively declare its intent to provide water service to the following described area in Marion Township:

Tax Code Numbers: 4710-01-301-003; 4710-01-301-004; 4710-01-301-005; 4710-01-301-007; 4710-01-301-008; 4710-01-301-009; 4710-01-301-010; 4710-01-301-011; 4710-01-301-012; 4710-01-301-013; 4710-01-301-014; 4710-01-301-015; 4710-01-301-016; 4710-01-301-017; 4710-01-301-018; 4710-01-301-019; 4710-01-301-020; 4710-01-301-021; 4710-01-301-022; 4710-01-301-023; 4710-01-301-024; 4710-01-301-025; 4710-01-301-026; 4710-01-301-027; 4710-01-301-028; 4710-01-301-029; 4710-01-301-030

In accordance with the petition filed by the property owners.

BE IT FURTHER RESOLVED that the township board does tentatively designate the special assessment district against which the costs of the service is to be placed as Copperfield Water District which shall include the lands and premises more particularly described above.

BE IT FURTHER RESOLVED that a hearing on any objections to the petition for the service, to the cost, and to the special assessment district proposed to be established for the assessment of the cost of such service, shall be held on September 8, 2005, at a regular meeting of the township board at the Marion Township Hall, 2877 W. Coon Lake Road, Howell, MI 48843, commencing at 7:15 p.m.

BE IT FURTHER RESOLVED that the clerk is instructed to give the proper notice of such hearing by mailing and publication in accordance with law and statute provided.

BE IT FURTHER RESOLVED that all resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution be and the same are hereby rescinded.

Sue Lingle seconded. Roll call vote: Dave Hamann, Sue Lingle, Bob Hanvey, Tammy Beal, Dan Lowe—all yes. **Resolution passed 5-0.**

### **FIRE AUTHORITY**

Dave Hamann motioned to adopt a resolution approving the Second Amended and Restated Articles of Incorporation of the Howell Area Fire Authority. Tammy Beal seconded. Roll call vote: Bob Hanvey, Sue Lingle, Tammy Beal, Dave Hamann, Dan Lowe—all yes. **Resolution passed 5-0.**

### **PARKS & RECREATION REPORT**

Provided in packets.

### **PLANNING COMMISSION REPORT**

This will be presented at the next regular meeting. Sue Lingle said she believes the reports should be included in the packets for the first board meeting of each month.

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

Bob Hanvey reported that the third and final dust control treatment would be started at the end of this week. He also said that the Howell School Board approved the agreement for the REUs.

### **CALL TO THE PUBLIC**

None.

### **ADJOURNMENT**

Dave Hamann motioned to adjourn the meeting at 8:42 p.m. Sue Lingle seconded.

**Motion carried 5-0.**

**MINUTES - SEPTEMBER 8, 2005**

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

**MEMBERS ABSENT:** None

\*\*\*\*\*

**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 introduced themselves.

**CALL TO THE PUBLIC**

None.

**CONSENT AGENDA**

Dave Hamann motioned to approve the consent agenda. Sue Lingle seconded.

**Motion carried 5-0.**

**APPROVAL OF SALE OF WATER AND SEWER BONDS**

Peter Ecklund from Axe & Ecklund, the township's bond counsel, said the sale for the refunding of the Marion Township Joint Water System Refunding Bonds was held today. There were three bidders: Raymond James, Citizens Bank, and Bernardi Securities. The winning bidder was Raymond James at 3.659075%. The net savings will be approximately \$136,000 instead of the \$103,000 anticipated. This is due to the status of interest rates on the day of the bond sale. It is Mr. Ecklund's recommendation to award to Raymond James, who was the lowest bidder. Sue Lingle motioned to adopt a resolution to award the bond sale to Raymond James per the township bond counsel's recommendation. Dave Hamann seconded. Roll call vote: Tammy Beal, Dave Hamann, Dan Lowe, Sue Lingle, Bob Hanvey—all yes. **Resolution passed 5-0.**

Bob Hanvey asked if the township has any joint bonds with MHOG. Mr. Ecklund said he would check.

**PEAVY FORCE MAIN**

A project update from OHM is included in the packets.

**CARLISLE/WORTMAN FEE**

Information is provided in the packets. The board reviewed invoices and discussed fees. Bob Hanvey said he read in the Planning Commission procedures that there's a provision for a budgeting process within the Planning Commission. Dave Hamann will present this option at the next Planning Commission meeting on September 27, and see if the members are interested in managing the budget. Bob Hanvey will provide information for the Planning Commission to review.

**TEXT AMENDMENTS**

Dave Hamann suggested discussing Condo Projects and Landscape Buffers at the joint meeting on September 26. Bob Hanvey said he would like to discuss all of these text amendments at the joint meeting. Dave Hamann motioned to table the text amendments until the September 26 joint meeting. Sue Lingle seconded. **Motion carried 5-0.**

**PINEBROOK MEADOWS ENTRANCE SIGN**

Sue Lingle motioned to accept the Planning Commission's recommendation and approve the Pinebrook Meadows sign with the three conditions stipulated by the PC. Tammy Beal seconded. **Motion carried 5-0.**

Sue Lingle amended the motion to specify low wattage rather than low voltage as one of the conditions. Tammy Beal seconded. **Motion carried 5-0.**

**GEER SHOW CAUSE**

Bob Hanvey reported that he and Tammy Beal drove by the site. The 90 days are up and no site visit has been made yet. Sue Lingle pointed out that the property owner isn't cooperating. Bob Hanvey said the township would try again. Bob Hanvey motioned to postpone this item until a site visit is made. Tammy Beal seconded.

**Motion carried 5-0.**

**LUCY ROAD LLC**

Bob Hanvey reported that an order has been issued by the court to cease and desist. A show cause hearing will be scheduled with the circuit court.

**CEMETERY COMMITTEE REPORT**

Tammy Beal reported that this group met last week for a walk-through of the cemeteries. The group will meet again next week.

**ZBA REPORT**

Dan Lowe reported the ZBA meeting would be held on September 12.

**FOR THE GOOD OF THE TOWNSHIP**

Tammy Beal reported that the township has received a grant to install the handrail.

**CALL TO THE PUBLIC**

Barney Cole, 918 Francis Road: Mr. Cole said Francis Road didn't get any brine, no gravel, no grading. Charlie Musson said Triangle Lake Road hasn't either. Tammy Beal will check the invoices, and Bob Hanvey will talk with the foreman regarding these two roads. Charlie Musson, 333 Triangle Lake Road: Mr. Musson asked if the Cemetery Committee members are insured. Bob Hanvey said he didn't know.

**CLOSED SESSION WITH ATTORNEY RE: CHESTNUT**

Open meeting back in session at 9:25 p.m. Dave Hamann motioned to allow attorney and board members to continue as decided in closed meeting. Sue Lingle seconded.

Roll call vote: Bob Hanvey, Tammy Beal, Dan Lowe, Dave Hamann, Sue Lingle—all yes.

**Motion carried 5-0.**

**ADJOURNMENT**

Dave Hamann motioned to adjourn the meeting at 9:30 p.m. Sue Lingle seconded.

**Motion carried 5-0.**

**MINUTES - SEPTEMBER 22, 2005**

**MEMBERS PRESENT:** Bob Hanvey, Sue Lingle, Dave Hamann, Tammy Beal, and Dan Lowe (arrived at 7:40 p.m.)

**MEMBERS ABSENT:** None

**OTHERS PRESENT:** Phil Westmoreland, OHM

\*\*\*\*\*

**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 introduced themselves.

**CALL TO THE PUBLIC**

None.

**CONSENT AGENDA**

Dave Hamann motioned to approve the consent agenda as amended.

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

#### **APPROVAL OF AGENDA**

Tammy Beal motioned to approve the agenda as amended. Sue Lingle seconded.

**Motion carried 4-0.**

#### **APPROVAL OF SEPTEMBER 8, 2005 REGULAR BOARD MINUTES**

Bob Harvey asked to have two items amended: Lucy Road LLC show cause and insurance on the cemetery committee. Dave Hamann motioned to approve the minutes as amended. Sue Lingle seconded. **Motion carried 4-0.**

#### **PEAVY FORCE MAIN**

Phil Westmoreland gave an update on this project.

#### **SITE PLAN APPROVAL FOR PINES AT KINGSWOOD**

Bill Strebbling was present to request final site plan approval for the Pines at Kingswood. Bob Harvey said there is a section of the master deed that should be changed from Livingston County Road Commission (LCRC) standards to township standards. Mr. Strebbling agreed with the suggested change. Tammy Beal motioned to approve the Pines at Kingswood contingent upon change in wording. Dan Lowe seconded. Roll call vote: Dan Lowe, Dave Hamann, Bob Harvey, Sue Lingle, Tammy Beal—all yes.

**Motion carried 5-0.**

#### **PRIVATE ROAD APPROVAL FOR BENTLEY RIDGE**

Jason Wallace from Desine, Inc. was present to request final approval for Bentley Ridge private road. Bob Harvey said there is some wording regarding parcels 20 and 21 having access to two roads. Mr. Wallace said the wording could be modified. Dave Hamann motioned to approve Bentley Ridge private road project, contingent upon resolving language in the master deed. Tammy Beal seconded. Roll call vote: Dave Hamann, Dan Lowe, Sue Lingle, Tammy Beal, Bob Harvey—all yes. **Motion carried 5-0**

#### **HOWELL HEIGHTS ENTRANCE SIGN**

Lee Posly, 432 Bonnie Circle, was present to request the township's approval of improvements to the entrance to Howell Heights subdivision. Tammy Beal said the zoning administrator offered to oversee the project. Sue Lingle motioned to approve the site plan for Howell Heights' entrance. Dan Lowe seconded. **Motion carried 5-0.**

Mr. Posly also said that four years ago, when the sewers were put in, there was some damage to the curbs. He would like to know if the township would be willing to share the expense of repairs. The cost is approximately \$700. Bob Harvey said the township would investigate the matter and contact Mr. Posly.

#### **ZONING MEMBER NOMINATION**

Tammy Beal motioned to reappoint Linda Manson-Dempsey to the Zoning Board of Appeals for another term. Dave Hamann seconded. Roll call vote: Dan Lowe—no; Tammy Beal, Bob Harvey, Sue Lingle, Dave Hamann—yes. **Motion carried 4-1.**

#### **RADICK SHOW CAUSE UPDATE**

The zoning administrator was unable to make contact with the Radicks for an update. This item will be postponed.

#### **FEDERAL MILEAGE STANDARDS**

Tammy Beal motioned to approve the federal mileage standards for the township. Sue Lingle seconded. **Motion carried 5-0.**

#### **NEIL CREER SEWER AND WATER ASSESSMENT REFUND**

A handout is provided in the packets. Sue Lingle motioned to adopt a resolution to refund Neil Creer, for tax code #4710-01-100-13, the amount of \$12,342.80. Tammy Beal seconded. Roll call vote: Dan Lowe, Sue Lingle, Bob Harvey, Dave Hamann,

Tammy Beal—all yes. **Resolution passed 5-0.**

**GEER SHOW CAUSE**

Mr. Geer said he was out of town and wasn't able to respond to the zoning administrator's letter before the meeting. He said approximately 60% of the items in the backyard have been removed. Bob Hanvey asked Mr. Geer for permission to enter his property for an inspection. Mr. Geer said no, the zoning administrator inspected the property from the street the first time; it can be done that way again. He also said there are no abandoned vehicles as stated. Mr. Hanvey asked again if the township could have permission to enter the property. Mr. Geer again said no.

**FOR THE GOOD OF THE TOWNSHIP**

Bob Hanvey reported that the township's assessor, Vickie Moellmann, passed the level 3 examination. She will assume the duties of the assessor and an assistant will be hired. The MHOG budget is available for inspection and the meeting is next Wednesday. Progress is being made on the basement improvements. The LCRC made major improvements at Green Cemetery.

Mr. Geer said he would provide the township with pictures of his property if necessary.

**CALL TO THE PUBLIC**

Charlie Musson, 333 Triangle Lake Road: Mr. Musson commented on the good job done on the fence posts at Harger Cemetery.

**ADJOURNMENT**

Dave Hamann motioned to adjourn the meeting at 8:17 p.m. Tammy Beal seconded.

**Motion carried 5-0.**

**SPECIAL JOINT MEETING - SEPTEMBER 26, 2005  
TOWNSHIP BOARD, ZBA AND PLANNING COMMISSION**

**MEMBERS PRESENT:** ROBERT HANVEY, SUPERVISOR, SUE LINGLE, TREASURER  
TAMMY L. BEAL, CLERK, DAN LOWE, TRUSTEE, DAVE HAMANN, TRUSTEE

**ABSENT:** NONE

**OTHERS PRESENT:** ANNETTE MCNAMARA, ZONING ADMINISTRATOR  
PHIL WESTMORELAND, ORCHARD, HILTZ & MCCLIMENT  
JOHN ENOS, CARLISLE/WORTMAN  
MIKE KEHOE, MILLER KEHOE & ASSOCIATES

\*\*\*\*\*

**CALL TO ORDER** The meeting was called to order at 7:20 p.m.

**INTRODUCTION OF MEMBERS:** Robert Hanvey, Sue Lingle, Tammy L. Beal, Dan Lowe and Dave Hamann were present.

**CALL TO THE PUBLIC**

Robert Hanvey opened the call to the public. Ken Tyler, 3300 Richardson Road. Have there been any changes to the text since the last meeting? Robert Hanvey answered minimal changes have been made to the document.

Robert Hanvey closed the call to the public.

**APPROVAL OF MINUTES**

None heard.

**OLD BUSINESS**

**Proposed Text Amendment - 6.20 A Pre-Existing Non-Conforming Private**

**Roads** Robert Hanvey noted the proposed text is to provide residents with a safe route to get home. He questioned the definitions in the text and said they can be interpreted

in many ways. He asked Mike Kehoe if a private road does not have a maintenance agreement, is it pre-existing non-conforming. Mike Kehoe answered yes. Residents from Pheasant Run attended the meeting to clarify their current situations in relationship to the proposed text.

**Discussion on Public Act 188.** PA 188 spells out a method for calculating homeowners cost for special assessment. The township uses a different method for calculating. Allocation of cost per PA 188 does not go along with proposed Section 6.20 A. Which takes precedence? Mike Kehoe answered PA 188. A homeowner could protest this and take it to the tribunal. Mike Kehoe agreed to look into PA 188.

Phil Westmoreland explained the engineering standards. The criteria covers different situations, gives the township a starting point. There are too many variables, all the roads are different, and one set of standards will not cover each one. This gives the Planning Commission a starting point and provides flexibility. Sue Lingle questioned page 1 of 9 the last sentence, fee in the amount of twenty-five percent of total costs. Isn't the township responsible for 8%? Mike Kehoe answered, this is a different situation. If they agree to 25%, then the township gets 25%.

John Enos will make the following changes to the document and submit to the Planning Commission.

Page 8 of 9, the private road maintenance agreement template, item #12 remove this text and replace with the existing text in Section 6.20.

Page 2 of 9, subsection C d, make clear this is for newly created lots.

Page 4 of 9, subsection F, remove the word New Private Road in the second sentence.

Page 4 of 9, subsection G, delete "without evidence of an approved land division and at least twenty-one days prior to the meeting date for which the applicant requests consideration" and replace with "subject to approved land division." Page 5 of 9, subsection J, change wording to read, anything pre-existing non-conforming, a lot of record does not apply. Dan Lowe does not agree with the proposed language that requires a property owner at the beginning of a private road to upgrade the entire road to get a land use permit. He does not think this is fair.

### **Timber Bluff Site Condominium Development**

Marion Township has been receiving complaints about vehicles accessing the Timber Bluff development through the emergency access that connects to Pleasant Lake Rd. Marion Township approved shrubs along Pleasant Lake Rd. to keep non-emergency vehicles from using the access. The developer has not planted the shrubs yet.

Robert Hanvey asked the group if there were any objections to a gate in place of the shrubs. Discussion ensued. All agreed on Robert Hanvey asking the Howell Area Fire Authority which they preferred. A representative of Marion Township will then meet with the developer to work out a solution.

Proposed Text Amendment - Section 8.01 F 6 & 7 - Rural Residential - Site Development Requirements

Proposed Text Amendment - Section 8.02 F 6 & 7 - Suburban Residential - Site Development Requirements

Proposed Text Amendment - Section 6.18 F 1 & G - Condominium Projects

Proposed Text Amendment - Section 6.19 B - Access Controls

Proposed Text Amendment - Section 3.02 - Definitions - Landscape Buffers

The above five proposed text amendments were discussed.

Dave Hamann reiterated to the group the reason for using the 25' greenbelt buffer in area calculations. If a homeowner changes the character of the buffer in any way and

the township wants to enforce the natural state it must be made a part of the Exhibit B drawings. Debra Wiedman-Clawson stated if the area is cleared it is up to the homeowners association to pursue, not the township. Robert Hanvey would like to know how the State of Michigan defines noxious. All agreed to send the five text amendments to Mike Kehoe for his review and comment. The proposed amendments along with comments will then be sent to the Board of Trustees for their review & approval/denial.

**NEW BUSINESS**

None heard.

**CALL TO THE PUBLIC**

Ken Tyler, 3300 Richardson; Ken Tyler reiterated concerns previously discussed.

**ADJOURNMENT**

Sue Lingle motioned to adjourn the meeting at 10:08 p.m. Debra Wiedman-Clawson seconded. **Motion Carried 4-0.** The meeting was adjourned at 10:35 p.m.

**MINUTES - OCTOBER 13, 2005**

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

**MEMBERS ABSENT:** None

**OTHERS PRESENT:** Phil Westmoreland, OHM

\*\*\*\*\*

**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 introduced themselves.

**CALL TO THE PUBLIC**

John Zwerlein, 2501 Clivedon: A developer came to myself and my wife and wanted to put a sign on our yard at the corner, advertising the Knolls of Grass Lake. We want to make a plea not to have a sign placed there. When the development when in we specifically asked not to have a sign placed there and the developer promised no sign. Bob Hanvey- it's your property and if you don't want a sign on your property that's up to you. Senator Valde Garcia, 1152 Hudson Drive: made a presentation of what he's been doing for the past few months and what he's doing for the community. He asked if any one in the audience had any questions. Horace Cole, 918 Francis, asked what's happening with the garbage coming from Canada. Senator Garcia responded that because it's an International trade they can't do much about it, in fact some townships want it because it adds to their revenue. Mike Rogers is working on a bill to help with the garbage issue. Ken Tyler, 5200 Richardson Road: I hope the Board of Trustees limits the power of the Planning Commission.

**CONSENT AGENDA**

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

**Motion carried 5-0**

**PEAVY FORCE MAIN**

Phil Westmoreland gave an update on this project. Everything is ready to go when we want to bid it out. Dan Lowe noted that there is a manhole cover missing near the force main, Phil said when he walked it this summer it was in place but he will take care of it.

**3% PENALTY ON WINTER 2005 TAXES**

Sue Lingle explained the penalty on taxes paid after the February 14 due date. Dave Hamann made a motion to adopt a resolution to approve the 3% penalty for taxes paid late, after February 14, 2006, for the Winter 2005 taxes. Tammy Beal seconded it. Roll call vote Dave Hamann, Sue Lingle, Bob Hanvey, Dan Lowe, Tammy Beal—all yes.

**Resolution passed 5-0.**

**RADICK SHOW CAUSE UPDATE**

The zoning administrator talked to Mrs. Radick and the dogs have been de-barked. Bob Hanvey talked to a neighbor across the road from the Radicks and she said that she still hears the dogs at feeding time, but she has never heard them at night.

**ASSESSOR APPOINTMENT AND SALARY**

Dave Hamann motioned to adopt a resolution to keep Marilyn Collins on for 2 days a week until the end of the year and for Victoria Moellmann to receive an annual salary of \$49, 862.00 with the normal work week being 32 hours. Sue Lingle seconded. Roll call vote—Dave Hamann, Sue Lingle, Bob Hanvey, Dan Lowe, Tammy Beal—all yes.

**Resolution passed 5-0.**

**CINGULAR CELL TOWER (BLACK DOT BUY OUT)**

Sue Lingle motioned to turn down the Black Dot offer to buy the Cell Tower Lease. Dave Hamann seconded. **Motion carried 5-0**

**FOR THE GOOD OF THE TOWNSHIP**

Bob Hanvey reported that he has been getting the Township’s Zoning Ordinance on the web sight and hopefully by the next township meeting it will be available. Sue Lingle reported that she passed out Articles of Incorporation on the Parks & Recreation Department from Shea Charles to each Board Member. She would like to have the Board members read it and be ready to vote on it by the next meeting.

**CALL TO THE PUBLIC**

Charlie Musson, 333 Triangle Lake Road: Mr. Musson commented that the cell tower is worthless. Why doesn’t the township buy it and then have control over it? Bob Hanvey responded that we weren’t given the opportunity to purchase it. Dan Lowe the water main by the bridge on Norton Road needs to be located and dug up. Is it MHOG’s Responsibility or the townships responsibility?

**ADJOURNMENT**

Sue Lingle motioned to adjourn the meeting at 8:00 p.m. Dave Hamann seconded.

**Motion carried 5-0.**

**MINUTES - OCTOBER 27, 2005**

**MEMBERS PRESENT:** Bob Hanvey, Sue Lingle, Dave Hamann, Tammy Beal, and Dan Lowe (arrived at 7:40 p.m.)

**MEMBERS ABSENT:** None

\*\*\*\*\*

**CALL TO ORDER**

Bob Hanvey called the meeting to order at 7:31 p.m.

**PLEDGE TO FLAG**

**MEMBERS PRESENT**

The members of the board introduced themselves.

**CALL TO THE PUBLIC**

None.

**CONSENT AGENDA**

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

**APPROVAL OF OCTOBER 13, 2005 REGULAR BOARD MINUTES**

Bob Hanvey asked to have three items amended. Dave Hamann motioned to approve the minutes as amended. Sue Lingle seconded. **Motion carried 4-0.**

**HOWELL RECREATION AUTHORITY**

Shea Charles, the Howell city manager, presented the Howell Area Recreation Authority Articles of Incorporation. Bob Hanvey's suggested changes were incorporated and Mr. Charles reviewed the changes. Dave Hamann motioned to approve the Howell Area Recreation Authority Articles of Incorporation as to form. Tammy Beal seconded.

**Motion carried 5-0.**

Mr. Charles gave an update on the Highland/Darakjian loop road project

**CINGULAR CELL TOWER LEASE**

Bob Hanvey provided a handout showing current and proposed cash flow. Dave Hamann motioned to decline the offer proposed by Cingular. Tammy Beal seconded.

**Motion carried 5-0.**

**PEAVY FORCE MAIN**

Bob Hanvey said there is no new information.

**FOR THE GOOD OF THE TOWNSHIP**

Bob Hanvey reported that new exit signs have been installed, the bill from the Road Commission for the Cedar Lake Road repairs was much less than expected, and the township website now has the zoning ordinance. Charlie Musson said the zoning map has to be included with the zoning ordinance. It was also reported that the bumps on Norton Road are gone. Dan Lowe asked what work is being done on Amos Road.

**CALL TO THE PUBLIC**

Charlie Musson, 333 Triangle Lake Road: Mr. Musson asked how many townships are part of the Recreation Authority. Sue Lingle said three and the City of Howell.

Barney Cole, 918 Francis Road: Mr. Cole said that D-19 has been patched again.

**ADJOURNMENT**

Sue Lingle motioned to adjourn the meeting at 8:05 p.m. Dave Hamann seconded.

**Motion carried 5-0.**

**MINUTES - NOVEMBER 10, 2005**

**MEMBERS PRESENT:** Bob Hanvey, Sue Lingle, Dave Hamann, and Tammy Beal

**MEMBERS ABSENT:** Dan Lowe

**OTHERS PRESENT:** Phil Westmoreland, OHM

\*\*\*\*\*

**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 introduced themselves.

**CALL TO THE PUBLIC**

None.

**CONSENT AGENDA**

Sue Lingle motioned to approve the consent agenda. Dave Hamann seconded.

**Motion carried 4-0.**

## **TEXT AMENDMENTS**

Dave Hamann motioned to table this item. Sue Lingle seconded. **Motion carried 4-0.**

### **HOWELL TOWNSHIP/MARION TOWNSHIP JOINT PARK**

Maureen Cross, the supervisor from Howell Township, was present to discuss a joint park project with Marion Township. The parcel is located on Norton Road. Mr. Hanvey and Ms. Cross met at the site with representatives from the Livingston Land Conservancy. This item is also on the agenda for Howell Township's next board meeting. Tammy Beal motioned to have Bob Hanvey pursue establishing a joint park with Howell Township. Dave Hamann seconded. **Motion carried 4-0.**

### **LOVE'S CREEK/SESAME DRIVE PRIVATE ROAD MAINTENANCE SPECIAL ASSESSMENT**

Larry Grunn, 3969 Love's Creek Drive, turned in a petition signed by 27 property owners. Bob Hanvey provided a spreadsheet showing a variety of assessment formulas. Mr. Hanvey reviewed the differences between Act 139 and Act 188, which is what the township typically uses. One of the differences is that Act 139 requires that the allocation of costs be done on a pro rata frontage basis. Mr. Grunn said the people signed the petition with the understanding that everyone would pay the same, like the previous special assessment. Mr. Hanvey said he would like to schedule a public hearing prior to the next board meeting to explain the options to everyone. Mr. Grunn said it would be difficult to get everyone to attend the meeting. Bob Hanvey will check with the attorney on whether the existing petition can be used. The signatures will have to be validated by the clerk's office. Bob Hanvey said the township could prepare a meeting notice to mail to property owners.

### **SNOW REMOVAL BIDS**

Tammy Beal provided copies of the two bids that were received. After discussion, Tammy Beal motioned to accept the bid from Absolute Outdoor Services for 2005-06 snow removal. Dave Hamann seconded. Roll call vote: Sue Lingle, Bob Hanvey, Dave Hamann, Tammy Beal—all yes. **Motion carried 4-0.**

### **PEAVY FORCE MAIN**

Phil Westmoreland reported that the internal review process is done and all of the changes will be made next week. He will obtain signatures from the township sometime next week for the permits. The bidding process can be done without the permits.

### **LIVINGSTON COUNTY CHAPTER OF MTA**

Tammy Beal said Bill Thurner from Cohoctah Township sent an invitation to the township to participate in a meeting of the Livingston County Chapter of the MTA. The meeting will be held on Wednesday, February 22, 2006 at 8:00 p.m. at Green Oak Township Hall.

### **SOCIAL SECURITY PRIVACY POLICY**

Tammy Beal provided a copy of an article from the MTA News that all townships must adopt a Social Security Number Privacy Policy by January 1, 2006. A sample policy is available for review in the clerk's office.

### **ZBA COST ANALYSIS**

Sue Lingle provided a handout showing the average cost per ZBA case. She asked the board members to review and make suggestions for raising the fee for a ZBA application. Dave Hamann said the ZBA used to require a minimum number of cases before a meeting date is scheduled. Ms. Lingle said she thought there was a limit on the number of days that the request can be held up. Ms. Beal suggested giving the applicant the choice of waiting or paying the additional amount. Mr. Hamann said the

Board should wait to make a decision until the ZBA representative is at the meeting.

**ZBA REPORT**

Bob Hanvey reported that a front yard variance on D-19 was granted at the ZBA's November 7 meeting.

**FOR THE GOOD OF THE TOWNSHIP**

Bob Hanvey provided the board members with an update on the Chestnut rezoning hearing.

**CALL TO THE PUBLIC**

Larry Grunn, 3969 Love's Creek: Mr. Grunn introduced his son, Jeremy, who is working on a Boy Scout merit badge for communications. Larry Diedrich, 3371 Sesame Drive: Mr. Diedrich said the snowplowing bill is charged equally to everyone in the neighborhood. How is that different than road maintenance? Mr. Hanvey said he would find out on Monday. Mr. Diedrich asked about when the current assessment expires, do they have to go through this same process? Ms. Lingle said yes.

**ADJOURNMENT**

Sue Lingle motioned to adjourn the meeting at 8:30 p.m. Dave Hamann seconded.

**Motion carried 4-0.**

**BOARD OF TRUSTEES  
DECEMBER 8, 2005**

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

**MEMBERS ABSENT:** None

**OTHERS PRESENT:** Phil Westmoreland, OHM  
Annette McNamara, Zoning Administrator

\*\*\*\*\*

**CALL TO ORDER**

Bob Hanvey called the meeting to order at 7:50 p.m.

**PLEDGE TO FLAG**

**MEMBERS PRESENT**

The members of the board introduced themselves.

**CALL TO THE PUBLIC**

None.

**CONSENT AGENDA**

Dave Hamann motioned to approve the consent agenda. Sue Lingle seconded.

**Motion carried 5-0.**

**AUDIT PRESENTATION APPROVAL**

Ken Palka and Chris Arsenault from Pfeffer, Hanniford & Palka, presented the board with the June 30, 2005 fiscal year end audit. Mr. Palka said they are issuing an unqualified opinion and the audit process went very well. Mr. Palka highlighted some of the funds, including the General Fund budget to actual, the Water New User fund, and the Sewer Fund. The auditors have four comments for the board: (1) the township policy handbook section on retirement benefits' payment of premium should be clarified; (2) escrow funds should be kept in a separate fiduciary fund rather than as part of the general fund; (3) interfund payables; (4) sewer O&M fund has accumulated significant losses over the past four years and user charges and rates should be reviewed.

Tammy Beal motioned to approve the audit presented by Pfeffer, Hanniford & Palka.

Sue Lingle seconded. **Motion carried 5-0.**

### **MARION TOWNSHIP PARK #1**

Sue Lingle provided the board with copies of the warranty deed transferring the park at Triangle Lake Road south of Coon Lake Road over to the township. Sue Lingle motioned to adopt a resolution to accept the donation of the park from Fred Brown. Tammy Beal seconded. Roll call vote: Dan Lowe, Tammy Beal, Bob Hanvey, Sue Lingle, Dave Hamann—all yes. **Resolution passed 5-0.**

### **PEAVY FORCE MAIN**

Phil Westmoreland said they are ready to go out to bid the 1<sup>st</sup> week of January, and he has permits for the township to sign. Sue Lingle motioned to approve payment of \$4,292 to OHM. Dave Hamann seconded. Roll call vote: Dave Hamann, Sue Lingle, Bob Hanvey, Tammy Beal, Dan Lowe—all yes. **Motion carried 5-0.**

### **TEXT AMENDMENTS**

Bob Hanvey asked Annette McNamara to update the board on the status of the text amendments for Section 6.18 F 1 & G—Condominium Projects; Section 8.01 F 6 & 7—Rural Residential District; Section 8.02 F 6 & 7—Suburban Residential District; Section 6.19 B—Access Controls; and Section 3.02—Landscaping Definitions. The Planning Commission, the township planner, and the township attorney have reviewed the text amendments. Mr. Hanvey provided some suggestions for the amendments, and will send this information in a formal memo to the zoning administrator. After discussion, Dave Hamann motioned to provide feedback to the Planning Commission for its December 27 meeting. Sue Lingle seconded. **Motion carried 5-0.**

### **HOWELL TOWNSHIP/MARION TOWNSHIP JOINT PARK**

Bob Hanvey reported on the progress of this project. Mr. Hanvey met with Maureen Cross and they would like to start the process by determining what the two townships want to do with respect to the well houses.

### **LOVE'S CREEK/SESAME DRIVE PRIVATE ROAD MAINTENANCE SPECIAL**

**ASSESSMENT** No action is required on this agenda item.

### **SOCIAL SECURITY PRIVACY POLICY**

There is a requirement that the township adopt a Social Security Privacy Policy by the end of the year. The sample policy from the MTA is 18 pages. Mike Kehoe is working on a two-page version. Dave Hamann motioned to table this item until the board's 12/22/2005 meeting. Tammy Beal seconded. **Motion carried 5-0.**

### **ZONING BOARD OF APPEALS COST ANALYSIS**

The cost analysis shows approximately \$600 per meeting, and the township is only charging \$200. It was suggested that there be a two-case minimum before scheduling a meeting. Sue Lingle is concerned about making applicant's wait two months. Dave Hamann said the statute says the township has to respond within 60 days. Dave Hamann motioned that the township start enforcing the ordinance on ZBA applications and review the average again in six months and make a decision on raising the fee.

Dan Lowe seconded. **Motion carried 5-0.**

### **CHARTER COMMUNICATIONS FRANCHISE AGREEMENT**

Bob Hanvey said the township received a new franchise agreement from Charter that is very different from the previous one. Mr. Hanvey sent it to the attorney for review. Dave Hamann motioned to have Bob Hanvey work with the attorney on the franchise agreement and return it to the board. Tammy Beal seconded. **Motion carried 5-0.**

### **HOWELL AREA RECREATION AUTHORITY ARTICLES OF INCORPORATION**

Sue Lingle motioned to adopt a resolution approving the Howell Area Recreation Authority Articles of Incorporation. Tammy Beal seconded. Roll call vote: Bob Hanvey,

Dave Hamann, Tammy Beal, Sue Lingle—all yes; Dan Lowe—no.

**Resolution passed 4-1**

**BLACK DOT/CINGULAR CELL TOWER**

Bob Hanvey provided the board members with the latest offer from Black Dot/cingular. Dave Hamann motioned to decline the offer. Sue Lingle seconded. **Motion carried 5-0.**

**LIGHTING AT PUMP STATIONS**

Daniel Martin, 1435 Tracilee Drive, was present to ask the board for lighting and signage at the pump station on the cul-de-sac. There have been incidents with drugs, firearms, etc. Dan Lowe suggested putting up gates. Bob Hanvey said all of the pump stations should be lighted. Dave Hamann asked if there's any funding available through Homeland Security. Bob Hanvey said probably not. Dave Hamann motioned to have the supervisor pursue a resolution to the pump station issues. Tammy Beal seconded.

**Motion carried 5-0.**

**CLARK-HILL INVOICE**

Dave Hamann motioned to approve the Clark-Hill invoice for \$2,204.05. Sue Lingle seconded. Roll call vote: Dan Lowe, Dave Hamann, Tammy Beal, Sue Lingle, Bob Hanvey—all yes. **Motion carried 5-0.**

**ZBA REAPPOINTMENTS**

Sue Lingle motioned to reappoint Larry Fillingner to the Zoning Board of Appeals. Tammy Beal seconded. **Motion carried 5-0.**

Sue Lingle motioned to reappoint John Lowe to the Zoning Board of Appeals. Dave Hamann seconded. **Motion carried 5-0.**

Sue Lingle motioned to reappoint Dan Rossbach to the Zoning Board of Appeals. Dave Hamann seconded. **Motion carried 5-0.**

**PLANNING COMMISSION REAPPOINTMENTS**

Tammy Beal motioned to reappoint Jim Anderson to the Planning Commission. Dan Lowe seconded. **Motion carried 5-0.**

Dave Hamann motioned to reappoint Debra Wiedman-Clawson to the Planning Commission. Sue Lingle seconded. **Motion carried 5-0.**

**ZBA REPORT**

Dan Lowe reported that one case was heard by the ZBA at the December 5 meeting, requesting a side yard setback for a house and deck. Both variances were granted.

**HOLIDAY HOURS**

The township office will be closed the day after Christmas and the day after New Year's. The question is what to do for the Thursdays prior to the holidays. After discussion, Tammy Beal motioned to have each staff member work either the Thursday before the Christmas holiday or the Thursday before the New Year's holiday. Dave Hamann seconded. **Motion carried 5-0.**

**LIVINGSTON COUNTY SENIOR NUTRITION PROGRAM**

Bob Hanvey said the township received a request from the Livingston County Senior Nutrition Program for a contribution. The program currently provides service for approximately 20 township residents. Tammy Beal motioned to approve a contribution of \$1,000 for Livingston County Senior Nutrition Program. Dave Hamann seconded. Roll call vote: Dave Hamann, Sue Lingle, Tammy Beal, Dan Lowe, Bob Hanvey—all yes.

**Motion carried 5-0.**

**FOR THE GOOD OF THE TOWNSHIP**

Bob Hanvey said the fire department and 911 are trying to get some siren systems installed throughout the county. The actual tower and siren is approximately \$18,000

per unit. There is a \$7,000 cost for the central equipment that would work with all of the towers. The fire department will be doing a coverage analysis. Dave Hamann asked if there are federal grants or if it could be funded by the millage. Bob Hanvey will check.

**CALL TO THE PUBLIC**

Daniel Martin, 1435 Tracilee Drive: Mr. Martin asked for a copy of the dog ordinance. Dave Hamann said it's a county ordinance. Bob Hanvey will provide Mr. Martin with a copy. Charlie Musson, 333 Triangle Lake Road: Mr. Musson said his Verizon cell phones don't work. Bob Hanvey said Verizon has been approved to co-locate on the township tower, but work won't be done until after the Super Bowl. Mr. Musson also suggested that township representatives attend a public forum to be held by the Livingston County Parks and Open Space Advisory Board on December 14 from 6:00-8:00 p.m.

Daniel Martin, 1435 Tracilee Drive: Mr. Martin added that the lawn at the pump station was only cut once by the lawn service and he's been cutting it.

**ADJOURNMENT**

Dave Hamann motioned to adjourn the meeting at 9:20 p.m. Sue Lingle seconded.

**Motion carried 5-0.**

**MINUTES - DECEMBER 22, 2005**

**MEMBERS PRESENT:** Bob Hanvey, Sue Lingle, Dave Hamann, Tammy Beal, and Dan Lowe (arrived at 7:35 pm)

**MEMBERS ABSENT:** None

**OTHERS PRESENT:** Phil Westmoreland, OHM

\*\*\*\*\*

**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 introduced themselves.

**CALL TO THE PUBLIC**

None.

**CONSENT AGENDA**

Dave Hamann motioned to approve the consent agenda. Sue Lingle seconded.

**Motion carried 4-0.**

**PADDOCK SHOW CAUSE HEARING**

Ted Paddock, Steve Belanger and Theo Paddock were present for the hearing. Bob Hanvey said there were three issues with the sign: it was not part of the site plan for the development; it's located on township property; and it's in the road right-of-way. Ted Paddock said they had permission from Fred Brown, the previous owner of the property, to put up the sign. Mr. Hanvey said the immediate issue is that the sign has to be removed. He said the owners should apply for site plan modification with the Planning Commission. Mr. Belanger said the sign would be removed within a week. Mr. Hanvey said that no more land use permits would be issued until the sign is removed.

**RADKE SHOW CAUSE HEARING**

No representative was present for this hearing. Sue Lingle motioned to find Mr. Radke in violation of the ordinance and authorize the zoning administrator to proceed with appropriate action. Dave Hamann seconded. **Motion carried 5-0.**

**RAMIREZ PRIVATE ROAD REVIEW**

Dave Hamann motioned to adopt a resolution to approve Allie Drive private road per the

recommendation of the township engineer, contingent upon verification that the road maintenance agreement has been properly registered. Sue Lingle seconded. Roll call vote: Bob Harvey, Sue Lingle, Dave Hamann, Tammy Beal, Dan Lowe—all yes.

**Resolution passed 5-0.**

**SOCIAL SECURITY PRIVACY POLICY/PUBLIC ACT 454 OF 2004 (MCL 445.81)**

Bob Harvey said the biggest impact would be in the assessor's office, because the Principal Residence Exemption form contains social security numbers. The assessor's office will be locked from now on. Dave Hamann motioned to adopt a resolution to approve the Social Security policy. Tammy Beal seconded. Roll call vote: Dave Hamann, Bob Harvey, Sue Lingle, Tammy Beal, Dan Lowe—all yes.

**Resolution passed 5-0.**

**CLARK HILL INVOICE**

Dave Hamann motioned to approve the Clark Hill invoice for \$2,542.31. Sue Lingle seconded. Roll call vote: Dan Lowe, Dave Hamann, Tammy Beal, Sue Lingle, Bob Harvey—all yes. **Motion carried 5-0.**

**MHOG WATER TREATMENT PLANT SEWER USAGE**

Bob Harvey said he talked with one of the sewer maintenance people from the city of Howell, who mentioned that the quantity of water coming into the pump station by the water plant was so great that the water had to be shut off for repairs. The plant operator said it was hooked up sometime in 2000, and they use about 5,000 gallons per day during the winter and 10,000 during the summer. Mr. Harvey suggested that the township should report this situation to the MHOG Board and ask for a recommendation. Phil Westmoreland cautioned the board to look at the impact on the rest of the area. Dave Hamann motioned to have the township supervisor ask the MHOG Board to make a suggestion to the township board on the appropriate action. Tammy Beal seconded.

**Motion carried 5-0.**

**HALL POLICY REVIEW**

Dave Hamann motioned to amend the hall policy to include an additional five rules. Tammy Beal seconded. **Motion carried 5-0.**

**APPOINT BOARD MEMBER TO RECREATION AUTHORITY**

Dave Hamann motioned to appoint Sue Lingle as the Marion Township representative for the Recreation Authority. Tammy Beal seconded. **Motion carried 5-0.**

**ASSEMBLY HALL ENTRANCE WAY**

Bob Harvey said that Dan Lowe temporarily fixed the problem with the cement heaving. Mr. Lowe said he will do it again if necessary until a permanent repair can be done in the spring.

**FOR THE GOOD OF THE TOWNSHIP**

Bob Harvey suggested that current staff could review the zoning ordinance for inconsistencies, spelling and grammatical errors.

**CALL TO THE PUBLIC**

None.

**ADJOURNMENT**

Dave Hamann motioned to adjourn the meeting at 8:37 p.m. Tammy Beal seconded. **Motion carried 5-0.**