

LINCOLN CHARTER TOWNSHIP
BERRIEN COUNTY, MICHIGAN
REGULAR MEETING
July 8, 2008

THE REGULAR MEETING of the Lincoln Charter Township Board of Trustees was called to order on July 8, 2008, at 7:07 p.m. by Dick Stauffer, Supervisor, in the Municipal Building, 2055 W. John Beers Road, Stevensville.

BOARD MEMBERS PRESENT: Marc Florian, Deb Peterson, Terrie Smith, Dick Stauffer, Sharon Geisler, Brian Jewell, and Al Pscholka

BOARD MEMBERS ABSENT: None.

ALSO PRESENT: Attorney Dienes and Planner Lynee Wells, and Dave Austin.

The PLEDGE OF ALLEGIANCE was given.

CHANGES TO AGENDA. Added Marquette Estates II approvals.

CORRESPONDENCE.

Stauffer reported on a letter from Berrien County thanking us for use of fire station for the electronics recycling collection day; petitions and letters from neighbors in favor of proposed Lakeside Beach Club; letters from Ridge Road residents opposing Lakeside Beach Club; petitions from neighboring businesses supporting Lakeside Beach Club.

APPROVAL OF CONSENT AGENDA. MOTION CARRIED. Stauffer moved, seconded by Peterson, to approve the consent agenda as presented.

1. Minutes of the 6/10/08, special noon and regular meetings.
2. Approve the 7/15/08 and 6/30/08 bills from the following funds.

| | |
|----------------------------|---------------|
| General Fund | \$ 150,131.55 |
| Parks Fund | 9,534.68 |
| Parks Capital Improvement | -0- |
| Cemetery Fund | 3,703.61 |
| Building Fund | 12,668.57 |
| Township Improvement Fund | 139,090.00 |
| Police Fund | 79,104.49 |
| Police Drug | -0- |
| Police Capital Improvement | -0- |
| Sewer Enterprise | |
| Sewer Operating | 83,776.84 |
| Sewer Improvement | 2,200.00 |
| Water Enterprise | |
| Water Operating | 22,687.74 |
| Water Improvement | -0- |
| TOTAL | 502,897.48 |

UNFINISHED BUSINESS. None

NEW BUSINESS. None

SUPERVISOR'S REPORT.

NPDES. Stauffer has issued a letter to DEQ requesting permit termination because we have only one drain on Township property and we are paying \$20,000 a year.

Ordinance Enforcement. Received update.

Litigation – Parks Commission Appeal. Court of Appeals overturned the ruling of the trial court and reinstated the Parks Commission. We have 42 days to file an appeal. Smith moved, seconded by Pscholka, to authorize application for leave to appeal to the Michigan Supreme Court in the Risk/Tucker litigation. Pscholka commented the constitution gives the people the right to vote; there were reasons it took only 10 days to gather 1,036 signatures; their first action was to have a meeting with an attorney – nothing about the kids; we need to defend the integrity of the election; MTA supports our action. Our insurance company will support our appeal. **Motion Carried.**

CLERK’S REPORT.

Book Balances at 6/30/08 are as follows: \$998,503.41 in the general fund; \$939,153.67 in police; \$6,735.93 in parks; \$102,411.44 in cemetery; \$33,262.44 in building; \$464,759.22 in township improvement; \$15,910.98 in police capital; \$70,103.27 in parks capital; \$1,930,620.26 in sewer operating; \$1,957,225.52 in sewer replacement; \$296,433.63 in sewer improvement; \$2,178,328.97 in water operating; \$705,444.70 in water replacement; \$4,567,198.53 in water improvement; \$109,409.99 in trust & agency; \$3.83 in Glenlord sidewalk special assessment; \$0.15 in DeFay Rd. special assessment; and \$77,888.69 in street lighting. We also have funds in T & A delinquent taxes \$82.28; fire station debt \$192,460.62; library bond \$391,058.82; flex spending \$2,488.02. All balances have been verified with the treasurer’s records.

TREASURER’S REPORT. Investment report was distributed to the board.

PLANNING COMMISSION REPORT.

Lakeside Family Church Rezone Request. Motion Carried. Stauffer moved, seconded by Smith, to introduce for its 1st reading an amendment to the Zoning Ordinance to rezone parcel #11-12-0032-0003-01-4 from I-1 Limited Industrial to Low Density, as recommended by the Planning Commission, to allow for a house of worship/place of public assembly with the following conditions: the new Zoning ordinance will apply; the property will only be used for a house of worship/place of public assembly; and if the property is not used as such for a period of six consecutive months, the property will revert back to Limited Industrial. *Zoning Ordinance 08-Z01. Attachment A.* Roll Call Vote: Ayes: Florian, Peterson, Smith, Stauffer, Geisler, Jewell, and Pscholka. Nays: None.

Forest Brook Subdivision – Final Approval of Final Plat. Motion Carried. Florian moved, seconded by Jewell, to give final approval of final plat for Forest Brook Subdivision as recommended by the Planning Commission. Approvals have been received from the drain commissioner, Berrien County Road Commission, and township engineer, who has received letter of certification from Merritt Engineering.

Lakeside Beach Club. Anthony Perry of A. Perry Designs & Builds P.C., of Libertyville, IL, has applied for a planned unit development for 31.11 acres at 3822 Red Arrow Highway, parcels #11-12-0009-0022-01-4, #11-12-0009-0022-02-2, & #11-12-0009-0022-00-6 for 299 dwelling units and approximately 30% of open space. The project will take 10 to 12 years to complete and includes saving trees, reusing some trees, underground parking, and golf cart path wide enough for fire truck. There will be 9.48 acres of open space, five seven story buildings 1,000’ from the highway and not more than 75’ in height, 19 single family homes on the lake side of the property, and three commercial buildings on Red Arrow Highway with one building being two stories and having office uses in the second story.

Planner Lynee Wells reported the parallel plan indicated 310 units with 11.4 acres of open area. She reported on the ordinance standards necessary for approving PUD projects: section 230.413.03 development requirements – be harmonious and appropriate in appearance with existing character and not

change the essential character; adequately served by essential public facilities and services; not create excessive additional requirements at public cost; be developed in accordance with the intent for a PUD: section 230.413.05 standards for rezoning approval – result in substantial benefit to the community; shall not increase the need for public services and not place a material burden on property, owners or environment; compatible with the development plan; not change the essential character of surrounding area; and shall be under single ownership or control. She also presented concerns of the ad hoc review committee – building height; number of stories; traffic impact on Red Arrow; driveway spacing; inadequate transition strip on south property line; only 50' private road easement; 2,500' length of cul-de-sac; groundwater concerns with porous pavement; estate house as use in R-3; grading along north property line; emergency access to lake and pool; golf cart parking at clubhouse, lake and commercial buildings; aesthetics of chain link fence; gated entry; condo visitor and commercial parking; trespassing at the beach; adjusting open space for access to building B; light pollution; adjustment of open space for permanent structure for pool/club house/fire pit/cabanas/hot tub/watercraft; and the open space should be the greater of 9.48 acres or 20%.

Perry said there was an error on the parallel plan drawing; he was asking for the additional height to save the trees; the buildings will be designed to blend into the landscape; he will work with MDOT on their concerns; transition strip can be adjusted; won't do porous pavement; will handle grading issues; will provide emergency access to building; will have as little paving as possible; fence will look good with planting in front of it; and small items will be addressed in the next phase. Wave runners will be provided for time shares so that not everyone will need one; doesn't plan to sell off in pieces; single homes will be built by others; and there will be no gates.

Pscholka – asked if he owned property (not yet, was not selling, but preparing marketing); was concerned with the 75' height; and length of time to build required a leap of faith.

Jewell – thinks project is attractive; thanks for coming to township and developing across the street from an industrial Brownfield.

Peterson – asked about the commercial use (not a fan of franchises, but has some flexibility of control) The Berrien County Planning Commission concurred with the Lincoln Charter Township Planning Commission to recommend approval of the rezoning, and encouraged the Township to use the remaining site plan review steps of the PD process to address the height and beach access concerns.

Stauffer moved, seconded by Jewell, to approve at its first reading of the PUD rezoning and preliminary PUD per the conditions in the Planners 5/28/08 memo including:

1. The PUD include a mix of residential, commercial and office uses with approximately: 104,400 square feet of commercial/office use; A ratio of 14 condominium units to 1 estate single-family home unit; Parking for commercial and office uses at a rate of 1 space per 250 square foot of usable floor area; Parking for condominium units at a rate of 1 space per bedroom, plus 5 visitor spaces per building
2. Building height of condominium buildings not to exceed 75 feet or 7 stories.
3. Total open space not to be less than 9.84 acres and shall meet the requirements found in the draft 1.22.08 Zoning Ordinance under Section 230.413.01 E.
4. Exterior design aesthetics as per the description contained on page 7 of applicant's project narrative dated 4/17/08.
5. Resubmittal and approval by the Planning Commission of the Preliminary PUD Plan addressing the questions/comments of the Planning Commission and Township Staff/Planner prior to a second reading of ordinance amendment by the Township Board.
6. Submittal of a phasing plan.

7. Submittal of a grading plan.

Florian – cannot support the Planning Commission’s recommendation and also has a problem with the 75’ buildings.

Peterson – was concerned with height, but could approve it for this area at the north part of the Township. Several residents spoke against the project for the following reasons: doesn’t follow the master plan, can’t hide seven story buildings; why are we considering a variance to our ordinance just adopted; can the schools handle the increase of students; would set a precedent; this is not the best proposal, other investors will come; and why would we allow increased height when other municipalities are considering lowering the height.

Several residents adjoining the property, realtor, builder, and businessman spoke in favor of the project for the following reasons: was previously an eyesore; increase to the tax base; would rather have five buildings rather than several buildings and no trees; best way to develop the property; environmentally friendly development; good for economy; impressed with the project and considers it an opportunity; would create jobs; and would increase consumer spending; all variances should be judged individually. Attorney Dienes stated it would not be difficult to distinguish this property from others and this action would not set a precedent.

Perry stated the seven stories pay for the special items, i.e. underground parking and green space, he needs a special environment to sell the project and he would work with us on all our concerns. *Zoning Ordinance 08-Z01. Attachment B.* Roll Call Vote: Ayes: Peterson, Stauffer, Geisler, and Jewell. Nays: Smith, Pscholka, and Florian. **Motion Carried.**

Marquette Estates II. The State of Michigan did not approved this subdivision – there are several issues to be cleared, one of which is the developer did not own the property when we gave the preliminary and final plat approval. Attorney Dienes was not given the report for review and no action was taken.

ZONING BOARD OF APPEALS REPORT. None.

ASSESSOR’S REPORT. Distributed to board.

Poverty Exemption. The Board needs to develop an asset test to be used as a guideline in considering a poverty exemption and a resolution needs to be adopted. Items for consideration have been furnished to the board for their review. The Board of Review will also review and have some recommendations for us.

BUILDING DEPARTMENT REPORT. One single family residential permit was issued in June.

Ordinance to Amend Sections 1-1 and 1-2 of Part 190 of the Compilation of Ordinances. Motion Carried. Stauffer moved, seconded by Pscholka, to introduce for its 1st reading an ordinance to amend sections 1-1 and 1-2 of part 190 of the compilation of ordinances of Lincoln Charter Township to adopt the 2006 editions of the Michigan Building, Plumbing, Mechanical, Residential (1 & 2 Family Dwellings), Existing Building, The International Energy Conservation, Private Sewage Disposal, Property Maintenance, Fire and Fuel Gas Codes. *Ordinance 08-05. Attachment C.* Roll Call Vote: Ayes: Smith, Stauffer, Geisler, Jewell, Pscholka, Florian, and Peterson. Nays: None.

AIRPORT AUTHORITY REPORT. Distributed to board.

FIRE BOARD. Minutes distributed to board. The Fire Board recommends a full time fire chief and would like to discuss the matter in August. Pscholka asked for the information we had previously requested.

POLICE DEPARTMENT REPORT. Distributed to the board.

LIBRARY REPORT. Dina Reilly reported 1,100 have already signed up for the summer reading program – the number of adults have doubled, and 15,000 items were circulated in June.

PARKS REPORT.

Smith reported we are still awaiting the status of the grants.

LMSWSTA (water authority). Pscholka stated the water tower will be ready by October.

Public Comment. Florian and Pscholka were concerned we had lost our leverage and ability to control the Lakeside Beach Club PUD.

ADJOURN. There being no further business, the chair adjourned the meeting at 10:10 p.m.

Sharon Geisler, Clerk

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