

**REGULAR MEETING  
LENOX TOWNSHIP BOARD OF TRUSTEES  
MONDAY, OCTOBER 3, 2016**

- |                                      |   |
|--------------------------------------|---|
| <b>1. CALL TO ORDER:</b>             | 7:30 PM                                   |
| <b>MEMBERS PRESENT:</b>              | Trombly, Kethe, Ottenbacher, Boyd, Turchi |
| <b>ATTORNEY PRESENT:</b>             | Steven Joppich                            |
| <b>RESIDENTS AND GUESTS PRESENT:</b> | 27  |

**2. PLEDGE OF ALLEGIANCE**

**3. APPROVAL OF MEETING AGENDA**

Supervisor Trombly requested letter f. be removed from the consent agenda. Motion by Boyd seconded by Turchi to approve the agenda as amended. All Ayes. Motion passes.

**4. APPROVAL OF MINUTES**

Motion by Turchi seconded by Boyd to approve the minutes from the Regular Meeting of 9-6-2016 as presented. All Ayes. Motion passes.

**5. PUBLIC ANNOUNCEMENTS**

*Chief Fouchia: Next Sunday, October 9, kicks off Fire Prevention week nationwide and Lenox Township will be holding their Annual Open House at Station 1 on Gratiot from 11:00 am – 3:00 pm. We will have various activities going on throughout the day as well as food and beverages. Please come out and see what your tax dollars pay for and meet all the men and women of the department.*

*Todd Robinson, Superintendent of New Haven Community Schools, I am here this evening with Mrs. Tracy Bonkowski, our Board Treasurer. I just want to update the Township Council on a millage election we have coming up November 8. Also, would like to ask if there are any members of the audience tonight that are New Haven Community School residents. We'd like to give you a copy of the trifold brochure that we are using to communicate now. The school district is going out for a building and site sinking fund. It's a 1.2 mil millage for 10 years (2017 – 2026). By letter of the law, this is for construction renovation and major repairs. We have a lot of situations in the district that we need to tend to and the financial situation of the district for the past several years has not allowed for a lot of money into capital improvements and major repairs. The information in the brochure speaks clearly to what the tax increase would be, based on values of homes. \$100,000 home value would have a taxable value of \$50,000 which would be about a \$60 annual tax increase. We are in a unique situation right now in that the school district in our five year property valuation that would set our debt retirement millage, is dropping from 9.17 mils to 7.36 mils. With the support of this proposal, the 2017 levy would be 8.56 mils which really would still be less than what the last levy was in December of 2015. The Board and myself feel like this is a unique time for us to take a step that is proactive, and secure what would be about \$700,000 per year for us to plan proactively for the repairs & renovations that we need to make to parking lots, roofs,*

heating and cooling equipment, and also have the funds that should something breakdown we are not dipping into our general fund and taking money away from our classrooms. We are out for this, for our kids, but it is indirect. Talking about taxes is never good, but the district is trying to restore the financial health for our entire program and we feel like this is a proactive step. We wanted to make sure the Lenox Township Board knew of the millage and that we could get your support by leaving some of these brochures for Lenox Township residents that live in New Haven Community Schools. We have a couple community forums that are coming up, Thursday, October 20<sup>th</sup> at New Haven High School and Tuesday, November 1<sup>st</sup> at Endeavor Middle School. Both of those would be about a one half hour presentations with an opportunity to interact with myself and the School Board. If you have any questions outside of that, you could certainly contact me at the administrative office and I would be happy to answer them.

## **6. PUBLIC COMMENT**

*Trustee Turchi: I would like to compliment the Lenox Township firefighters for an excellent job they did in coordinating the barn fire that occurred on 32 Mile Road between Haven Ridge and Place Road. You could smell the fire, you could see the heat, and you could see the flames from miles away. They coordinated with approximately ten departments and saved most of the structure. And no horses were inside at the time.*

## **7. CONSENT AGENDA**

All items listed under this Consent Agenda are considered routine by the Township Board and will be enacted by one motion. According to established Township meeting rules, there will be no separate discussion of these items, unless a member of the Board or public so requests at or prior to the meeting, in which event the chair of the meeting may remove such item(s) from the Consent Agenda for discussion and consideration under Agenda Item No. 8, below. Approval of the Consent Agenda shall be by a majority roll call vote of those present and voting. Under the consent agenda are items a. Sheriff's Report, b. Fire Department Report, c. EMS Report, d. DPW Report, e. Code Enforcement Report, g. Engineers Report, h. Library Report, i. Senior Center Report, j. Supervisor's Report, k. Treasurer's Report, l. Order and Bills, m. Trustees Report, n. Clerks Report. Kethe stated the Orders and Bills total is \$199,096.98.

Motion by Turchi seconded by Kethe to approve the Consent Agenda including the Orders and Bills in the amount of \$199,096.98.

Roll Call: Boyd: . Aye, Turchi . Aye, Ottenbacher . Aye, Kethe . Aye, Trombly . Aye. Motion passes.

## **8. ITEMS REMOVED FROM CONSENT AGENDA**

### **f. Assessing Department Report**

Assessor Tom Monchak pointed out the first item on the Assessing Department Report being the Audit of State Minimum Assessment Requirements (AMAR). He stated that Lenox Township had an audit last year and there was a delay in getting responses back. He wanted to say that we have gotten an all clear and that everything has been corrected to their satisfaction and he congratulated the Assessing Department, specifically Ses Cianferra and Christine Lucian, as well as the other staff at the township level for their patience with them during that time, especially with the Board of Trustees for their support during this audit.

## **9. UNFINISHED BUSINESS**

### **A. STREET LIGHT PROPOSAL**

Attorney Joppich stated that this Street Lighting Agreement was tabled from the last meeting. This was presented last month with a representative from the Village of New Haven. The Township's part of the arrangement was able to be worked out. DTE provided the Township with a separate agreement for one light including the amount that the Township Board considered. Unsure whether this agreement was approved by the Board, it was put back on the agenda to ensure that everything was in

order with proper approval of this agreement consistent with the Township Board's intent. At the last meeting, the Board of Trustees seemed to approve one light for \$1,100, this agreement reflects one light for \$1,100 including annual lamp charges. There is a master agreement from DTE required in all communities that have these arrangements, which sits in place for at least a period of five years. There can be secondary agreements to the Master Agreement, which is the purchase agreement. Lenox would be purchasing street lights under the master agreement and the Board would not have to approve another master agreement in the future if future light installation is requested. If the Board is in agreement with this, they can confirm that they provide approval and authority to the Township Supervisor to execute the master agreement and the purchase agreement presented by DTE.

Trustee Boyd recalled that he made the motion last month, wondering if it had to be made again. The only difference was that the agreement was changed to Lenox Township instead of New Haven.

Joppich recalled that we did not know what form it would take so he wanted to bring it back to the board to be sure.

Turchi wondered why under number nine it is marked %0+.

Joppich explained that he is not familiar with the technical details of what IESNA practices are, so he is not equipped to answer. DPW Superintendent Cam Trombly stated that he did not know what it meant, so he looked it up. He stated that the way he understands it is that it is a national code that is there to help to design requirements that should be met for certain applications strictly concerning lighting.

Boyd asked if Lenox would be ok to not follow that code.

Cam Trombly answered that DTE is the one that laid this agreement out. The Township just asked for this area to be lit, they identified the locations.

Trustee Turchi wondered that if the Township signs that agreement and something is wrong with the lighting, could Lenox be held responsible because it is supposed to meet recommended practices and it does not.

Joppich answered that you can never know what hypothetical situation could arise but this agreement provides that DTE is responsible for the lighting and they are responsible to maintain it under this agreement. If there is anything wrong with how the lighting is installed or maintained than he would think that would be on DTE and not the township. The Township is agreeing to pay for this light to be installed in the right of way, but it is a DTE maintained light fixture and he thinks they just want to make sure that we do not come back after the fact, as the paying party, and expect them to have complied with some code that may have cost more money and so they want an acknowledgment so that they do not get that sort of detail thrown back at them by the Township as the paying customer.

Boyd said that he thinks the key is ~~recommended practices~~ probably not something they have to do.

Cam Trombly added that we don't own this lighting, DTE does, and we are just paying for their service.

Joppich said he is comfortable in signing this.

Ron Trombly said that this was brought about by residents calling regarding the lighting at the 27 Mile Road and Gratiot intersection. There is a lot of pedestrian traffic and it is poorly lit. The Township is paying for one light and The Village of New Haven will be taking on five new lights. The area will be well lit and safer for pedestrian and auto traffic through that intersection. Motion by Boyd seconded by Kethe to approve the Supervisor's Office to sign the contract master agreement including exhibit A purchase agreement for municipal street lighting in the amount of \$1,100.00. All Ayes. Motion passes.

## **10. NEW BUSINESS**

### **a. STONE HOUSE LEASE RENEWAL REQUEST**

Trustee Boyd asked the DPW Superintendent if there were any major repairs that have had to be done since last year.

DPW Superintendent Cam Trombly answered no.

Supervisor Ron Trombly said that the only change would be instead of a yearly lease, extend it to two years.

Angela Lenont recalled that is what the lease originally was 10 years ago. She has a concern about the back sidewalk, in which there are two lifted slabs. Two friends have tripped over it so far, luckily no one has been hurt, but it is getting bad.

*Comment Inaudible*

Treasurer Ottenbacher suggested that the new agreement should state two years.

Motion by Boyd seconded by Ottenbacher to renew the lease for the brick/stone house to Timothy and Angela Lenont continuing at \$700.00 per month with a two-year lease beginning November 9, 2016 and ending November 9, 2018. All Ayes.

Motion passes.

**b. LENOX LIBRARY 2016-2017 SNOW REMOVAL SERVICE REQUEST**

Supervisor Trombly explained that the library has contacted Lenox Township, regarding the snow removal service for the Lenox Township Library.

Treasurer Ottenbacher asked what they were charged last year.

DPW Superintendent Cam Trombly answered that he could not remember. He thought it was not raised last year, but may have been raised a little bit the year before. He would be comfortable leaving the charge as it presently is.

Supervisor Trombly inquired if there was any problem with manpower in taking care of it.

Cam Trombly answered no, not as of yet.

Kethe asked how much time it takes if there is a snow fall.

Cam Trombly detailed that on an average snow fall maybe not quite an hour. It is mostly hand shoveling because there are a lot of sidewalks. There are only three parking spots which is the only plow able area, the rest is hand shoveling.

Motion by Boyd seconded by Turchi to approve the Lenox Library 2016-2017 Snow Removal Service Request in the amount of \$300 for the year. All Ayes. Motion passes.

**c. NORTH GRATIOT INTERCEPTOR DRAIN DRAINAGE DISTRICT BOND REFUND**

Supervisor Trombly asked Attorney Joppich if he had reviewed this issue.

Attorney Joppich explained that he does not carry expertise in bond, that is why there has been a bond counsel assigned to this. They have provided some materials concerning this. It is a specialized area of practice. He said he believes the Board has seen refunding bonds in the past, this appears to be similar in nature.

Clerk Kethe remarked that it is misleading when it says refunding. They are not giving Lenox money back, they are re-bonding it out at a better rate.

Boyd wondered if it does not affect Lenox in any way, it's just because it is Township money that they have to get approval.

Kethe said that in the long run the Township would pay less in interest on the bonds. This is a good thing.

Boyd wondered if a resolution number had been assigned, and could this be approved without having a number assigned to it.

Joppich answered that it should be referred to by the name of it in the motion, which is a Resolution to Authorize Official Statement and Continuing Disclosure Undertaking regarding the North Gratiot Interceptor Drainage District Bond Refund with a resolution number to be assigned by the Clerk's office.

So moved by Boyd seconded by Ottenbacher. All ayes. Motion passes.

**d. SECTION 1701 HEIGHT, BULK, DENSITY, AREA AND SETBACK REQUIREMENTS**

Trustee Turchi remarked that the Planning Commission was asked to look at this because of the comparatives in surrounding areas. The Township's sizes were a little high. When it says one story . ours used to say 1600; 1 ½ stories were 1250 sq. ft.; and the second story was 575. We just lowered it a little bit to make building a home more affordable.

Motion by Boyd supported by Kethe to approve the proposed ordinance amendment to Section 1701 of the Lenox Township Zoning Ordinance.

Roll Call Vote: Turchi -Aye, Boyd- Aye, Ottenbacher- Aye, Kethe- Aye, Trombly- Aye. Motion passes.

**e. SECTION 1807 KEEPING OR RAISING OF ANIMALS, INCLUDING KENNELS**

Turchi stated that the main goal of the Planning Commission was to clean this up and tie this into the Macomb County Animal Control Ordinance. Regulations were in place, but there was no way to enforce anything. Being tied in to the Macomb County Ordinance . they would take over. Their Animal Control Officer would be called out to deal with any problems.

Attorney Joppich commented that is regarding item **g.**, the Animal Control Ordinance, the Board did receive an updated version of this ordinance from Steve Cassin from the Township's Planning Office. Hearing back from Chief Randazzo from Macomb County, who reviewed these, he had concerns about exotic animals that he wanted clarified in both the Zoning Ordinance and the Animal Control Ordinances. In the memo from Mr. Cassin, he provided a revised provision under ~~Keeping of Animals~~ to address the concerns that were raised. It is revised such that, the keeping of animals provision reads: it shall be unlawful to own, possess, or harbor any dangerous, wild, or exotic animals without proper federal, state, or local permits. The prior version referred MDEQ permits which Chief Randazzo said does not apply any more. He was in favor of a more general provision referring to state, federal, and local permits that may be necessary. It is a good suggestion as it carries through time as laws change and are modified. Otherwise the Ordinance is exactly as reviewed by the Planning Commission at its Public Hearing. Turchi said under Private Kennels, the Planning Commission changed how many dogs are allowed to make sure it was very well defined what a Private Kennel is versus going into commercial. That number has been lowered, as well as adding that a resident can only have two litters in a year's time.

Turchi said breeding kennels shall be limited to two litters per calendar year. Anything larger or more would have to go through the Commercial standards.

*Comment: Larry Rekowski, 30736 29 Mile Road, it was my understanding that this ordinance was initiated due to concerns of not being able to control the enforcement of the current ordinance that you had. I just don't understand why there was a big outreach in government to add all this other stuff regarding kennels when the problem was actually initiated by seeking assistance from the County to help control or enforce it. I don't think it was particularly thought through because I sat in on the last meeting and that point was never even brought up. If you look at some of the provisions in there, they really don't make any sense. You want a commercial kennel of five acres or more to have a dog run 150 feet from the property line, which I don't think is commensurate with most sizes of five acre lots. I have a larger than five-acre lot and it's not even commensurate with that. If enforcement is what you're looking for, getting help from the Township is great, but to throw all this other garbage in there when I haven't even seen any support for it from other residents, I think it is unjust.*

Supervisor Trombly remarked that he brought up a valid point because on some five acre parcels, there are some bowling alley parcels that are not very wide but extremely deep. That could be an issue as far as the 150' to any property line.

Turchi added that that is when they would file for Zoning Board of Appeals (ZBA) because you have to look at those types of situations individually, because if it is long and narrow they are closer to their neighbors and that could cause problems.

Clerk Kethe said the same thing holds true for the pond ordinance . you have to go 100' back from every property line. It is another one that would have to go to the ZBA if there is something different. For the normal person who has dogs or cats, this is not going to cause a problem.

Turchi said it was not really changed from what was in place, but just reviewed. The reason is so that we have some way to enforce problems with animals.

*Comment from the audience: Will the county go and enforce your ordinance up and above what their normal enforcements are? Who's going to pay for the defense? You can't enforce it now or patrol it, so is the county going to enforce it and fight it in litigation or will this cost the township money?*

Joppich replied that the county will enforce the Animal Control Ordinance if that is adopted further down on the agenda. That is what is referred to as a police ordinance. Item **g.** on the agenda is a general non-zoning ordinance. It has the basic requirements regarding the control of animals and the keeping of animals throughout the Township. It indicates that Macomb County is authorized to enforce that ordinance. There is also a resolution that I will present to Chief Randazzo, from Macomb County, provided to us to verify that it is consistent with the County's regulations. At the County level, he will be enforcing that ordinance. The ordinance that is currently on the table is a Zoning Ordinance. The Township enforces the Zoning Ordinance, not to say that the County will not be able to enforce any of those parts of the Ordinance, but typically it does not, enforcement would fall to the Township. Lenox does have the ability to enforce its Zoning Ordinances regularly and does so on a daily basis.

*Audience member asked if the adjacent community rules and regulations were considered when this was adopted or proposed.* Turchi answered that we did at the Planning Commission.

Joppich said he will cover that for item **g** later on the agenda. Absolutely. That is an ordinance that is based on ordinances that communities around Macomb County have adopted and that Chief Randazzo is enforcing.

*Comment from the audience: I understand that, but I am referring to the first one, was that considered?*

Turchi affirmed that at the Planning Commission level it was considered, as well as by the Township Planner.

Kethe commented that this makes the whole Ordinance a lot clearer. There were four different sections to review to answer questions on this. It is a good thing to clean up the ordinance.

Motion by Kethe seconded by Ottenbacher to approve the amendment to Section 1807, Keeping or Raising of Animals including Kennels.

Joppich interjected that this Ordinance includes changes to Sections 2400, under Article 2, of the Zoning Ordinance as well.

Turchi detailed that Article 2 and Article 3 because it is putting everything in one spot instead of not being together.

Kethe amended the motion to include amending Section 2400 and including it in Section 1807. Seconded by Ottenbacher.

Roll Call Vote: Turchi -Aye, Boyd- Aye, Ottenbacher- Aye, Kethe- Aye, Trombly- Aye. Motion passes

#### **f. SECTION 1840 CREMATORIUMS**

Trustee Boyd reported a typographical error on the top of the item just finished. It actually says amend Section 1840 where it should say amend Section 1807.

Trustee Turchi explained that the copy from the Attorney's Office is the correct document.

Attorney Joppich responded that he will make sure it gets published correct.

Turchi remarked that the Township Planner realized that the current Crematorium Ordinance must be amended to comply with state law. Currently, the Crematorium Ordinance states that a crematorium could be operated by a funeral home. That is against the law, so the Planning Commission had to change the wording.

Motion by Boyd seconded by Kethe to approve the proposed ordinance to amend Section 1840 of the Lenox Township Zoning Ordinance for Crematoriums.

Roll Call Vote: Turchi -Aye, Boyd- Aye, Ottenbacher- Aye, Kethe- Aye, Trombly- Aye. Motion passes

#### **g. PART 13, ORDINANCE 1, ANIMAL CONTROL ORDINANCE**

Joppich passed down a copy of the Resolution that Chief Randazzo asked the Board to consider in conjunction with this. This is the Animal Control Ordinance, it is not a Zoning Ordinance. This is a general police type ordinance of the Township regulating

animals and to authorize him to proceed with enforcement in the community. He passed down two sections of the ordinance that the Chief asked to be adjusted. This is an ordinance that did not go to the Planning Commission, as it does not require Planning Commission review because it is not a land use or zoning ordinance. The two adjustments talk about exotic and wild animals. This adjustment was made per Chief Randazzo's request to Section 9, Exotic or Wild Animals. He also asked for an adjustment to Section 10 regarding Animal Care and asked us to refer to Article 8 of the Macomb County Animal Control Ordinance. That language has been added consistent with his request. Otherwise the ordinance reads exactly the same as it did in the agenda packet.

Kethe asked if the resolution has to be read.

Joppich answered that the resolution does not have to be read in full. He just asked if the Board was ready to move forward with this Ordinance, that its motion adopt both the Ordinance Amending the Dog Control Ordinance, Part 13, Ordinance 1 of the Book of Ordinances and also adopt the resolution that has been provided to the Township by Chief Randazzo with a resolution number to be assigned.

Motion by Boyd supported by Kethe to adopt the Ordinance amending the Dog Control Ordinance, Part 13, Ordinance 1 of the Book of Ordinances and also adopt the resolution that has been provided to the Township by Chief Randazzo with a resolution number to be assigned.

Turchi inquired on Page 3 where it says Section 3 of Ordinances amended; all things were changed to animal. She wondered if that was supposed to say vicious animals prohibited or still vicious dogs.

Joppich answered that this was changed to be consistent with the County Ordinance and to incorporate a reference to all animals and not just dogs.

Turchi said that one was not changed to all animals.

Joppich stated that that was referring to the existing Ordinance, the current Ordinance refers to vicious dogs, this is giving it a new title and will no longer refer to vicious dogs prohibited it will now say nuisance or dangerous animals.

Supervisor Trombly clarified that if it is under County enforcement, would Macomb County pay for prosecution costs.

Joppich detailed that that is what we were informed by the County, that they would undertake the enforcement and there is no contract or arrangement with them for the Township to be paying for that. That is just part of what they do.

Boyd said when you buy tags for your dog that is what that money is used for.

Roll Call Vote: Turchi -Aye, Boyd- Aye, Ottenbacher- Aye, Kethe- Aye, Trombly- Aye. Motion passes

Turchi asked who will be responsible for changing the wording.

Joppich explained that his office has made the changes and the Board has just adopted it. An updated version will be provided to the Township.

#### **h. MASTER PLAN UPDATE**

Turchi said that the Planning Commission is to the point where they decided to approve the draft of the Master Plan and which concept they are going with. There is no major activity going on yet and it should be reviewed in another five years. Now they have to send it to neighboring communities for their review. We need permission from the Board to release it for distribution to the neighboring communities and relevant agencies.

Motion by Kethe seconded by Ottenbacher to approve the Planning Commission releasing the Master Plan to the neighboring communities. All Ayes. Motion passes.

**11. PUBLIC COMMENT**

*Dan Manchik, 4200 County Line, on behalf of my family, I wish to apologize to this Board for being dragged into a family issue. It is embarrassing to say the least. I am sure by now it is quite obvious to everyone that Mike and Theresa Manchik have a serious grudge against my dad, Francis Manchik. We found out today that the latest complaint to the Township is about a yard light that has been on my dad's personal pole barn for 20 years. A building that is in no way related to our business. It is our desire to finish our years in business right here in Lenox Township. We are in compliance with our consent judgement and we will continue to work with this Township addressing any issues that may come up. In your discussion tonight, we would ask that you would first remember our 24 employees and their families, as we hope that you will vote in favor of our extension this evening and put this issue to rest. Thank you for your time.*

**12. CLOSED SESSION**

**1. FOR THE PURPOSES OF DISCUSSING CONFIDENTIAL ATTORNEY CLIENT PRIVILEGED COMMUNICATIONS FROM THE TOWNSHIP ATTORNEY AND FOR THE PURPOSES OF DISCUSSING PENDING LITIGATION**

Motion by Kethe supported by Ottenbacher to enter into Closed Session at 8:29 PM.

Roll Call Vote: Turchi -Aye, Boyd- Aye, Ottenbacher- Aye, Kethe- Aye, Trombly- Aye. Motion passes

Motion by Kethe supported by Boyd to return to Open Session at 9:43 PM.

Roll Call Vote: Boyd -Aye, Ottenbacher- Aye, Turchi . Aye, Kethe- Aye, Trombly- Aye. Motion passes

Motion by Kethe supported by Ottenbacher to bring back this issue next month after negotiation discussions are held that was spoke about in Closed Session.

Roll Call Vote: Boyd -Aye, Turchi- Aye, Ottenbacher- Aye, Kethe- Aye, Trombly- Aye. Motion passes

Motion by Kethe supported by Boyd with regard to the Gala matter, to approve the proposed final order and judgement and authorize the Township Attorney to sign and secure its entry by the court.

Roll Call Vote: Boyd -Aye, Turchi - Aye, Ottenbacher- Aye, Kethe- Aye, Trombly- Aye. Motion passes

Motion by Kethe seconded by Ottenbacher on the 26 Mile Road water/sewer issue, to authorize the Supervisor to enter into an agreement with Ric Man Construction for the repair work in the 26 Mile Road issue as detailed in the packet that was provided to the Board of Trustees and to waive the bidding requirements 6.7A of the Lenox Township Policy Manual.

Roll Call Vote: Boyd -Aye, Turchi- Aye, Ottenbacher- Aye, Kethe- Aye, Trombly- Aye. Motion passes

**13. ADJOURNMENT**

Motion by Boyd supported by Turchi to adjourn the meeting at 9:46 PM. All Ayes. Meeting adjourned.

Respectfully submitted,

Respectfully submitted,

Jodi Kethe  
Clerk

Carol A. Swantek  
Recording Secretary