

GENOA CHARTER TOWNSHIP BOARD
Regular Meeting and Public Hearing
January 6, 2020
6:30 p.m.

AGENDA

Call to Order:

Pledge of Allegiance:

Call to the Public (Public comment will be limited to two minutes per person)*:

Approval of Consent Agenda:

1. Payment of Bills.
2. Request to Approve Minutes: December 10, 2019 and December 16, 2019

Approval of Regular Agenda:

3. Presentation by Ken Palka to make changes the Township's State Chart of Accounts at a cost of \$14,700.00 to comply with the State of Michigan's request for consistency within local governments.
4. Request to appoint Craig Fons as an alternate to the Zoning Board of Appeals.
5. Discussion regarding projects for FY 2020/2021.
6. Request to consider approval and authorization of a letter from Dykema Gossett to the City of Howell Board of Zoning Appeals.

Correspondence
Member Discussion
Adjournment

<p>*Citizen's Comments- In addition to providing the public with an opportunity to address the Township Board at the beginning of the meeting, opportunity to comment on individual agenda items may be offered by the Chairman as they are presented.</p>
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CHECK REGISTERS FOR TOWNSHIP BOARD MEETING

DATE: January 6, 2020

TOWNSHIP GENERAL EXPENSES: Thru January 6, 2020	\$90,880.03
December 27, 2019 Bi Weekly Payroll	\$94,821.71
January 3, 2020 Part Time Vacation Pay	\$6,017.06
OPERATING EXPENSES: Thru January 6 2020	\$458,954.59
TOTAL:	<u>\$650,673.39</u>

Check Date	Check	Vendor Name	Amount
Bank FNBCK CHECKING ACCOUNT			
12/10/2019	35700	DTE ENERGY	296.07
12/10/2019	35701	GENOA TWP ROAD PROJECTS #264	1,132.16
12/10/2019	35702	GENOA TWP OAK POINTE OPERATING	150.47
12/16/2019	35703	ETNA SUPPLY COMPANY	17,265.00 V
		Void Reason: MADE OUT FOR WRONG AMOUNT	
12/16/2019	35704	MASTER MEDIA SUPPLY	291.19
12/16/2019	35705	NETWORK SERVICES GROUP, L.L.C.	100.00
12/16/2019	35706	ETNA SUPPLY COMPANY	17,355.00
12/19/2019	35707	EHIM, INC	9,417.06
12/19/2019	35708	LIVINGSTON PRESS & ARGUS	240.00
12/19/2019	35709	TRI COUNTY SUPPLY, INC.	234.11
12/19/2019	35710	US BANK EQUIPMENT FINANCE	1,931.57
12/19/2019	35711	VERIZON WIRELESS	475.77
12/19/2019	35712		0.00 V
		Void Reason: PRINTED ON CHECK STOCK BY MISTAKE	
12/26/2019	35713	BLUE CROSS & BLUE SHIELD OF MI	42,701.17
12/26/2019	35714	BRANDON VANMARTER	75.00
12/26/2019	35715	COMCAST	247.85
12/26/2019	35716	DELTA DENTAL	3,803.86
12/26/2019	35717	DYKEMA GOSSETT, PLLC	2,646.00
12/26/2019	35718	LAKESIDE SERVICE COMPANY, INC	21.78
12/26/2019	35719	LANDSCAPE DESIGN & ASSOCIATES LLC	2,400.00
12/26/2019	35720	NEOFUNDS	2,500.00
12/26/2019	35721	SAFEBUILT STUDIO	1,898.60
12/26/2019	35722	TOTAL ADMINISTRATIVE SERVICES	2,020.00
12/26/2019	35723	WALMART COMMUNITY	444.03
12/30/2019	35724	CHASE CARD SERVICES	278.79
12/30/2019	35725	CONSUMERS ENERGY	199.94
12/30/2019	35726	DTE ENERGY	19.61
FNBCK TOTALS:			
Total of 27 Checks:			108,145.03
Less 2 Void Checks:			17,265.00
Total of 25 Disbursements:			90,880.03

Check Register Report For Genoa Charter Township
 For Check Dates 12/27/2019 to 12/27/2019

Check Date	Bank	Check Number	Name	Check Gross	Physical Check Amount	Direct Deposit	Status
12/27/2019	FNBCK	13051	MATKIN, RONALD	75.00	69.26	0.00	Open
12/27/2019	FNBCK	EFT408	FLEX SPENDING (TASC)	992.12	992.12	0.00	Open
12/27/2019	FNBCK	EFT409	INTERNAL REVENUE SERVICE	21,975.56	21,975.56	0.00	Open
12/27/2019	FNBCK	EFT410	PRINCIPAL FINANCIAL	2,806.00	2,806.00	0.00	Open
12/27/2019	FNBCK	EFT411	PRINCIPAL FINANCIAL	2,181.07	2,181.07	0.00	Open
Totals:				28,029.75	28,024.01	0.00	
		Number of Checks: 005					
	Total Physical Checks:	1			Dir. Dep.		
	Total Check Stubs:	4			66,797.70		
					<u>\$ 94,821.71</u>		

Check Register Report For Genoa Charter Township
 For Check Dates 01/03/2020 to 01/03/2020

Check Date	Bank	Check Number	Name	Check Gross	Physical Check Amount	Direct Deposit	Status
01/03/2020	FNBCK	13052	[REDACTED]	1,116.70	874.94	0.00	Open
01/03/2020	FNBCK	13053	[REDACTED]	2,674.61	2,300.02	0.00	Open
01/03/2020	FNBCK	13054	[REDACTED]	2,027.90	1,613.35	0.00	Open
01/03/2020	FNBCK	EFT412	INTERNAL REVENUE SERVICE	1,228.75	1,228.75	0.00	Open
Totals:							
			Number of Checks:	004	7,047.96	6,017.06	0.00
			Total Physical Checks:	3			
			Total Check Stubs:	1			

Check Date	Check	Vendor Name	Amount
Bank 503FN DPW-UTILITIES #503			
12/11/2019	4838	CHASE CARD SERVICES	5,913.03
12/13/2019	4839	SPIRIT OF LIVINGSTON	10.00
12/13/2019	4840	STAPLES CREDIT PLAN	218.24
12/13/2019	4841	UNITED STATES POSTAL SERVICE	153.16
12/13/2019	4842	WINDSTREAM	44.80
12/16/2019	4843	ADVANCE AUTO PARTS	47.48
12/16/2019	4844	ADVANCE AUTO PARTS	20.97
12/16/2019	4845	BLACKBURN MFG. CO	127.57
12/16/2019	4846	GIFFELS WEBSTER	1,920.00
12/16/2019	4847	TETRA TECH INC	5,227.50
12/16/2019	4848	USA BLUEBOOK	419.54
12/16/2019	4849	VICTORY LANE QUICK OIL CHANGE	96.97
12/17/2019	4850	VERIZON WIRELESS	704.21
12/17/2019	4851	WEX BANK	2,595.56
12/23/2019	4852	DPW RESERVE FUND #504	40,000.00
12/23/2019	4853	DPW RESERVE FUND #504	1,000.00
12/23/2019	4854	G/O NEW USER FUND	45,000.00
12/23/2019	4855	G/O NEW USER FUND	50,962.00
12/23/2019	4856	GENOA TOWNSHIP	25,195.00
12/23/2019	4857	GENOA TOWNSHIP	32,525.00
12/23/2019	4858	MWEA	77.00
12/23/2019	4859	PORT CITY COMMUNICATIONS, INC.	406.76
503FN TOTALS:			
Total of 22 Checks:			212,664.79
Less 0 Void Checks:			0.00
Total of 22 Disbursements:			212,664.79

Check Date	Check	Vendor Name	Amount
Bank 592FN OAK POINTE OPERATING FUND #592			
12/11/2019	4766	AT&T LONG DISTANCE	77.06
12/11/2019	4767	BRIGHTON ANALYTICAL , L.L.C.	185.00
12/11/2019	4768	DTE ENERGY	1,058.10
12/16/2019	4769	AT&T	204.68
12/16/2019	4770	GENOA TWP OAK POINTE SEWER BOND	103,547.11
12/17/2019	4771	ADVANCE AUTO PARTS	19.99
12/17/2019	4772	AMERICAN AQUA	610.44
12/17/2019	4773	CONSUMERS ENERGY	156.39
12/17/2019	4774	COOPER'S TURF MANAGEMENT LLC	220.00
12/17/2019	4775	CSM MECHANICAL, LLC	4,740.00
12/17/2019	4776	DUBOIS-COOPER	510.00
12/17/2019	4777	FIRE PROTECTION PLUS	60.00
12/17/2019	4778	GENOA TOWNSHIP D.P.W. FUND	41,786.17
12/17/2019	4779	GENOA OCEOLA SEWER AUTHORITY	483.90
12/17/2019	4780	HACH COMPANY	629.38
12/17/2019	4781	HARTLAND SEPTIC SERVICE, INC.	1,800.00
12/17/2019	4782	MISS DIG SYSTEM, INC	620.00
12/17/2019	4783	NELSON TANK ENGINEERING & CONSULTIN	7,560.00
12/17/2019	4784	NORTHWEST PIPE & SUPPLY	23.10
12/17/2019	4785	TETRA TECH INC	617.50
12/17/2019	4786	UIS SCADA	1,821.04
12/23/2019	4787	AT&T LONG DISTANCE	60.63
12/23/2019	4788	BRIGHTON ANALYTICAL , L.L.C.	555.00
12/23/2019	4789	OAK POINTE NEW USER FUND	10,000.00
12/23/2019	4790	OAK POINTE NEW USER FUND	20,000.00
12/26/2019	4791	CONSUMERS ENERGY	316.66
592FN TOTALS:			
Total of 26 Checks:			197,662.15
Less 0 Void Checks:			0.00
Total of 26 Disbursements:			197,662.15

Check Date	Check	Vendor Name	Amount
Bank 593FN LAKE EDGEWOOD OPERATING FUND #593			
12/11/2019	3703	BRIGHTON ANALYTICAL , L.L.C.	67.00
12/11/2019	3704	CONSUMERS ENERGY	346.46
12/17/2019	3705	BRIGHTON ANALYTICAL , L.L.C.	67.00
12/17/2019	3706	COOPER'S TURF MANAGEMENT LLC	282.00
12/17/2019	3707	GENOA TOWNSHIP D.P.W. FUND	11,384.25
12/17/2019	3708	HUBBELL, ROTH & CLARK, INC	796.80
12/17/2019	3709	MISS DIG SYSTEM, INC	619.99
12/17/2019	3710	NORTHWEST PIPE & SUPPLY	166.76
12/23/2019	3711	BRIGHTON ANALYTICAL , L.L.C.	187.50
12/23/2019	3712	CONSUMERS ENERGY	137.01
12/23/2019	3713	LAKE EDGEWOOD NEW USER 493	30,000.00
12/27/2019	3714	GENOA TOWNSHIP D.P.W. FUND	1,027.94
593FN TOTALS:			
Total of 12 Checks:			45,082.71
Less 0 Void Checks:			0.00
Total of 12 Disbursements:			45,082.71

Check Date	Check	Vendor Name	Amount
Bank 595FN PINE CREEK OPERATING FUND #595			
12/10/2019	2218	GENOA TOWNSHIP	22.00
12/27/2019	2219	GENOA TOWNSHIP D.P.W. FUND	3,522.94
595FN TOTALS:			
Total of 2 Checks:			3,544.94
Less 0 Void Checks:			0.00
Total of 2 Disbursements:			3,544.94

GENOA CHARTER TOWNSHIP BOARD
Special Joint Meeting with Planning Commission
December 10th, 2019
6:30 p.m.
AGENDA

Call to Order

Supervisor Rogers called the Special Joint Meeting with Planning Commission to order at 6:30 p.m. at the Township Hall. The following members of the Township Board were present: Bill Rogers, Robin Hunt, Jean Ledford, and Terry Croft. The following members of the Planning Commission were present: Chris Grajek, Jeff Dhaenens, and Jill Rickard. Also present were Township Manager Michael Archinal; Community Development Director/Assistant Township Manager Kelly VanMarter, Township Attorney Joe Seward, Brian Borden of Safebuilt Studio, and Gary Markstrom of Tetra Tech. There were seven audience members present.

Pledge of Allegiance

The Pledge of Allegiance was recited.

Call to the Public

A Call to the Public was made at 6:31 pm with no response.

Approval of the Agenda

Moved by Board Member Ledford, seconded by Board Member Croft, to approve the agenda as presented. **The motion carried unanimously.**

1. Special Topics Work Session – S. Latson Versa Development PUD
a. Presentation by applicant's project team

Mr. Todd Wyett of Versa Development was present. He owns approximately 193 acres south of I-96 at Latson Road. He showed a video presentation of his proposed project for this area, which includes commercial, hotel, technology/light industrial, and medical research uses. The video included photographs of colored renderings of the proposed buildings.

He and his team have worked with the Township and the County regarding the utilities, improvements needed to Latson Road, etc.

Eric Lord of Atwel provided an impact analysis of the proposed development. There is a 27-acre wetland that will remain preserved. They will need to extend the water and sewer mains south of I-96, which will include installing a pump station.

Brad Strader of MKSK reviewed the permitted and prohibited uses for this area per Township Ordinance. He noted some uses and buildings over a certain square footage would be allowed after receiving special land use approval. There are some uses that they would not develop in this area due to the proximity of residential homes nearby as well as their large demand on the municipal utilities. He also showed photographs of proposed building designs and reviewed the design standards and guidelines they would use, such as lighting, screening, buffer zones,

signage, roadway designs, improvements to Latson Road, etc. All of this detail would be included in the PUD agreement.

Mr. Alan Greene of Dykema, the attorney for the project, stated he is developing the PUD agreement for this development. He reviewed some of the aspects of the agreement, such as the permitted and prohibited uses, preservation of the wetland, architectural controls, the development of the different phases of the site, possible expansion of the project, etc. He noted that the document is continually changing and being updated based on information received from the team members and the Township.

b. Review by Township consultant

Mr. Borden provided a review of how the zoning for this area was developed by the Township. When the interchange was planned, the Township developed a I-96 / Latson Road Interchange sub-area plan, which zoned the area north of the railroad tracks as interchange commercial and the area south of the railroad track as interchange campus zoning. He noted that the applicant is requesting to rezone the area to a PUD zoning for the area to the south of I-96.

He reviewed his letter dated November 14, 2019.

- Utility extensions will be required as part of this project.
- Further discussion is warranted as to how the proposed list of allowable uses correlates to the plan and how such uses will be compatible with the Zoning Ordinance and further discussion between the Planning Commission and Township Board regarding the proposed list of uses.
- Proposed building heights and internal setbacks are subject to approval by the Planning Commission.
- The request entails two dimensional deviations – front and side yard setbacks for the commercial areas. The building size limit is 40,000 square feet and the applicant is proposing possible 200,000-square-foot buildings.
- Additional detail is needed for certain site design elements, including signage, Township entranceway landmark, pedestrian gathering/seating plazas and other site amenities.
- The material standards of the Ordinance are not entirely met by the design guidelines. This aspect of the request warrants further discussion with the Commission.
- The streetscape plan does not include details for the property along Beck Road.
- The applicant must confirm that the 2 access points on the west side of Latson Road are separated by at least 500 feet.
- Easements are required to allow cross-access for vehicular and pedestrian traffic in each of the project areas.

Ms. VanMarter noted that outdoor storage is prohibited in this zoning district and the applicant is proposing outdoor storage for some uses. This would need to be discussed further.

Mr. Markstrom viewed his letter dated August 21, 2019. The plan is very conceptual so as all future developments within the PUD will need to have their own site plan review and approval.

- He reviewed how the extension of the water and sewer mains would be accomplished, and confirmed that a lift station is needed.

- Because this is a large development, there can be a centralized storm water plan and the wetlands on the southeast corner can be utilized.
- The internal roads would need to meet Township standards and the Livingston County Road Commission will determine what will be required for Latson Road. A traffic impact study is being prepared.

c. Member Discussion and Q & A

Chairman Rogers noted that the Clerk, Polly Skolarus, submitted a statement as she was not able to be present this evening.

Commissioner Rickard questioned who will pay for the extension of the water and sewer. Mr. Wyett stated he will pay cash for these improvements and not ask for any funding from the Township.

She asked if the design of the water and sewer has been designed for future service areas. Mr. Markstrom replied yes.

Dr. Greg Tatara, the Director of MHO, stated there is currently an upgrade being done at the wastewater treatment plant and it will be able to accommodate this development and the future development that is included in the utilities design.

Board Member Hunt is concerned that the proposed entrance drive is not aligned with Sweet Road. Mr. Strader stated that based on the traffic study, they do not need to be aligned. She asked if a traffic light will be installed at the entrance road to the north. Mr. Wyett would like a traffic light installed; however, the need for the signal would be determined by the Road Commission.

Board Member Hunt is concerned with distribution facilities and extensive truck traffic that this use would bring. She would like this to be allowed as a special land use. She is also opposed to outdoor storage. Mr. Wyett agrees; therefore, businesses that would want outdoor storage will require a special use so that the Planning Commission and Township Board can review and approve the details of the plans.

She is also concerned with the excessive change in special use requirement from 40,000 to 200,000 sq. ft. for large buildings. Mr. Wyett stated that 40,000 is very small building for the uses that they are proposing for this development. Mr. Greene stated that many business owners shy away from building when they would need to receive special land use approval or a variance, etc. so they would like to make it reasonable to the Township and the possible business owners. He noted that the design standards that will be in the PUD would show the architecture and design for buildings of this size.

She would like extra care to be taken due to the residential properties surrounding the area, such as buffers, lighting, traffic, etc. She is also concerned with the commercial district abutting residential properties; the five-story hotel is too intense of a use for this. Mr. Wyett stated he can remove the ability to have a hotel in this area. Also, the commercial area is expected to be

businesses that can be of service to the employees in the campus area, such as casual dining, etc. He envisions them walking from their office to this area.

Commissioner Grajek stated that there are currently manufacturing facilities in the Township and surrounding area that need to have employees brought in from other areas because there are no employees in this vicinity, so he is concerned that there will be jobs available with not enough people to fill them. He would like to see businesses that would employ professional jobs. Mr. Wyett stated that when a company wants to move to an area, they will look at the demographics of the area. If there are not employable people in the nearby, then they would not move their business there.

Commissioner Rickard questioned if there will be services or amenities inside the campus development instead of across Latson Road. What would be the benefit to the Township? Could there be a park and park benches? She would like to see more concept plans that would include these types of items.

Board Member Hunt appreciates all of the work that has been done by the development team, the Township staff, etc. and knows that this is very conceptual, but asked if updated plans, with more detail, could be presented. There are a lot of members absent this evening.

Ms. VanMarter advised that another joint meeting could be scheduled or the item could go to the Planning Commission.

Mr. Wyett stated he will update the plans showing the amenities that were requested, what a 200,000-square foot building would look like on the site, examples of some uses, etc. and return with those plans for review.

Another joint meeting could be scheduled, or meetings with smaller groups of Trustees or Planning Commissioner could take place.

Member Discussion

There were no items to discuss this evening.

Adjournment

Moved by Board Member Hunt, seconded by Board Member Ledford, to adjourn the meeting at 8:28 pm. **The motion carried unanimously.**

Respectfully submitted,

Patty Thomas, Recording Secretary

**GENOA CHARTER TOWNSHIP BOARD
Regular Meeting and Public Hearing
December 16, 2019**

MINUTES

Supervisor Rogers called the Regular Meeting of the Genoa Charter Township Board to order at 6:30 p.m. at the Township Hall with the Pledge of Allegiance. The following members were present constituting a quorum for the transaction of business: Bill Rogers, Paulette Skolarus, Robin Hunt, Jean Ledford, Terry Croft, and Diana Lowe. Also present were Township Manager Michael Archinal and six persons in the audience.

A Call to the Public was made with no response.

Approval of Consent Agenda:

Moved by Lowe and supported by Croft to approve all items under the Consent Agenda as requested. The motion carried unanimously.

1. Payment of Bills.

2. Request to Approve Minutes: December 2, 2019

3. Request approval to enter into agreements to collect 2020 summer property taxes for the Brighton Area Schools, Hartland Consolidated Schools, Howell Public Schools, and the Livingston Educational Service Agency as submitted by the Township Treasurer.

Approval of Regular Agenda:

Moved by Lowe and supported by Croft to approve for action all items listed under the Regular Agenda. The motion carried unanimously.

4. Consideration of a request to cancel the introduction, first reading and authorization of statutory notice for a public hearing and to withdraw the proposed rezoning application concerning approximately 46.5 acres located at 3850 Golf Club Road, Howell for parcel #4711-05-200-002. The requested rezoning was from Rural Residential (RR) to Urban Residential (UR). The request is petitioned by Steve Morgan on behalf of Gary Boss.

Moved by Skolarus and supported by Lowe to cancel the rezoning request and withdraw the application petitioned by Gary Boss. The motion carried unanimously.

5. Request to accept the resignation of Douglas Brown from the Planning Commission and appoint Glynis McBain to the remainder his term expiring June 30, 2021.

Moved by Hunt and supported by Lowe to reluctantly accept Mr. Brown’s letter of resignation and to appoint Glynis McBain to the term expiring June 30, 2021. The motion carried unanimously.

6. Resolution honoring retiring Planning Commission Chairperson Douglas Brown for his years of service to the residents of the Township.

Moved by Lowe and supported by Hunt to approve the resolution honoring Mr. Brown for his years of service as requested. Manager Archinal read the resolution and presented the Plaque to Mr. Brown. The motion carried by roll call vote as follows: Ayes – Ledford, Croft, Hunt, Lowe, Skolarus and Rogers. Nays – None. Absent – Mortensen.

7. Request to approve a resolution authorizing administration of the Grand River Sidewalk Improvement Phase 7 TAP Grant.

Moved by Ledford and supported by Croft to approve Resolution No. 191216 authorizing the Grand River TAP Grant and correcting the spelling of MDOT. The motion carried by roll call vote as follows: Ayes – Ledford, Croft, Hunt, Lowe, Skolarus and Rogers. Nays – None. Absent – Mortensen.

8. Request for approval of correspondence to State Senator Lana Theis regarding Senate Bill 431.

Moved by Lowe and supported by Croft to approve the mailing of the correspondence as requested by Skolarus. The motion carried unanimously.

9. Request to approve an Intergovernmental Sewer Service Agreement between Genoa Township, Genoa-Oceola Sewer and Water Authority, Marion Township, and Paul Marie Properties LLC.

Moved by Hunt and supported by Ledford to approve the Intergovernmental Agreement as requested, correcting the numbering of items within the agreement and changing taping to tapping on page 2. The motion carried unanimously.

Moved by Croft and supported by Ledford to adjourn the regular meeting of the Genoa Charter Township Board at 6:47 p.m.



Paulette Skolarus, Clerk
Genoa Charter Township

December 26, 2019

Charter Township of Genoa
Board of Trustees
2911 Dorr Road
Brighton, Michigan 48116

Dear Honorable Board Members:

As you may or may not know the State of Michigan has over the last few years been making changes to the State chart of accounts with the goal to have a chart which will be used by all local governments for consistency purposes. The State has communicated to us the final chart should be complete by December 31, 2019.

We appreciate the opportunity to submit a proposal to assist your Township in making the conversion from your current chart to the revised chart of accounts.


After reviewing your current chart and estimating the time it will take to make the conversion, we are submitting an estimated fee for the assistance in converting the chart of accounts.

We estimate the fee to be approximately \$14,700 for the Charter Township of Genoa. If our time will exceed this amount we will discuss this with management prior to incurring the time. Our hourly rate for this engagement is \$105 per hour.

The assistance includes working with your Officials and accountants in comparing your current chart to the revised chart submitted by the State. The process also includes giving suggestions as to how various costs will now need to be allocated in a more detailed manner (depending on how much is allocated currently). Since the Township uses BS & A for its accounting software, we will work with the BS & A accounting programmers in the conversion process answering various accounting questions, giving recommendations as to proper descriptions and anything else BS & A would require for converting the electronic data.

Thank you for this opportunity to assist the Township in converting the chart of accounts to the new required chart of accounts.

We look forward to discussing this with you.

Sincerely,

Kenneth Palka

MEMORANDUM

TO: Township Board

FROM: Michael Archinal

DATE: 1/2/2020

RE: 2020 Project List

On Monday night I would like to discuss upcoming goals for the New Year. I want to make sure staff is spending their time on projects you value. I would also like to encourage discussion regarding other ideas the Board may have. The following is a, "pending" list in no particular order:

- Crooked Lake Road Paving
- Challis/Bauer Round-About
- Sidewalk Grand River Completion
- Vacant Retail
- Edinburgh SAD Completion
- Dillon Drainage and Road
- Dorr Paving I-96 to Grand River
- Herbst Crushed Limestone Installation
- Healy Lawsuit
- Basketball Court
- Zoning Ordinance Re-Write
- Park Expansion
- Office Lighting Upgrades

No action is necessary at this time. I look forward to discussing our goals for 2020 on Monday.



Dykema Gossett PLLC
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WWW.DYKEMA.COM

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Alan M. Greene
Direct Dial: (248) 203-0757
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Email: AGreene@dykema.com

January __, 2020

E-mail and First-Class Mail

City of Howell
Board of Zoning Appeals
c/o Timothy R. Schmitt
611 E. Grand River
Howell, Michigan 48843

Re: 645 Lucy Road--New Scrap Processing Facility/Request for Variances

Dear Board Members:

I am writing on behalf of several property owners described below in opposition to the request of Padnos Iron and Metal ("Applicant") for variances to: (1) allow a scrap metal shredding operation to occur outdoors rather than entirely enclosed in a building as required by the City's Zoning Ordinance; and (2) permit the use of gravel for outdoor storage areas and vehicular travel on the site instead of a hard surface (asphalt) required by the Zoning Ordinance. As explained below, the Applicant cannot meet the requirements for either variance, whether the variances are characterized as use or dimensional variances.

A. Background—The Property, Zoning and Master Plan

The Property at issue consists of 3 parcels—tax parcel 06-100-002 is approximately 11 acres and has been used as a salvage yard by Applicant's predecessor in interest; tax parcel 06-300-005 is approximately 5 acres and appears to have also been used in part for the existing salvage yard; and tax parcel 06-100-005 is approximately 40 acres. This latter crescent-shaped property is vacant and was formerly owned by the City (the "City Parcel"). See aerial depicting property locations attached as **Appendix 1**. Applicant proposes to expand the salvage operations onto the City Parcel and install, among other things, a massive metal processing facility (the "Metal Shredder"). Access to the Property is located on Lucy Road, an unpaved, narrow public road.

The Applicant's Property is zoned I-2 or general industrial. But it is surrounded by a variety of different land uses and zoning classifications. The entire eastern boundary of the property abuts land in Genoa Township. A portion of the abutting land is zoned General Commercial in Genoa Township and includes Livingston County offices, including the Department of Mental Health;

while the remainder of abutting land in Genoa is zoned public recreation. On the other side of the public recreation property there are single-family homes along Chilson Road on land zoned for residential use. Most of the land on the west side of Lucy Road across from the proposed scrap metal shredding operation is vacant and is owned by Marion Township, but located in the City and is zoned for single-family residential use by the City. There are a mixture of uses, including industrial, commercial and residential, located north of the Property up to Grand River. To the south between the Applicant's Property and I-96, there is land zoned light industrial. The crescent shape City Parcel wraps around a former, now closed City landfill along Lucy Road.

Not only is there a diverse mixture of surrounding land uses to consider, but there are other unique circumstances involving these properties that should be addressed. The City Parcel was obtained by the City from Genoa Township through a Contract for Conditional Transfer of Property under Michigan Public Act 425 (the "Genoa Act 425 Agreement"), a copy of which is included in **Appendix 2**. The City Parcel was originally envisioned to be a City park. That Agreement states that the purpose of the land transfer was for the City to provide municipal city and water services to the area in order to create jobs and additional development. Indeed, the Agreement provides that it was intended to foster "quality economic development to benefit the respective communities." (Appendix 2.)

The Genoa Act 425 Agreement also contained a commitment by Howell to protect adjacent residential properties in Genoa Township from adverse impacts of development. More specifically paragraph 6 states:

That the CITY shall use the powers of its existing zoning ordinance to afford reasonable protection to residential properties located in the TOWNSHIP adjacent to the area being transferred to the CITY. As part of this commitment, the CITY shall use its existing site plan review powers to buffer industrial and commercial uses from TOWNSHIP residential uses.

The City's recently adopted 2015 Master Plan is consistent with its commitment to Genoa with respect to future development of Applicant's Property (more particularly the former City Property). The Property is included in the so-called "Loop Road Area." This area is specifically planned as an "employment district." The Master Plan states that the "Eastern portions of the area is partially developed as industrial. The City has the opportunity to further develop this portion of the Loop Road Area as an employment district with a focus on sustainability of development." Master Plan at p. 78. The Master Plan goes on to explain that the "Loop Road area has significant development potential which will bring economic growth and sustainability focus to the Howell area. The City recognizes that the challenges posed by the Study will require comprehensive planning and innovative design to accomplish the vision for the destination and employment district." Master Plan, at p. 80. As explained below, the City has yet to rise up to the challenges

posed by and vision of its Master plan, as well as completely ignored its contractual obligations to Genoa Township and others.¹

B. Applicant's Proposed Massive Metal Shredding Operation

After acquiring the Property earlier in 2019, the Applicant submitted a request for special land use and site plan approval to expand the existing salvage yard and connect it to the City Parcel and construct or erect a massive outdoor metal shredder to process scrap metal materials, including automobiles. The metal shredder will be 65 feet high and located adjacent to a 46 foot masonry control structure. The shredder and new building would be located on the City Parcel near the Genoa Township property line close to the Livingston County offices and single-family residences along Chilson Road. According to the application for special use approval, the shredder “is a processing facility that will size and sort a variety of mixed incoming ferrous scrap items.”

Because of the potential negative impacts of such an operation, it is not permitted as of right even in the I-2 district, but rather requires special land use approval as a salvage yard under Section 4.06 of the Zoning Ordinance. More important, the Zoning Ordinance mandates that “**all industrial processes involving the use of equipment for cutting, compressing or packaging shall be conducted within a completely enclosed building.**” (Emphasis added.)

Because of the potential adverse impacts of a special land use, Michigan law requires that the City hold a public hearing on the use. Further, the approval of a special land use must comply with standards “that insure that the land use or activity authorized shall be compatible with adjacent uses of land, the natural environment and the capacities of public services and facilities affected by the land use. The standards shall also insure that the land use or activity is consistent with the public health, safety and welfare of the local unit of government.” MCL 125.3504(2).

The Planning Commission held a public hearing on the site plan and special land use request on November 20, 2019. Dozens of people appeared to speak in opposition to the special land use, including the Township Manager from Genoa Township, who expressed concerns about the significant impact on neighboring properties related to noise, traffic, truck turning movements, the lack of approved sewer and water service, and potential violation of the Genoa Act 425 Agreement. See meeting minutes attached as **Appendix 3**. Others commented on the poor condition of Lucy Road to service such an intense operation—Lucy Road being a narrow, unpaved, and poorly maintained road—as well as noise, vibration, pollution and traffic issues also associated with the use. Based upon information submitted by the Applicant, the metal shredder can process

¹ Howell also entered into an Act 425 Agreement with Marion Township in 1987 regarding nearby property which provides in paragraph 6 the same kind of protections for residential properties as imposed in the Genoa Act 425 Agreement. And, as stated above, Marion owns substantial acreage directly across Lucy Road from the Property at issue, which is zoned single-family residential by the City.

approximately 160 gross tons per hour, which, in more graphic terms, could be 80 cars/hour. The Applicant did not submit a traffic report and its disclosures regarding traffic, particularly the number of heavy trucks that would use and tear up unpaved Lucy Road, were vague at best. While it appears from the site plan that the shredder operation might be located in a wetland area, no wetland information was provided and no environmental impact statement was presented.

It should have been clear that this most intense industrial operation—which was not permitted as of right in any zoning district; located in the midst of a variety of zoning districts, including residential; which may be in violation of contractual commitments with two adjacent communities; and is not consistent with the goals and objectives for this land as set forth in the City’s recently adopted Master Plan—was not appropriate. Yet the Planning Commission approved the special land use by a vote of 5 to 2. It did so without making any findings of fact as required by the City’s Zoning Ordinance and the Michigan Zoning Enabling Act.

While that decision by the Planning Commission is not before this Zoning Board, even more incredulous, the Applicant wants to conduct this operation in violation of the bedrock protective standard that forms an integral part of the approved use—that it be conducted within a completely enclosed building. Further, while the City’s Zoning Ordinance requires that material storage areas and service drives be paved with a hard service the Applicant seeks a variance from that requirement as well. This paving requirement is clearly intended to reduce dust and noise from the operation and the impact of any leakage or spill of chemicals. As explained below, the Applicant cannot satisfy the requirements for a variance and the request should be denied.

C. The Variance Requests Should Be Denied

The first consideration this Board must make is whether the variances requested are more in the nature of use or dimensional variances. While we believe that the variance to eliminate the requirement that the operation be conducted entirely within a building is properly characterized as a use variance, the request fails to meet the standards for either type of variance as described below.

“Non-use [or dimensional] variances are not concerned with the use of the land but, rather, with changes in a structure’s area, height, setback, and the like.” *Grabow v Macomb Twp*, 270 Mich App 222, 226 (2006). Such variances typically involve setback requirements, landscaping restrictions, lot coverage, height regulations, parking, access, etc. Use variances, on the other hand, “permit the use of the land which the zoning ordinance otherwise proscribes.” *Grabow at* _____. In this case, the requirement that the operations be conducted within a completely closed building is integrally related to the use and described as part of the use itself in the Zoning Ordinance. It goes to the heart of the use. This should be compared to other dimensional regulations that appear elsewhere in the Zoning Ordinance applicable to all uses within the Zoning Ordinance, such as height and setbacks. In this case, it is clear that the request to operate the shredder outside of an enclosed building is properly characterized as a use variance while the

request to avoid the paving requirement would be more in the nature of a non-use or dimensional variance.

1. The request to operate the shredder outside of an enclosed building fails to meet the requirements for a use variance.

In order to obtain a use variance, the Applicant must demonstrate **unnecessary hardship** and each of the following: (a) that the property cannot be reasonably used for the purposed permitted in the zoning district; (b) that the appeal results from the unique circumstance peculiar to the property and not from general neighborhood conditions; (c) that the use requested by the variance would not alter the essential character of the area; and (d) that the alleged hardship has not been created by any person having an interest in the property. City Zoning Ord. at 12.04 (e). None of the criteria can be met here.

The Property can plainly be used for purposes permitted in the zoning district. There are numerous other industrial and business uses permitted on the Property. The proposed use is not one permitted as of right and the Applicant has no entitlement to the use, particularly to an entitlement of the use in a manner that varies from the key protective conditions established in the Zoning Ordinance. There is no evidence presented that the equipment cannot be enclosed within a building. To the contrary, there are companies that specialize in constructing enclosures for scrap metal and automobile shredders and there are locations throughout the country where such shredding equipment has been enclosed. *See Appendix 4* hereto.

But even if that were not the case, then this particular Property is not a suitable site for such an operation, being surrounded by lands zoned residential, commercial and recreational. One of the key considerations for a special land use is its **location** within a zoning district. See Zoning Ordinance at Section 3.03(e). If the requirements of the Ordinance designed to protect neighboring properties cannot be met at a particular location, the use should more appropriately be located in the heart of a heavy industrial district, surrounded by other heavy industrial land uses and zoning. If no such land is available in Howell, there are numerous other more appropriate locations in southeast Michigan.

Moreover, there is nothing unique or peculiar to the Property that supports the variance request. It is a large, relatively flat parcel of land. Indeed, there is an important factor here that is unique to the Property that supports denial of the variance—that the land was obtained from a neighboring community and is the subject of commitments to that community regarding the mutual objectives for its future use and protections of other remaining residential properties in the adjacent community.

Further the use would alter the essential character of the area. While there are industrial uses scattered in the area, there are also various other non-industrial uses and the City has a vision for the area as set forth in its Master Plan. Expanding this most intense and impactful use on 40 acres

of land alters the essential planned character of the area and would plainly impact and discourage the other mixed uses desired by the City. While the site has historically been used as a scrap metal salvage yard, the addition of a scrap metal and automobile shredder is a significant change in intensity of use, as well as environmental and community impacts. Scrap metal and automobile shredding operations, such as that proposed for this site are known to cause harmful air emissions, fires and explosions, water and soil contamination, excessive noise and vibrations as well as increased truck and vehicular traffic. Without an enclosure as required by the Zoning Ordinance, these environmental and community impacts will go largely unabated. (See Appendix 5). As indicated above, the Planning Commission in considering and approving a special land use permit for this facility, made no findings of fact, did little to no independent research on the potential impacts posed by a scrap metal and automobile shredder and instead, relied on unsupported statements and assurances of the Applicant.

This proposed use is a significant change in intensity from prior uses and will undoubtedly change the essential character of the area. There are many other less impactful industrial uses that could be placed on this Property that would not discourage further development of other nearby properties and would create the employment opportunities sought by the City as set forth in its Master Plan. Indeed, Marion Township, the owner of the residential zoned property on the west side of Lucy Road across from the proposed new operations, is in the process of seeking appraisals for valuing the land for potential sale for residential development. Applicant's project, most particularly if developed in a manner that avoids the protection of a building and paved road and laydown surfaces, would certainly impact the value and marketability of that residential land and may even discourage residential developers from pursuing development of that land.

Finally, the last criteria has no application to the circumstances here. This criteria applies where there are unique features on the Property that physically prevent or interfere with compliance with a requirement. No such unique features exist here.

In sum, there is no "unnecessary hardship" here that would justify the Applicant's failure to comply with the most important use criteria intended to mitigate harm from noise, dust, vibration, odor and other external impacts of operating such heavy equipment in the district.

2. The request to operate the shredder outside of an enclosed building and not pave outdoor storage and vehicular access areas fails to satisfy the requirements for dimensional variances.

In order to obtain a dimensional variance, the Applicant must demonstrate **practical difficulty** and meet at least each of the following requirements: (a) the restrictions unreasonably prevent the owner from using the property for a permitted purpose or would render conformity unnecessarily burdensome; (b) the variance would do substantial justice to the Applicant as well as other property owners in the district; (c) the plight of the property owner is due to the unique circumstances of the property; and (d) the alleged hardship has not been created by any person presently having an

interest in the property. City Zoning Ord. at 12.04 (e). A showing of mere inconvenience is not sufficient to justify a variance. *Nat'l Boatland, Inc. v Farmington Hills Zoning Bd of Appeals*, 146 Mich App 380, 389-391 (1985). It should be self-evident that these requirements cannot be satisfied.

Again, as stated in more detail above, the Applicant is not prevented from using the Property for a permitted purpose. There is nothing that prevents the owner from complying with the requirements mandated for even allowing this special land use on the Property. The owner can pave the areas required under the ordinance and enclose the shredder in a building. While the Applicant may try to argue that such requirements are unnecessarily expensive, that is not a proper basis upon which to grant a variance.

The paving requirement is in the Ordinance for specific purposes and there is no basis to conclude that they are not necessary or useful here. Paving reduces the noise and dust generated by heavy truck traffic and equipment utilizing the site. It allows better control of environmental hazards, including spills, that may accompany the operation. This is even more important given the site's proximity to wetland areas.

There is certainly no basis to conclude that the variances would do substantial justice to surrounding property owners. In fact, just the opposite would occur. Rather than enclose the operation and pave the required parts of the site, adjacent property owners would now be exposed to more noise, odor, vibration, dust and environmental hazards and other impacts than they would have if the ordinance requirements were satisfied, let alone the negative impact such an improperly exposed use and operation could have on the value, marketability and future uses of their properties. Such operations are known to experience significant fire and environmental hazards which are described more fully in the appeal of the special land use filed by Livingston County Catholic Charities with this Board and the materials supporting that appeal, all of which are incorporated herein by reference.

As explained above, there are no unique circumstances regarding this Property that justify the variances. There is more than sufficient room and no topography or natural features that would prevent or interfere with complying with the requirements of the Zoning Ordinance.

For the reasons stated above and the other materials submitted and included in the record, we respectfully request that the Board deny the requested variances. This letter has been approved and authorized by the following neighbors and interested parties—Livingston County Catholic Charities, Genoa Township and Marion Township. We appreciate your consideration of this information.

DyKEMA

City of Howell
January __, 2020
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Sincerely,

DYKEMA GOSSETT, PLLC

Alan M. Greene

cc: Brad Strader
Mike Archinal
Mark Robinson

Marion Township ??

California | Illinois | Michigan | Minnesota | Texas | Washington, D.C.

Board Correspondence



Liv.Co UPDATE

Monthly News from the
Livingston County Commissioners



December 2019

Livingston County Board of Commissioners



- District 1 - Kate Lawrence
- District 2 - William Green
- District 3 - Wes Nakagiri
- District 4 - Douglas G. Helzerman
- District 5 - Donald S. Parker
(Board Chairman)
- District 6 - Robert J. Bezotte
- District 7 - Carol S. Griffith
- District 8 - Dennis L. Dolan
(Board Vice-Chairman)
- District 9 - Gary Childs

Monthly Meetings

- 12/9/2019 - Full Board Meeting at
7:30 PM
- 12/11/2019 - Personnel
Committee at 8:30 AM
- 12/16/2019 - Infrastructure &
Development & Public Safety
at 7:30 PM
- 12/18/2019 - Finance Committee
at 7:30 AM
- 12/23/2019 - Full Board Meeting
at 7:30 PM
- 1/2/2020 - Full Board Meeting at
7:30 PM

"The mission of Livingston County is to be an effective and efficient steward in delivering quality services within the constraints of sound fiscal policy. Our priority is to provide mandated services which may be enhanced and supplemented to improve the quality of life for all who work, reside, and recreate in Livingston County."

The Board Adopts the 2020 Livingston County Budget

The Livingston County Board of Commissioners recently approved the 2020 General Fund Budget in the amount of \$51,531,388. The County was allocated 5.0 mills by the County Tax Allocation Board and on the 5th of June, 2019, the Livingston County Board of Commissioners approved the Headlee rolled back millage rate of 3.3073 to support the 2020 General Fund Operations; .2925 to support Ambulance and; .1127 to support Veterans Services. Pursuant to state statute, the 2020 Budget was filed with the County Clerk for public viewing on November 15th. Along with the 2020 Budget, projected revenues and expenditures for Internal Service Funds , and authorized position changes were approved. A total of 9.38 positions will be authorized as of January 1, 2020. Finally, transfers of funds from the Capital Improvement Fund to departments for approved projects were authorized.

The Board Will Apply For Grant Funds To Assist Senior Nutrition

Community Outreach Services Corporation (COSC) has been operating the Meals On Wheels (MOW) program for the County since 1991, and is the sole provider of MOW for both Livingston and Western Oakland County. COSC currently operates out of Hartland Educational Support Service Center to administer, prepare, pack, and distribute the meals in the school's hallways. They have recently been informed that their space will be reduced, which will negatively impact the already over-capacity operation of the program. COSC has a need for a new permanent facility to operate the MOW program to the Livingston County community and has identified land in Hartland, Michigan to be owned by COSC for the operation of the MOW Program, and in the event of an emergency, to use the facility as a crisis center for food service. COSC has proposed a plan for the purchase of land and construction of a new facility for COSC to operate the MOW program and requires a financial commitment from Livingston County to be able to move forward with the project. The Board has authorized the County to apply for CDBG grant funds from Michigan Economic Development in the amount of \$1,000,000 for the purpose of constructing a new facility for COSC to administer MOW.

Resolutions Passed by the Board of Commissioners & Appointments

- Significant changes in Federal rules and best practices have occurred since the last update of LETS' Drug and Alcohol policy, so the policy has been revised to remain in compliance. The Federal Transit Administration requires all transit systems to maintain a Drug and Alcohol Policy consistent with 49 CFR Part 655, as amended, as a condition of receiving Federal funding. The updated policy was distributed to all LETS employees and took effect on December 1st, 2019.
- Livingston County's current Medical Director is planning on retiring in early 2020. It has been determined that shared Medical Director services would be mutually beneficial for Washtenaw and Livingston County Health Departments. Expanding the responsibilities of Medical Director services to include both Livingston and Washtenaw Counties will result in a savings of overall expense for both counties, without sacrificing quality of service for either county. Livingston County is entering into an agreement to reimburse Washtenaw County our portion of the costs including salary and fringes.
- Resolution #2013-11-345 established the dog licensing fee structure for Livingston County, which included a \$20 late fee. The collection of this fee has been inconsistent over the years across the 18 local units and 2 county offices issuing dog licenses. The recent implementation of new licensing software in October 2018 included functionality that automatically assesses the late fee. This has added burden to our local unit Treasurers of enforcing a "County Policy" and upset several dog owners trying to comply with the law. Resolution #2013-11-345 has been amended to remove the dog licensing late fee from the County's fee structure.
- Resolution 2019-08-118 authorized entering into an agreement with Selectron Technologies to implement the Relay IVR upgrade and SelectTXT module to enhance the Building Inspection Department's customer service. An amendment was made to the original resolution correcting the initial upgrade cost and subsequent 5 year usage costs.
- The Courts have determined that adding and replacing cameras to the current system for additional video surveillance is a top priority. The Board authorized the purchase and installation of a camera system for the Judicial Center and Brighton Court from Identify, Inc. The project includes adding 21 cameras throughout the interior and exterior of the Judicial Center and 2 cameras in the Courtroom at Brighton District Court.
- Livingston County Central Dispatch, as a county-governed department operating as a 911 emergency dispatch center, is required per the E911 Service Plan to establish an Advocacy Oversight Board (AOB) with the purpose of providing input and advice as needed to the Central Dispatch Director on topics related to public-safety operations as they coincide with 911 policies and procedures. A committee was established by the AOB to review and update the existing AOB Bylaws. The Board has approved the revised AOB Bylaws and authorized the Bylaws to be implemented.
- The Board has appointed David Feldpausch as the new Livingston County EMS Director. This appointment came after the top two candidates were interviewed by the Acting County Administrator, the Sheriff, The County Public Health Officer, the Hartland/Deerfield Fire Chief, and the Human Resources Director.

Please Note: The Liv.Co Update highlights a portion of resolutions and work completed by the Livingston County Board of Commissioners. Please refer to the Board's meeting minutes for more information regarding specific resolutions. To be redirected to the Board's Meeting Minutes, please click [here](#) or visit www.livgov.com.