

OSHTEMO CHARTER TOWNSHIP BOARD
7275 West Main Street
Kalamazoo, MI 49009
269.375.4260

February 26, 2019

PUBLIC COMMENT SESSION
6:00 p.m.
AGENDA

- A. Call to Order
- B. Public Comment
- C. Discussion on Township Board Retreat Session(s)
- D. Discussion on Staffing Changes/Committee Appointments
- E. Discussion on Cemeteries Policy & 2019 Fees
- F. Other Business

REGULAR MEETING
7:15 p.m.
AGENDA

- 1. Call to Order
- 2. Pledge of Allegiance
- 3. Public Comment on Non-Agenda Items
- 4. Consent Agenda
 - a. Approve Minutes – January 8, 2019, and February 12, 2019, regular meetings
 - b. Receipts & Disbursements Report
 - c. Sanitary Sewer Saw Grant Engineering Agreement Amendment
 - d. Capital Improvement Plan 2020-2024 Sanitary Sewer Correction
 - e. Fire Department Software for Revising Internal Standard Operating Procedures
- 5. Consideration of Non-motorized Facility on Stadium Dr in the DDA from 8th Street to Quail Run – RESOLUTION OF SUPPORT
- 6. Consideration of Zoning Ordinance Section 53.510 Amendment – SECOND READING
- 7. Consideration of General Nuisance Ordinance – SECOND READING
- 8. Consideration of Prohibition of Marijuana Establishments Ordinance – FIRST READING
- 9. Other Township Business
- 10. Public Comment
- 11. Board Member Comments
- 12. Consideration of Closed Session to Discuss Property Acquisitions
- 13. Work Session (Reconvene for items not completed)
- 14. Adjournment

**Policy for Public Comment
Township Board Regular Meetings, Planning Commission & ZBA Meetings**

All public comment shall be received during one of the following portions of the Agenda of an open meeting:

a. Citizen Comment on Non-Agenda Items or Public Comment – while this is not intended to be a forum for dialogue and/or debate, if a citizen inquiry can be answered succinctly and briefly, it will be addressed or it may be delegated to the appropriate Township Official or staff member to respond at a later date. More complicated questions can be answered during Township business hours through web contact, phone calls, email (oshtemo@oshtemo.org), walk-in visits, or by appointment.

b. After an agenda item is presented by staff and/or an applicant, public comment will be invited. At the close of public comment there will be Board discussion prior to call for a motion. While comments that include questions are important, depending on the nature of the question, whether it can be answered without further research, and the relevance to the agenda item at hand, the questions may not be discussed during the Board deliberation which follows.

Anyone wishing to make a comment will be asked to come to the podium to facilitate the audio/visual capabilities of the meeting room. Speakers will be invited to provide their name, but it is not required.

All public comment offered during public hearings shall be directed, and relevant, to the item of business on which the public hearing is being conducted. Comment during the Public Comment Non-Agenda Items may be directed to any issue.

All public comment shall be limited to four (4) minutes in duration unless special permission has been granted in advance by the Supervisor or Chairperson of the meeting.

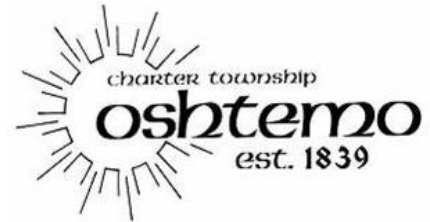
Public comment shall not be repetitive, slanderous, abusive, threatening, boisterous, or contrary to the orderly conduct of business. The Supervisor or Chairperson of the meeting shall terminate any public comment which does not follow these guidelines.

(adopted 5/9/2000)
(revised 5/14/2013)
(revised 1/8/2018)

Questions and concerns are welcome outside of public meetings during Township Office hours through phone calls, stopping in at the front desk, by email, and by appointment. The customer service counter is open from Monday-Thursday 8:00 am- 5:00 pm, and on Friday 8:00 am-1:00 pm. Additionally, questions and concerns are accepted at all hours through the website contact form found at www.oshtemo.org, email, postal service, and voicemail. Staff and elected official contact information is provided below. If you do not have a specific person to contact, please direct your inquiry to oshtemo@oshtemo.org and it will be directed to the appropriate person.

Oshtemo Township Board of Trustees		
<u>Supervisor</u>		
Libby Heiny-Cogswell	216-5220	libbyhc@oshtemo.org
<u>Clerk</u>		
Dusty Farmer	216-5224	dfarmer@oshtemo.org
<u>Treasurer</u>		
Nancy Culp	216-5221	ncoshtwp@oshtemo.org
<u>Trustees</u>		
Cheri L. Bell	372-2275	cbell@oshtemo.org
Deb Everett	375-4260	deverett@oshtemo.org
Zak Ford	271-5513	zford@oshtemo.org
Ken Hudok	548-7002	khudok@oshtemo.org

Township Department Information			
<u>Assessor:</u>			
Kristine Biddle	216-5225	assessor@oshtemo.org	
<u>Fire Chief:</u>			
Mark Barnes	375-0487	mbarnes@oshtemo.org	
<u>Ordinance Enf:</u>			
Rick Suwarsky	216-5227	rsuwarsky@oshtemo.org	
<u>Parks Director:</u>			
Karen High	216-5233	khigh@oshtemo.org	
Rental Info	216-5224	oshtemo@oshtemo.org	
<u>Planning Director:</u>			
Julie Johnston	216-5223	jjohnston@oshtemo.org	
<u>Public Works:</u>			
Marc Elliott	216-5236	melliott@oshtemo.org	



Memorandum

Date: February 26, 2019
To: Township Board
From: Dusty Farmer, Clerk
Subject: Cemetery Ordinance Changes

FOR DISCUSSION

Clerk Farmer has been working with Supervisor Heiny-Cogswell and Parks Director Karen High to update the current Cemetery Ordinance. Attached you will find the Goals and Action Strategies guiding the planning process and a red markup of recommended changes to the ordinance.

Community Service, Sustainability, and Visual Appeal are the overall goals for our Township cemeteries. The changes to the ordinance are a reflection of those goals, and Trustees should note the following:

- Detailed language that discourage unsightly burial spaces and other violations
- Implementation of design standards for memorials and headstones
- The addition of green burial and columbarium options
- Allowing (green) burial rights to be sold to people who do not live in the Township

This final ordinance change recommendations will come back to the Board at a later date and will include an additional recommendation to change the cemetery fees.

Goals and Action Strategies – Cemeteries
09-07-2018

Goal #1: Community Service

Provide burial options that meet the needs of the community.

Action Strategies

- A. Incorporate cremation options that extend beyond smaller burial spaces. This can include columbarium, plot burial, or urn gardens.
- B. Offer natural (green) burial opportunities in both Genessee Prairie and West Oshtemo Cemeteries.
- C. Build structures to memorialize non-traditional burials, reducing the need for large headstones while still offering the opportunity for name recognition.

Goal #2: Sustainability

Reduce maintenance costs and raise fees so that cemeteries can be sustained without additional general fund dollars.

Action Strategies

- A. Reduce areas that require mowing through prairie restoration and offering non-traditional burial options that do not require weekly trimming.
- B. Close driveways that are not necessary for circulation or access while maintaining 150 ft. maximum walking distance to traditional burials and 400 ft. maximum walking distance to other types of burials (i.e. green burials).
- C. Maintain trees and other landscape so that memorials, headstones, and pathways are protected against damage from root growth.

Goal #3: Visual Appeal

Create spaces that are visually appealing and welcoming to community members that are visiting a memorial, stopping at a cemetery as part of a non-motorized trail, or to those that pass by the cemeteries while in transit.

Action Strategies

- A. Develop and implement strategies to enforce current ordinances that discourage clutter, debris, and other violations in the cemeteries.
- B. Implement design standards for height, size, color, and acceptable materials for memorials and headstones.

PART 233

233.000 - CEMETERY REGULATIONS

Ord. No. 203 Adopted: November 1, 1983

Contents:

- 233.001 - Authority.
- 233.002 - Definitions ~~of cemetery lots and burial spaces.~~
- 233.003 - Sale of ~~lots or~~ burial spacesrights.
- 233.004 - Purchase price and transfer fees.
- 233.005 - Repurchase of ~~lots or~~ burial spacesrights.
- 233.006 - Grave opening charges.
- 233.007 - Markers or memorials.
- 233.008 - Interment regulations.
- 233.009 - Ground maintenance.
- 233.010 - Records.
- 233.011 - Vault.
- *Expansion of existing and establishment of new cemeteries
- 233.012 - Cemetery hours.
- 233.013 - Penalties.
- 233.014 - Repeal and effective date.

233.001 - Authority.

Sec. 1.

The following cemetery regulations are adopted by ordinance pursuant to authority granted the Township by 1915 PA 313, as amended, 1931 PA 46, as amended, 1909 PA 95, as amended, and 1937 PA 215, as amended.

233.002 - Definitions ~~of cemetery lots and burial spaces.~~

Sec. 2. The following words and phrases used in this ordinance are defined as follows:

~~A cemetery lot shall consist of burial spaces sufficient to accommodate from 1 to 6 burial spaces.~~

~~A burial space shall consist of a land area four feet wide and ten feet in length.~~

~~A cremation space shall consist of a land area three feet wide by three feet in length.~~

- a) Cenotaph is a memorial or marker for someone who is buried elsewhere.
- b) Columbarium is a structure for funeral urns to be stored.
- c) Cremains are the remains of a person after cremation.
- d) Lawn burial is an in-ground grave with a casket and vault.
- e) Green burial is an in-ground grave that allows natural decomposition.

f) Markers, monuments, memorials

233.003 - Sale of ~~lots or burial spaces~~rights.

Sec. 3.

<u>Type of interment</u>	<u>Type of memorial</u>	<u>Type of Burial</u>	<u>Vault? Yes or No</u>	<u>Township Residency Required?</u>
Full body	<u>Above ground marker for one person</u>	<u>Lawn burial, single plot,</u>	<u>Yes</u>	<u>Yes</u>
Full body	<u>Above ground marker for two people</u>	<u>Lawn burial, side by side plots</u>	<u>Yes</u>	<u>Yes</u>
Full body	<u>Cenotaph memorial obelisk, engraved with name and birth/death date</u>	<u>Green burial (Prairie Reconstruction Area), single plot, biodegradable casket or shroud.</u>	<u>No</u>	<u>No</u>
Full body	<u>Cenotaph memorial obelisk, engraved with names and birth/death dates that are grouped together.</u>	<u>Green burial (Prairie Reconstruction Area, side by side plots, biodegradable casket or shroud.</u>	<u>No</u>	<u>No</u>
Cremaains	<u>Above ground marker for one to three person</u>	<u>Lawn burial, single plot, up to three cremaains in urns</u>	<u>No</u>	<u>Yes</u>
Cremaains	<u>Name and birth/death date on plaque on columbarium</u>	<u>Columbarium niche in court or wall, cremaains in urn</u>	<u>No</u>	<u>No</u>
Cremaains	<u>Cenotaph memorial obelisk engraved with name and birth/death date</u>	<u>Green burial (Prairie Reconstruction area), single cremaains plot, biodegradable urn or no urn</u>	<u>No</u>	<u>No</u>
Cremaains	<u>Cenotaph memorial obelisk, both names and birth/death dates are grouped</u>	<u>Green burial, (Prairie Reconstruction area), companion cremaains plot, biodegradable urn or no urn</u>	<u>No</u>	<u>No</u>
Cremaains	<u>Flush marker</u>	<u>Lawn burial, cremaains section</u>	<u>No</u>	<u>Yes</u>

A. Hereafter, cemetery ~~lots or burial spaces~~burial rights shall be sold according to the chart in 233.02. Lawn burial rights shall be sold to qualified persons only. A qualified person is one who either lives in the Township or owns property in the Township. ~~to only residents or taxpayers of the Township for the purpose of the burial of such purchaser or his or her heirs at law or~~

~~next of kin, hereinafter defined as "qualified persons."~~ No sale shall be made to funeral directors ~~or others than as heretofore set forth.~~ Green burial rights shall be sold to the general public.

~~A.B.~~ The Township Clerk ~~of the Township Board, however,~~ is hereby granted the authority to vary ~~the any aforesaid~~ restriction on sales where the purchaser discloses sufficient personal reason for lawn burial within the Township through previous residence in the Township, relationship to persons interred therein, or other adequate reason disclosing such personal interest.

~~B.C.~~ All such sales shall be made on a form approved by the Township Board which grants a right of burial only and does not convey any other title to the ~~lot or~~ spaceright sold. Such form shall be executed by the ~~Clerk of the Township~~ Clerk.

~~C.D.~~ Burial rights, with the exception of green burials, may only be transferred to a qualified person with and may be effected only by the execution of an assignment ~~a~~ form issued by the Township Clerk of the Township Board, ~~After approval and processing, ed by said the~~ Clerk, ~~and entered upon the official records of said Clerk. Upon such assignment, approval and record, said Clerk shall issue a new burial permit rights form to the assignee and shall cancel and terminate upon such records, the original form. permit thus assigned.~~

(Amended: Ord. No. 480, 8-28-2007)

233.004 - Purchase price and transfer fees.

Sec. 4.

- A. Purchase price of burial rightsspaces shall be at a cost determined ~~from time to time~~ by the Township Board and will be available in the Clerk's office and on the Township website.
- B. Transfer of ~~one or more~~ burial rightsspaces from an original purchaser to ~~a qualified person as assignee another~~ shall be at a cost determined ~~from time to time~~ by the Township Board.
- C. The foregoing charges shall be paid to the Township Treasurer and shall be deposited in the cemetery fund.

(Amended: Ord. No. 480, 8-28-2007)

233.005 - Repurchase of lots or burial spaces.

Sec. 5.

The Township will repurchase any ~~cemetery lot or~~ burial rightsspace from the owner for the original price paid the Township upon the written request of said owner or his legal heirs or representatives.

233.006 - Grave opening charges.

Sec. 6.

- A. The opening and closing of any burial space, prior to and following a burial therein, and including the interment of ashes, shall be at a cost to be determined ~~from time to time~~ by the Township Board, payable to the Township of Oshtemo.

B. No burial spaces shall be opened and closed except under the direction and control of the Township Clerk.

(Amended: Ord. No. 480, 8-28-2007)

233.007 - Markers ~~or memorials.~~

Sec. 7.

- A. All markers ~~or memorials~~ must be of stone or other equally durable composition.
- B. All ~~monuments~~ markers must be located upon a suitable solid foundation and shall be constructed by the Township at cost to the owner of the burial right. to maintain the same in an erect position.
- C. Only one ~~monument~~, marker ~~or memorial~~ shall be permitted per burial space right, except for flush military markers or flush markers at the foot of the grave site to identify buried remains.
- ~~D. The footing or foundation upon which any monument, marker or memorial must be placed shall be constructed by the Township at cost to the owner of the burial right.~~
- D. Within the cremation section, a marker not to exceed 24 inches in length and 12 inches in width shall be permitted on each cremation space. If one marker is placed to identify two adjacent cremation spaces, the size of the marker may be increased but not to exceed 36 inches in length and 14 inches in width. All markers shall be four inches or less in thickness and shall be placed flush with the ground.
- E. All green burial cenotaphs will be installed and engraved by the Township, with names grouped by location.
- F. Markers shall be proportional to the size of the burial right upon which they are located and shall never extend beyond the burial right(s) for which they are placed.
- G. Marker width shall be determined by number of side-by-side burial rights owned.
 - (1) Single burial right marker maximum width shall be forty-two (42) inches.
 - (2) Two to three (2-3) burial right marker monument maximum width shall be sixty (60) inches.
 - (3) Four to five (4-5) burial right marker maximum width shall be eighty-four (84) inches.
 - (4) No marker shall exceed eighty-four (84) inches in width.
 - ~~(H)~~ (5) Marker height shall not exceed forty-eight (48) inches.
 - ~~(I)~~ (6) Marker thickness shall not exceed sixteen (16) inches.
 - ~~(J)~~ (7) Marker shall be centered on individual graves or centered on the combined space, and located one (1) foot into the plot at the common plot line.

~~E.~~

(Amended: Ord. No. 480, 8-28-2007)

233.008 - Interment regulations.

Sec. 8.

- ~~A. Only one person may be buried in a burial space except for a mother and infant or two children buried at the same time.~~

~~B.A.~~ Not less than 36 hours' notice shall be given in advance of the time of any funeral to allow for the opening of the burial space, and the Township will use its best efforts to accommodate spiritual or religious preferences of the family.

~~B.B.~~ The appropriate permit for the burial space involved, together with appropriate identification of the person to be buried therein, where necessary, shall be presented to the Township Clerk ~~of the Township Board~~ prior to interment. Where such permit has been lost or destroyed, the Township Clerk shall be satisfied, from his or her records, that the person to be buried in the burial space is an authorized and appropriate one.

~~D.C.~~ All graves shall be ~~located~~ kept in an orderly and neat appearing manner, ~~within the confines of the burial space involved.~~

D. One casket and one cremain may be buried in one burial right. 3 cremation interments may be placed in one burial space.

E. Three (3) cremains may be placed in one burial right, either lawn burial or green burial.

(Amended: Ord. No. 480, 8-28-2007)

233.009 - Ground maintenance.

Sec. 9.

A. No grading, leveling or excavating upon a burial space shall be allowed, ~~without the permission of the Township Clerk.~~

B. No ~~shrubs, trees or evergreen shall be~~ plantings shall be allowed. ~~ed without the approval of the Township Clerk.~~ Flowers must be placed within one foot of the front of the marker. ~~Upon a cremation space only, no plants or evergreens shall be permitted.~~ One underground container for cut flowers will be permitted per cremation burial space. Glass containers are not permitted on any burial space.

C. The Township reserves the right to remove or trim any tree, plant or shrub located within the cemetery in the interest of maintaining proper appearance and the use of the cemetery.

D. Mounds which Decorations or flowers which hinder the free use of a lawn mower or other gardening apparatus are prohibited and will be removed.

~~D.E.~~ Other than the marker, no structures shall be permitted.

~~E.F.~~ The Township shall have the right and authority to remove any and all flowers, emblems, or displays that are or become unsightly. Seasonal memorials must be removed by April 15 and October 15 of each year.

~~F.~~ G. Surfaces other than earth or sod are prohibited. Burial space shall be either lawn or prairie, unless constructed by the Township. Other surfaces prohibited.

~~G.~~ All refuse of any kind or nature including, among others, dried flowers, wreaths, papers, and flower containers must be removed or deposited in containers located within the cemetery.

(Amended: Ord. No. 480, 8-28-2007)

233.010 - Records.

Sec. 10.

The Township Clerk shall maintain records concerning all burials and issuance of burial permits, separate and apart from any other records of the Township and the same shall be open to public inspection at all reasonable business hours.

(Amended: Ord. No. 480, 8-28-2007)

233.011 - Vault. To Be Completed With Input from MAMC and MTA

Sec. 11.

~~— A. All burials shall be within a standard concrete vault installed or constructed in each burial space before interment. Cremation ashes shall be placed within a burial container which will not degrade.~~ A. Are vaults required for embalmed cremains/remains?

A. B. Green burials shall not have a vault and shall be interred according to green burial industry standards?

(Amended: Ord. No. 480, 8-28-2007)

~~***Expanding existing and establishing new township cemeteries. TO BE COMPLETED WITH LEGAL DEPT~~

~~(a) When it considers it desirable and necessary, by Resolution the Board may provide for enlargement of an existing cemetery or establish of one (1) or more new cemeteries.~~

~~(b) A Board Resolution to enlarge or establish a cemetery shall be subject to:~~

~~(1) Providing the County health department with a land description and two (2) copies of a plat for the division of the enlarged or new cemetery; and,~~

~~(2) County health department approval of a plat for the enlarged or new cemetery.~~

233.012 - Cemetery hours.

Sec. 12.

- A. The cemetery shall be open to the general public from sunrise to sunset of each day.
- B. No person shall be permitted in the Township cemeteries at any time other than the foregoing hours, except upon permission of the Township Clerk.

(Amended: Ord. No. 480, 8-28-2007)

233.013 - Penalties.

Sec. 13.

Violation of any of the provisions of this Ordinance or failure to comply with any of its requirements shall constitute a municipal civil infraction.

Upon determination of responsibility, the person, corporation, firm or other entity shall pay a fine according to the following schedule:

- First offense\$75.00
- Second offense within three years of first offense150.00

- Third offense within three-year period325.00
- Fourth and each subsequent offense within three-year period are each500.00

If a determination of responsibility is made by the Court, the Court may impose costs as provided for by law in addition to the fines called for above.

Each day during which a violation continues shall be deemed a separate offense. The imposition of a fine shall not exempt an offender from compliance with the provisions of this Ordinance.

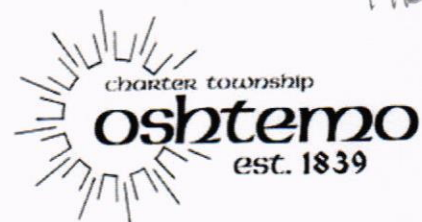
Nothing herein contained shall prevent the Township Board, public official or private citizen from taking such lawful action as is necessary to restrain or prevent any violation of this Ordinance.

(Amended: Ord. No. 309, 9-6-1994)

233.014 - Repeal and effective date.

Sec. 14.

These Regulations shall take effect 30 days after publication. All regulations or parts of regulations in conflict herewith are hereby repealed.



Memorandum

Date: February 15, 2019
To: Township Board
From: Marc Elliott, P.E., Director of Public Works
Subject: Revision to Prein&Newhof Engineering Services Contract for the SAW Grant

OBJECTIVE:

To obtain Board approval for a revision to the Prein&Newhof (P&N) Engineering Services Contract for our Stormwater, Asset Management, and Wastewater (SAW) Grant.

BACKGROUND:

The Board approved the SAW Grant contract with P&N on October 24, 2017. One clause of the contract states, "Owner (Oshtemo) shall approve the selection of sub-contractors for these Service Phases [Mapping, Cleaning/Televising, and Rates/User Charge Development] and the Owner shall pay the subcontractors' invoices directly." The applicable page is attached.

DISCUSSION:

In June, P&N provided competitive rate information for SAW Services under contract in the Kalamazoo area by Elite Drain & Sewer Cleaning, Plumbers Environmental Services and Terra Contracting. The rates are competitive and comparable. P&N further advised that what seemed most critical was availability. The work (CCTC video recording, with or without cleaning) is being determined by P&N as the SAW work proceeds, being based upon manhole inspections. After conferring with the Project Engineer, Mike Schwartz, we determined that it would be most cost effective to have P&N manage the subcontractor's work scope and scheduling (base upon availability) as a component of P&N's work. The Public Works Department therefore advised P&N it was electing to include the discretionary administrative overhead of 3% as the way to proceed with the Cleaning/Televising services. For these subcontract services a 3% fee on the P&N contract maximum of \$250,000 is \$7,500 (approximately 50 hours of P&N engineer labor). [Note: This is a multi-year project and it is currently presumed the 2019 project budget is sufficient once unexpended 2018 funds are carried forward at the end of the first quarter.]

RECOMMENDATION:

Approve a contract amendment to "line out" the clause in the Prein&Newhof Engineering Services Contract for the SAW Grant that states, "Owner shall approve the selection of sub-contractors for these Service Phases and the Owner shall pay the sub-contractors' invoices directly." Prein&Newhof agrees to the contract change.

ATTACHMENT: Page 1 of the Prein&Newhof Engineering Services Contract, October 27, 2017.

Agreement Between Owner and Engineer

THIS AGREEMENT made as of this 27th day of Oct, 2017, between
OWNER: Charter Township of Oshtemo
and ENGINEER: Prein&Newhof, Inc.

FOR THE FOLLOWING PROJECT: Charter Township of Oshtemo Asset Management Plan

ENGINEER will provide professional engineering services for OWNER in connection with the Project and will serve as OWNER'S professional engineering representative on the Project.

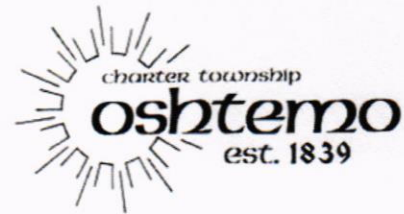
The OWNER and ENGINEER agree as set forth below:

1. Agreement Commencement. ENGINEER shall commence to provide services under this agreement upon written authorization of OWNER. OWNER may authorize ENGINEER to proceed with specific services prior to OWNER being awarded an Asset Management Grant by the Michigan Department of Environmental Quality SAW program. Said services shall be rendered and invoiced in accordance with this agreement. If, by the end of the SAW Grant program as determined by the MDEQ, the OWNER has not been awarded a SAW Grant, this contract shall be terminated.
2. Services of ENGINEER. ENGINEER will provide professional services to develop an Asset Management Plan in accordance with the Charter Township of Oshtemo SAW Application(s) dated December 2, 2013. The proposed primary personnel to be assigned to this PROJECT are Michael Schwartz P.E. and Thomas C. Wheat P.E. Any primary personnel changes will be mutually agreed to by OWNER and ENGINEER. Any consent to change shall not be unreasonably withheld.
3. Engineering Fees.
 - a. OWNER agrees to pay ENGINEER in accordance with the progress of the services (percent complete) by project phase as defined below.

Services Phase	Total Fee
Pre-Application Costs	\$5,000
Inventory/Data Collection	\$48,233
Condition Assessment	\$131,738
Level of Service	\$8,707
Risk/Consequence	\$51,385
Asset Management Plan	\$91,005
Metering/Modeling	\$5,956
Mapping (Equipment)*	\$38,480
Cleaning/Televising*	\$250,000
Level of Service (Admin.)	\$20,200
MACP/PACP Training	\$0
Rates/User Charge Dev.*	\$54,146
Total	\$704,850

* Owner shall approve the selection of sub-contractors for these Service Phases and the OWNER shall pay the sub-contractors invoices directly.

ITEM 4.d.



Memorandum

Date: February 19, 2019
To: Township Board
From: Marc Elliott, P.E., Director of Public Works
Subject: Capital Improvement Plan, 2020-2024 Sanitary Sewer Corrections

OBJECTIVE

Correction of erroneously projected operating revenues and expenditures for Sanitary Sewers (2020 through 2024) within the adopted 2019 CIP, by adopting the provided herein corrected CIP table for Sanitary Sewers.

BACKGROUND

USDA financing submittals required for loan funding (Phase I) of the neighborhood sewer extension project includes an operating budget projection for public sewers. In the preparation of these materials an error was identified within the Board's approved CIP for Sanitary Sewers. We discovered that revenues and expenditures in 2019 that are associated with the MDEQ "SAW" grant (Stormwater, Asset Management, and Wastewater) were projected into the future as ongoing. This is an error because the SAW Grant program is a one-time task, summarized as comprehensive data collection, condition assessment and rate evaluation. The provided tabular corrections herein were reviewed by the Board's Capital Improvement Committee at their January 15, 2019 meeting and were recommended for board approval.

INFORMATION PROVIDED

Approved CIP (highlighted cells show where 2019 SAW revenues/expenditures were compounded).

Draft CIP Corrections (corrections and adjustment are noted in color).

Approved CIP

SEWER FUND

REVENUES:	2019	2020	2021	2022	2023	2024
Additional Connection Fees	\$ -	\$ -	\$ 153,904	\$ 483,986	\$ 484,077	\$ 484,178
Debt Service Fees	\$ -	\$ 159,756	\$ 537,809	\$ 434,412	\$ 434,109	\$ 434,546
Interest	\$ 12,000	\$ 7,500	\$ 7,500	\$ 7,500	\$ 7,500	\$ 7,500
Other (Surcharge & Assessments)	\$ 725,400	\$ 925,000	\$ 943,000	\$ 961,000	\$ 980,000	\$ 999,000
Total Revenues:	\$ 737,400	\$ 1,092,256	\$ 1,642,213	\$ 1,886,898	\$ 1,905,686	\$ 1,925,224
EXPENDITURES:						
Operating expenditures	\$ 501,467	\$ 560,900	\$ 577,700	\$ 595,000	\$ 612,900	\$ 625,000
Debt Service	\$ 130,058	\$ 529,698	\$ 941,713	\$ 1,168,398	\$ 1,168,186	\$ 1,168,724
Capital expenditures:						
BTR 2.0	\$ 144,000	\$ -	\$ -	\$ -	\$ -	\$ -
USDA Loan Phase 1A						
Skyridge Plat Sewer & Pump Station	\$ 2,195,550	\$ -	\$ -	\$ -	\$ -	\$ -
W Main Sewer and 7th St Pump Station (8th St to 7th St)	\$ 1,657,950	\$ -	\$ -	\$ -	\$ -	\$ -
USDA Loan Phase 1B						
Beech Street	\$ 495,600	\$ -	\$ -	\$ -	\$ -	\$ -
Fairlane Plat	\$ 1,169,700	\$ -	\$ -	\$ -	\$ -	\$ -
Meridian & Sunset	\$ 317,100	\$ -	\$ -	\$ -	\$ -	\$ -
Whitegate Farms Plat	\$ 1,147,000	\$ -	\$ -	\$ -	\$ -	\$ -
Country Club Plat	\$ 118,200	\$ 2,358,000	\$ -	\$ -	\$ -	\$ -
Westport and Meadowbrook Plat	\$ 576,150	\$ 11,494,000	\$ -	\$ -	\$ -	\$ -
11th Street Sanitary (Parkview to N Ave)	\$ 71,850	\$ 1,433,400	\$ -	\$ -	\$ -	\$ -
Frie and Gibbs Plat Sewer & Pump Station	\$ 81,000	\$ 1,616,000	\$ -	\$ -	\$ -	\$ -
KL Avenue (Auturns Way to 8th Street)	\$ 82,200	\$ 1,639,900	\$ -	\$ -	\$ -	\$ -
8th Street (West Main to KL Avenue)	\$ 35,850	\$ 715,200	\$ -	\$ -	\$ -	\$ -
Chime Street	\$ -	\$ -	\$ 14,500	\$ 275,500	\$ -	\$ -
Plainview Street	\$ -	\$ -	\$ 11,950	\$ 227,050	\$ -	\$ -
Parkview Avenue (Stadium to 12th St)	\$ -	\$ -	\$ -	\$ 75,000	\$ 1,150,000	\$ -
Vienna Street	\$ -	\$ -	\$ -	\$ 13,000	\$ 188,000	\$ -
Promenade Street	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 12,100
Country Trail Homesites Plat and Penny Lane	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 49,000
Misc. Infrastructure Repairs & Improvements	\$ 20,000	\$ 20,000	\$ 20,000	\$ 20,000	\$ 20,000	\$ 20,000
Total Expenditures:	\$ 8,743,675	\$ 20,367,098	\$ 1,565,863	\$ 2,373,948	\$ 3,139,086	\$ 1,874,824
OTHER FINANCING SOURCES:						
Debt Proceeds	\$ 8,308,000	\$ 17,000,000	\$ 1,888,000	\$ -	\$ -	\$ -
Transfer From General Fund	\$ 250,000	\$ 250,000	\$ 250,000	\$ 250,000	\$ 250,000	\$ 250,000
Total Other Financing Sources:	\$ 8,558,000	\$ 17,250,000	\$ 2,138,000	\$ 250,000	\$ 250,000	\$ 250,000
FUND BALANCE:						
Net change in fund balance	\$ 551,725	\$ (2,024,842)	\$ 2,214,350	\$ (237,050)	\$ (983,400)	\$ 300,400
Beginning fund balance (Estimated)	\$ 375,373	\$ 927,098	\$ (1,097,744)	\$ 1,116,606	\$ 879,556	\$ (103,844)
Ending Fund Balance:	\$ 927,098	\$ (1,097,744)	\$ 1,116,606	\$ 879,556	\$ (103,844)	\$ 196,556

CORRECTIONS - DRAFT
2/19/2019

SEWER FUND

REVENUES:	2019	2020	2021	2022	2023	2024
Additional Connection Fees	\$ -	\$ -	\$ 153,904	\$ 483,986	\$ 484,077	\$ 484,178
Debt Service Fees	\$ -	\$ 159,756	\$ 537,809	\$ 434,412	\$ 434,109	\$ 434,546
Interest	\$ 12,000	\$ 7,500	\$ 7,500	\$ 7,500	\$ 7,500	\$ 7,500
Other (Surcharge & Assessments)	\$ 725,400	\$ 520,000	\$ 457,320	\$ 471,040	\$ 485,171	\$ 499,726
Total Revenues:	\$ 737,400	\$ 687,256	\$ 1,156,533	\$ 1,396,938	\$ 1,410,857	\$ 1,425,950
EXPENDITURES:						
Operating expenditures	\$ 161,467	\$ 166,311	\$ 171,300	\$ 176,439	\$ 181,733	\$ 187,185
Debt Service	\$ 130,058	\$ 529,698	\$ 941,713	\$ 1,168,398	\$ 1,168,186	\$ 1,168,724
Capital Project Direct Costs:						
Asset Data Collection, Analysis, and Model Development (SAW)	\$ 340,000	\$ 20,000				
Capital expenditures:						
BTR 2.0	\$ 144,000	\$ -	\$ -	\$ -	\$ -	\$ -
USDA Loan Phase 1A						
Skyridge Plat Sewer & Pump Station	\$ 2,195,550	\$ -	\$ -	\$ -	\$ -	\$ -
W Main Sewer and 7th St Pump Station (8th St to 7th St)	\$ 1,657,950	\$ -	\$ -	\$ -	\$ -	\$ -
USDA Loan Phase 1B						
Beech Street	\$ 495,600	\$ -	\$ -	\$ -	\$ -	\$ -
Fairlane Plat	\$ 1,169,700	\$ -	\$ -	\$ -	\$ -	\$ -
Meridian & Sunset	\$ 317,100	\$ -	\$ -	\$ -	\$ -	\$ -
Whitegate Farms Plat	\$ 1,147,000	\$ -	\$ -	\$ -	\$ -	\$ -
Country Club Plat	\$ 118,200	\$ 2,358,000	\$ -	\$ -	\$ -	\$ -
Westport and Meadowbrook Plat	\$ 576,150	\$ 11,494,000	\$ -	\$ -	\$ -	\$ -
11th Street Sanitary (Parkview to N Ave)	\$ 71,850	\$ 1,433,400	\$ -	\$ -	\$ -	\$ -
Frie and Gibbs Plat Sewer & Pump Station	\$ 81,000	\$ 1,616,000	\$ -	\$ -	\$ -	\$ -
KL Avenue (Autums Way to 8th Street)	\$ 82,200	\$ 1,639,900	\$ -	\$ -	\$ -	\$ -
8th Street (West Main to KL Avenue)	\$ 35,850	\$ 715,200	\$ -	\$ -	\$ -	\$ -
Chime Street	\$ -	\$ -	\$ 14,500	\$ 275,500	\$ -	\$ -
Plainview Street	\$ -	\$ -	\$ 11,950	\$ 227,050	\$ -	\$ -
Parkview Avenue (Stadium to 12th St)	\$ -	\$ -	\$ -	\$ 75,000	\$ 1,150,000	\$ -
Vienna Street	\$ -	\$ -	\$ -	\$ 13,000	\$ 188,000	\$ -
Promenade Street	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 12,100
Country Trail Homesites Plat and Penny Lane	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 49,000
Misc. Infrastructure Repairs & Improvements	\$ 20,000	\$ 20,000	\$ 20,000	\$ 20,000	\$ 20,000	\$ 20,000
Total Expenditures:	\$ 8,743,675	\$ 19,992,509	\$ 1,159,463	\$ 1,955,387	\$ 2,707,919	\$ 1,437,009
OTHER FINANCING SOURCES:						
Debt Proceeds	\$ 8,308,000	\$ 17,000,000	\$ 1,888,000	\$ -	\$ -	\$ -
Transfer From General Fund	\$ 250,000	\$ 250,000	\$ 250,000	\$ 250,000	\$ 250,000	\$ 250,000
Total Other Financing Sources:	\$ 8,558,000	\$ 17,250,000	\$ 2,138,000	\$ 250,000	\$ 250,000	\$ 250,000
FUND BALANCE:						
Net change in fund balance	\$ 551,725	\$ (2,055,253)	\$ 2,135,070	\$ (308,450)	\$ (1,047,062)	\$ 238,941
Beginning fund balance (Estimated)	\$ 375,373	\$ 927,098	\$ (1,128,155)	\$ 1,006,915	\$ 698,465	\$ (348,597)
Ending Fund Balance:	\$ 927,098	\$ (1,128,155)	\$ 1,006,915	\$ 698,465	\$ (348,597)	\$ (109,655)

Green = changed values

Yellow = Tabulation (results that are chaged)



Memo



To: Libby Heiny-Cogswell, Township Supervisor
From: M. Barnes, Fire Chief
Date: February 21, 2019
Re: Request support to accomplish a total departmental operations policy rewrite.

As often happens with extensive procedural documents, sections of our departmental operations manual have become overloaded, redundant and outdated. Containing both policies and procedures, this extensive document is used to standardize and guide our ever-changing service. Unfortunately, the staff time essential to discovering today's best practices and format that into clear text from scratch remains unavailable especially when some of this work is often done at a committee level.

Our recent effort at developing Oshtemo's standard of cover has continued to point us to the necessity of accomplishing an extensive total rewrite. This memo is requesting a budget amendment that will allow this work to be accomplished.

In networking with other local fire agencies (Texas, Comstock and City of Kalamazoo) along with uncovering what is being used for public safety (Fire, Police and EMS) nationally, we have discovered a specific product that will provide us with:

1. Michigan-specific policies vetted by fire service professionals and public safety attorneys.
2. Procedures designed to support safe, effective fire operations.
3. Updates in response to legislation, case law and evolving best practices.
4. 24/7 access to policies and procedures via a web-based platform and mobile app.
5. Reporting features that track acknowledgement and training.
6. Policy implementation and consulting services from industry experts.
7. And finally, scenario-based training to bring policy and procedure to life.

It's time to transform our outdated three-ring policy binder into a continuously updated, always-accessible system that is improving firefighter understanding of policy and increase safety while reducing our exposure to liability.

Early in the updated document, it shall be noted that should any inadvertent conflicts arise between this document and Township policy, Township policy shall always prevail.

Attached is the table of contents to the product provided by Lexipol. Although full implementation has been known to take up to a year, the work will begin immediately via a phased in progression.

Clear Form

BUDGET AMENDMENT REQUEST

(Requesting funds for a line item in addition to the approved budget)

Date: 02/20/2019

Department Head Name: Mark Barnes

Fund Name:

		Amount	
Additional Funds Request for: (description and GL number)	<u>Computer Operations - Software</u>	<u>206-340-80900</u>	<input type="text" value="\$ 7,000.00"/>
	_____	_____	<input type="text"/>
	_____	_____	<input type="text" value="\$ 7,000.00"/>
Funds requested from: (description and GL number)	<u>206-001-40100</u>	<u>Fund Balance</u>	<input type="text" value="\$ 7,000.00"/>
	_____	_____	<input type="text"/>
	_____	_____	<input type="text"/>
	_____	_____	<input type="text"/>
	_____	_____	<input type="text" value="\$ 7,000.00"/>

Explanation of request:

In support of continued efforts to provide a Standard of Cover, this funding will be used to accomplish a total rewrite of our departmental operations manual.

Supervisor Review:
(pending or date reviewed)

Board Authorization:
(pending or date authorized)

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MICHIGAN FIRE

Policy and Training



COMPREHENSIVE, DEFENSIBLE POLICY AND DAILY TRAINING | LEXIPOL.COM

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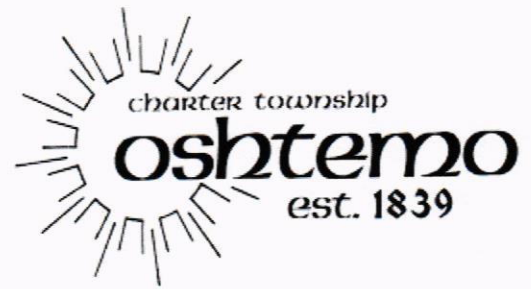
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Memo



To: Oshtemo Charter Township Board

From: Marc Elliott, P.E., Director of Public Works
Jamie Baker, Public Works Technical Specialist
Julie Johnson, Oshtemo DDA Staff

Date: February 21, 2019

Subject: Stadium Drive Six-Foot Path Update

OBJECTIVE

Request Board approval for the Resolution of Support for the Stadium Drive non-motorized facility in the Downtown Development Authority (DDA) area.

BACKGROUND

In February 2019, MDOT changed the requirements for the Transportation Alternatives Program grant applications. The grant application now requires Resolutions of Support from each governmental unit affected by the facility.

DISCUSSION

MDOT provided a list a criteria that must be included in each Resolution of Support, including:

- Indicate expected amount of local matching funds
- Authorize a specific employee to be the representative for Oshtemo Township
- Commit to owning and maintaining the non-motorized facility in perpetuity
- Commit to being responsible for engineering, permits, cost overruns, and any non-participating items.

The attached Resolution of Support addresses each of the criteria above.

Additional Resolutions of Support will be coordinated with the following partner agencies:

- Road Commission of Kalamazoo County – March 5, 2019 Board Meeting
- Oshtemo DDA Board – March 13, 2019 Meeting
- KATS Technical Committee – March 14, 2019 Meeting
- KATS Policy Committee – March 27, 2019 Meeting

Completing the Resolutions of Support in March will enable an April 2019 grant application submittal which will put us on track for an April 2020 construction bid letting, and construction in Summer of 2020.

ATTACHMENTS

1. Resolution in Support of Transportation Alternatives Project – Stadium Drive Shared-Use Non-Motorized Facility Within the Downtown Development Authority Area

**OSHTEMO TOWNSHIP
KALAMAZOO COUNTY, MICHIGAN**

RESOLUTION IN SUPPORT OF TRANSPORTATION ALTERNATIVES PROJECT

**STADIUM DRIVE SHARED-USE NON-MOTORIZED FACILITY WITHIN THE
DOWNTOWN DEVELOPMENT AUTHORITY AREA (8TH STREET TO 617 FEET
WEST OF QUAIL RUN DRIVE)**

WHEREAS, the Federal Transportation Act provides funding towards transportation alternatives for pedestrian and bicycle facilities, access to public transportation, enhanced mobility and safety, and the Michigan Department of Transportation is soliciting new candidate projects for Transportation Alternatives Program (TAP) grants; and

WHEREAS, Oshtemo Township has identified an improvement project on Stadium Drive, a public road that is within the municipal jurisdiction of Oshtemo Township; and

WHEREAS, the Kalamazoo Area Transportation Study (KATS) awarded Oshtemo Township a local TAP grant for 2020 to construct a six-foot wide shared-use pathway on both sides of Stadium Drive from 11th Street to 617 feet west of Quail Run Drive and constructing both segments of the non-motorized facility at the same time would be a cost-effective use of Township funds; and

WHEREAS, Oshtemo Township created the *Go! Green Oshtemo* Master Plan and Non-motorized update wherein the construction of a non-motorized facility along Stadium Drive is a highest priority non-motorized facility for Oshtemo Township; and

WHEREAS, Oshtemo Township approved and submitted an application to the Road Commission of Kalamazoo County to build a non-motorized facility within the public right-of-way, and provided preliminary design plans as a basis to initiate negotiations with the Road Commission of Kalamazoo County for Oshtemo to be responsible for the grant's required local matching funds plus all non-eligible project costs estimated to be \$400,000; and

WHEREAS, the Road Commission of Kalamazoo County has accepted said application for a non-motorized facility improvement in the form of a six-foot wide shared-use pathway, along both sides of Stadium Drive, providing barrier-free non-motorized access, a connector to commercial centers adjacent to Stadium Drive, plus necessary pedestrian access to single and multi-family housing within this well-traveled corridor; and

WHEREAS, Oshtemo Township caused to be created a Downtown Development Authority along Stadium Drive and 9th Street whose principal purpose is tax increment financing to revitalize and preserve the economic and social vitality of the corridor, and whose initial plan has adopted as its principle effort the provision of non-motorized facilities; and

WHEREAS, upon ratification of the award of the funding and execution by the respective local authorities (Road Commission of Kalamazoo and Oshtemo Township) of necessary inter-

local agreements for the Transportation Alternatives Projects, the parties will proceed toward construction letting by summer of 2020; and

WHEREAS, Oshtemo Township, within its Non-Motorized Facility Agreement with the Road Commission of Kalamazoo County approved by unanimous vote of the Oshtemo Township Board on March 13, 2018, will provide engineering documents for the non-motorized facility, obtain all permits, and fund potential cost overruns and non-participating items, and maintain the Stadium Drive non-motorized facility in perpetuity.

NOW, THEREFORE, BE IT RESOLVED that the Oshtemo Township Board does support the application for the use of federal Transportation Alternatives Project funds for the Stadium Drive shared-use non-motorized facility within the Downtown Development Authority area; and

BE IT RESOLVED that, Oshtemo Township Board authorizes the Supervisor to act as the Township's representative to sign a project agreement upon receipt of a grant funding award;

A motion was made by _____, supported by _____, to adopt the foregoing resolution.

Upon a roll call vote, the following voted "Aye":

The following voted "Nay":

The following "Abstained":

The Supervisor declared that the Resolution has (has not) been adopted.

Dusty Farmer, Clerk
Oshtemo Charter Township

CERTIFICATE

I hereby certify that the foregoing constitutes a true and complete copy of an Excerpt of the Minutes of a meeting of the Oshtemo Charter Township Board, held on _____, 2019, at which meeting _____ members were present and voted upon the same as indicated in said Minutes; that said meeting was held in accordance with the Open Meetings Act of the State of Michigan.

Dusty Farmer, Township Clerk

Memo



To: Oshtemo Charter Township Board
From: Julie Johnston, AICP
Planning Director
Date: February 20, 2019
Mtg Date: February 26, 2019
Subject: Conditional Rezoning Ordinance Amendment – 2nd Reading

OBJECTIVE

Consideration of second reading and final approval of an amendment to *Section 53.510: Reversion of Zoning* of the Conditional Rezoning regulations of the Township Zoning Ordinance.

BACKGROUND

The Township received an inquiry on a property (3000 South 11th Street) that was conditionally rezoned in 2016 from the R-2: Residence District to the R-3: Residence District. The conditional rezoning was specifically to allow office uses to develop on a property. The inquiry was to utilize the property as a single-family home, as originally zoned. In reviewing the conditional rezoning application and *Section 53: Conditional Rezoning* of the Zoning Ordinance, it became clear that the conditional rezoning no longer met the requirements of Section 53.500, which states:

*“Unless another time period is specified in the Ordinance rezoning the subject land, the approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within **12 months after the rezoning took effect** and thereafter proceed diligently to completion. This time limitation may upon written request be extended by the Township Board if (1) it is demonstrated to the Township Board's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion and (2) the Township Board finds that there has not been a change in circumstances that would render the current zoning with Statement of Conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy.”*

The conditional rezoning for 3000 South 11th Street was never established and an extension was not requested within the allowable 12-month period. Township staff was going to initiate a reversion to the original R-2 District, but noted the following language in Section 53.510:

“If approved development and/or use of the rezoned land does not occur within the time frame specified under Subsection 53.500 above, then the land shall revert to its former zoning classification as set forth

in MCL 125.3405. The reversion process shall be initiated by the Township Board requesting that the Planning Commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applied to all other rezoning requests.”

According to this Section, Township staff would first have to request the reversion process be initiated at a Township Board meeting. Then, if approved, the Planning Commission would have to hold a public hearing and the Township Board would have to hold two readings, similar to a rezoning request, ultimately requiring four meetings to remove the conditional rezoning.

The ordinance seems redundant and over-regulatory as Section 53.510 clearly states that if the use is not established within **12 months of approval or an extension is not granted**, the land reverts to its former zoning classification. To ensure this happens, the Township would just need to record a revocation of conditional rezoning with the County Registrar of Deeds, removing the conditions established on the property.

To ensure due process, the following recommended amendments were developed by the Planning Commission over several months prior to their public hearing:

Section 53.510 – Reversion of zoning.

If **the** approved development and/or use of the rezoned land does not occur within the time frame specified under Subsection 53.500 ~~above~~, then the land shall revert to its former zoning classification as set forth in MCL 125.3405 (**Michigan Zoning Enabling Act, Public Act 110 of 2006**).

The reversion process shall be initiated by **Township staff who will send a notification letter to the property owner indicating a Revocation of Conditional Rezoning will be recorded with the County Registrar of Deeds. The property owner will have 30 days from the date of the notification letter to provide proof to the Planning Director that the development and/or use of land has commenced. If satisfied, the Planning Director will halt the Revocation of Conditional Rezoning. If proof is deemed unsatisfactory, the Planning Director will notify the property owner who may then appeal the Revocation to the Township Board within this same 30-day period. If no appeal is filed, the Revocation of Conditional Rezoning will be recorded and the land shall revert to its former zoning classification.**

~~the Township Board requesting that the Planning Commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applied to all other rezoning requests.~~

Section 53.500 still provides an opportunity for an extension if the property owner wishes to continue with the conditional rezoning but was not able to establish the use within the required 12-month period. So, the applicant has two options – 1. Request an extension of the conditional rezoning from the Township Board before their 12-month period to establish the use as lapsed, or 2. Appeal the Planning Director’s decision to the Township Board if it is determined that the use has not commenced.

The Township Board approved first reading of this amendment on February 12, 2019.

INFORMATION PROVIDED

- Planning Commission recommendation
- Ordinance

OSHTEMO CHARTER TOWNSHIP PLANNING COMMISSION

RECOMMENDATION OF THE OSHTEMO CHARTER TOWNSHIP
PLANNING COMMISSION RESULTING FROM A PUBLIC HEARING
CONDUCTED JANUARY 10, 2019.

The Oshtemo Charter Township Planning Commission hereby recommends APPROVAL of the following amendment to Section 53.000, Conditional Rezoning, Subsection 53.510 Reversion of zoning of the Zoning Ordinance:

53.510 Reversion of zoning.

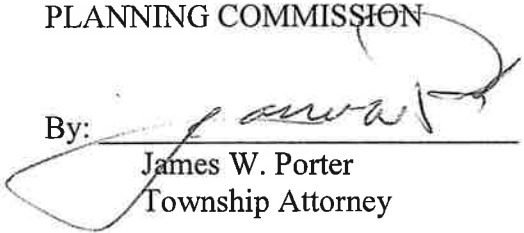
If the approved development and/or use of the rezoned land does not occur within the time frame specified under Subsection 53.500, then the land shall revert to its former zoning classification as set forth in MCL 125.3405 (Michigan Zoning Enabling Act, Public Act 110 of 2006).

The reversion process shall be initiated by Township staff who will send a notification letter to the property owner. The property owner will have 30 days to provide proof that the development and/or use of land has commenced. If satisfied, the Revocation will be halted. If proof is unsatisfactory, the property owner may appeal the Revocation to the Township Board within this same 30-day period. If no appeal is filed, the Revocation of Conditional Rezoning will be recorded and the land shall revert to its former zoning classification.

OSHTEMO CHARTER TOWNSHIP
PLANNING COMMISSION

Date: January 10, 2019

By:


James W. Porter
Township Attorney

Final Action by Oshtemo Charter Township Board

_____ APPROVED _____

_____ DENIED _____

_____ REFERRED BACK TO PLANNING COMMISSION

OSHTEMO CHARTER TOWNSHIP ORDINANCE NO. _____

Adopted: _____, 2019

Effective: _____, 2019

OSHTEMO CHARTER TOWNSHIP ORDINANCE

An Ordinance to amend the Oshtemo Charter Township Zoning Ordinance by the amendment of Section 53.000 Conditional Rezoning, Subsection 53.510 Reversion of zoning. This Ordinance repeals all Ordinances or parts of Ordinances in conflict.

THE CHARTER TOWNSHIP OF OSHTEMO
KALAMAZOO COUNTY, MICHIGAN
ORDAINS:

SECTION I.

AMENDMENT OF ZONING ORDINANCE COMPILED SECTION 53.000 CONDITIONAL REZONING, SUBSECTION 53.510 REVERSION OF ZONING. Subsection 53.510 Reversion of zoning is hereby amended to read as follows:

53.510 Reversion of zoning

If ~~the~~ approved development and/or use of the rezoned land does not occur within the time frame specified under Subsection 53.500 ~~above~~, then the land shall revert to its former zoning classification as set forth in MCL 125.3405 (**Michigan Zoning Enabling Act, Public Act 110 of 2006**).

~~The reversion process shall be initiated by Township staff who will send a notification letter to the property owner indicating a Revocation of Conditional Rezoning will be recorded with the County Registrar of Deeds. The property owner will have 30 days from the date of the notification letter to provide proof to the Planning Director that the development and/or use of land has commenced. If satisfied, the Planning Director will halt the Revocation of Conditional Rezoning. If proof is deemed unsatisfactory, the Planning Director will notify the property owner who may then appeal the Revocation to the Township Board within this same 30-day period. If no appeal is filed, the Revocation of Conditional Rezoning will be recorded and the land shall revert to its former zoning classification.~~

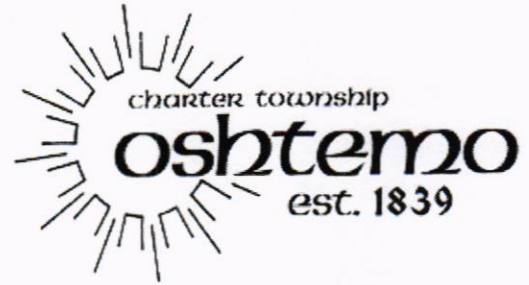
~~the Township Board requesting that the Planning Commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applied to all other rezoning requests.~~

SECTION II.

EFFECTIVE DATE AND REPEAL. All Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed. This Ordinance shall take effect upon publication after adoption in accordance with State law.

DUSTY FARMER, CLERK
OSHTEMO CHARTER TOWNSHIP

Memo



To: Oshtemo Charter Township Board
From: James W. Porter *JWP*
Date: February 26, 2019
Subject: New Nuisance Ordinance

OBJECTIVE

To adopt the Nuisance Ordinance to preserve the peace, welfare, order, health, and safety of persons and property within the Township and prescribe a penalty for its provisions.

BACKGROUND

In the past, the Township had an Anti-Noise and Nuisance Ordinance with very little emphasis on general nuisances. When we rewrote the Anti-Noise Ordinance, it was recommended that we create a separate Nuisance Ordinance to better clarify what constitutes a general nuisance.

INFORMATION PROVIDED

I have attached a copy of the proposed Nuisance Ordinance, which was patterned, in part, after the MTA Ordinance, as well as other Ordinances.

STATEMENT OF WHAT YOU ARE ASKING BOARD TO APPROVE

Accept the Nuisance for final reading and adoption.

CHARTER TOWNSHIP OF OSHTEMO ORDINANCE NO. ____
NUISANCE ORDINANCE

Adopted: _____, 2019

Effective: _____, 2019

An Ordinance is to preserve the peace, welfare, order, health, and safety of persons and property within Oshtemo Charter Township; to prescribe a penalty for the violation of the provisions thereof; and to repeal existing Ordinances, or parts of Ordinances in conflict herewith.

THE CHARTER TOWNSHIP OF OSHTEMO
KALAMAZOO COUNTY, MICHIGAN,
ORDAINS:

SECTION I. NAME.

This Ordinance shall be known and cited as the "Oshtemo Charter Township Nuisance Ordinance."

SECTION II. PURPOSE.

The purpose of this Ordinance is to preserve the peace, welfare, order, health and safety of persons and property within Oshtemo Charter Township by the prevention or elimination of certain environmental causes of nuisance, which exist, or may in the future exist, in the Township.

SECTION III. DEFINITIONS.

- A. The term "persons" or "person" shall be read to refer to: any natural person; corporations, partnerships, or associations; and corporate officers and officials existing under, or authorized to exist under, the laws of the State of Michigan, any other state, or any foreign country.
- B. The term "nuisance" shall be read to refer to any act, acts, or omission to act on the part of any person which create or permit the existence of a situation which annoys, injures, or endangers the peace, welfare, order, health and/or safety of the public in their persons or property. The term "nuisance" shall be read to include, but not be limited to:

1. Conditions which render persons insecure in life or in the use and enjoyment of their property (i.e. effects and emanations from noise, glare, lights, vibration, dust, smoke, odor, gas, steam, fly-ash, soot, acids, chemicals, fumes, cinders, worms, insects, rodents, flies, or decaying matter), whether such effects and emanations are natural, or result from human and/or mechanical alteration or manipulation of materials; also including unsafe site conditions such as open, unbarricaded excavation and abandoned swimming pools.
 2. Residues or leaching from deposits of matter which seep into water on the surface or in the ground thereby making it unfit or unpalatable for human consumption, or for use by domestic animals;
 3. Any condition which is indecent, obnoxious, or offensive to the senses.
- C. The term "abate" or "abatement" shall be read to refer to: the demolition, removal, repair, maintenance, construction, reconstruction, replacement and/or reconditioning of structures, appliances, appurtenances or equipment; the removal, transportation, disposal and treatment of refuse, manure, or other substance capable of causing obnoxious odors, attracting, or breeding, flies; and the application of chemicals, insecticides, other substances, or use of mechanical means to control, eradicate, and eliminate the nuisance condition(s).

SECTION IV. ABATEMENT OF NUISANCE PENALTIES.

It is the duty of the person who creates, causes, allows, suffers, or permits the existence of a nuisance to abate the same, in compliance with the provisions below:

- A. A notice to abate the nuisance. Whenever a nuisance condition described above shall exist on a private premises within the Township, the Ordinance Enforcement Officer shall give notice in writing, in person, by posting or by first class mail addressed to the owner or occupant of record of the property where the nuisance exists or to the person(s) otherwise responsible for the nuisance condition. The notice shall specify the location and nature of the public nuisance, and shall indicate that such owner, occupant, or person otherwise responsible is required to abate or otherwise remove the nuisance condition within 14 days of the mailing of the notice. The Notice shall further state that if the nuisance condition is not abated or otherwise removed, the Township Ordinance Enforcement Officer shall charge the owner or occupant as specified herein. If the actual owner or occupant of the premises is unknown, or cannot be located through reasonable means,

notice may be given by posting a copy upon a conspicuous part of the property where the nuisance is located, or by mailing a copy by first class mail to the owner or party of interest at the address show in the Township tax records at least 14 days before further action by the Township will occur.

- B. Violation of any of the provisions of this Ordinance or failure to comply with any of its requirements shall constitute a municipal civil infraction.
- C. Upon determination of responsibility, the person, corporation, firm or other entity shall pay a fine according to the following schedule:

	<u>Minimum Fine</u>
First Offense	\$ 75.00
Second Offense within three years of first offense	\$ 150.00
Third Offense within three-year period	\$ 325.00
Fourth and each subsequent offense within three-year period are each	\$ 500.00

Each day during which a violation continues shall be deemed a separate offense. The imposition, and Township collection, of a fine shall not exempt an offender from compliance with the provisions of this Ordinance.

SECTION V. ENFORCEMENT.

The Township Ordinance Enforcement Officer is hereby authorized to enforce this Ordinance in accordance with the terms herein. Nothing contained within the construction of this Ordinance shall be construed as preventing the Township Board, a public official, or private citizen from taking such lawful action as is necessary to restrain, or prevent, any violation of this Ordinance.

The Township may seek abatement of a nuisance, and such other relief as may be obtained by civil proceedings in court, in addition to the fines listed under Section IV (C) of this Ordinance. If a determination is made by a court having jurisdiction over this matter, the court may impose fines as provided for by law in addition to the fines imposed by the Township in accordance with the schedule listed under Section IV of this Ordinance.

SECTION VI. VALIDITY.

Should any section, clause, or provision of this Ordinance be declared by the courts to be invalid, the same shall not affect the validity of this Ordinance as a whole or any part thereof other than the part or portion thereof so declared to be invalid.

SECTION VII. REPEAL.

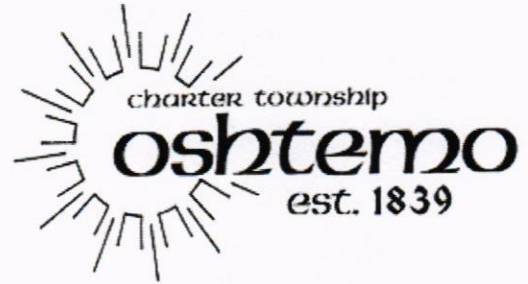
All Ordinances or parts of Ordinances in conflict with any provisions of this Ordinance are hereby repealed.

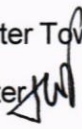
SECTION VIII. EFFECTIVE DATE.

This Ordinance shall take effect upon publication. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

DUSTY FARMER, CLERK
OSHTEMO CHARTER TOWNSHIP

Memo



To: Oshtemo Charter Township Board
From: James W. Porter 
Date: February 26, 2019
Subject: Proposed Prohibition of Marihuana Establishments Ordinance

OBJECTIVE

To accept for first reading a proposed Ordinance prohibiting marihuana establishments in the Township.

BACKGROUND

As you are aware with Initiated Law 1 of 2018, recreational marihuana was approved by the Michigan voters. It authorized a number of facilities to be located in townships unless they opted out. Currently, the State is working on regulations that would oversee these operations, but until those regulations are enacted, it is impossible for the Legal Department to provide you with an Ordinance to regulate these facilities. Therefore, I am recommending that we temporarily prohibit them until such time as the State enacts its regulations, and the Board can move forward in a fully-informed manner.

INFORMATION PROVIDED

I have attached hereto a copy of the proposed Ordinance prohibiting marihuana establishments, pursuant to Initiated Law 1 of 2018. I have also attached a copy of a proposed Press Release which would explain to the public that this is basically a temporary measure until such time as the State enacts regulations, and the Township can move forward with a general and zoning ordinance to address these types of operations in the community.

STATEMENT OF WHAT YOU ARE ASKING BOARD TO APPROVE

To accept the proposed Ordinance for first reading and set the Ordinance for second reading.

**PROPOSED PRESS RELEASE REGARDING THE
ADOPTION OF THE ORDINANCE PROHIBITING
RECREATIONAL MARIHUANA ESTABLISHMENTS**

Oshtemo Charter Township recognizes that 59% of the Oshtemo Township voters, in the 2018 General Election, supported Initiated Law 1 of 2018 and voted in favor of recreational marihuana and permitting recreational marihuana establishments. The State of Michigan will not enact regulatory controls to permit recreational marihuana establishments for six to nine months. Because of this, the Township cannot yet draft an ordinance to effectively address the oversight or location of recreational marihuana establishments in our community. Therefore, the Township Board has elected to prohibit recreational marihuana establishments in the Township until such time as the State enacts regulations governing these operations. This will allow the Township time to review the best means of preparing an appropriate ordinance or ordinances to oversee and locate these facilities within the community.

The action by the Township Board in no way impacts an individual's right to use or possess marihuana in compliance with Initiated Law 1 of 2018.

CHARTER TOWNSHIP OF OSHTEMO ORDINANCE NO. ____

Adopted: _____, 2019

Effective: _____, 2019

An Ordinance to provide a title for the Ordinance; to define words; to prohibit marihuana establishments within the boundaries of Oshtemo Charter Township pursuant to Initiated Law 1 of 2018, MCL 333.27951 *et seq.*, as may be amended; to provide penalties for violation of this Ordinance; to provide severability; to repeal all Ordinance or parts of Ordinances in conflict therewith; and to provide an effective date.

THE CHARTER TOWNSHIP OF OSHTEMO
KALAMAZOO COUNTY, MICHIGAN,
ORDAINS:

SECTION I. TITLE.

This Ordinance shall be known and cited as the “Oshtemo Charter Township Prohibition of Marihuana Establishments Ordinance.”

SECTION II. DEFINITIONS.

Words used herein shall have the definitions as provided for in Initiated Law 1 of 2018, MCL 333.27951 *et seq.*, as may be amended.

SECTION III. NO MARIHUANA ESTABLISHMENTS.

Oshtemo Charter Township hereby prohibits all marihuana establishments within the boundaries of the Township pursuant to Initiated Law 1 of 2018, MCL 333.27951 *et seq.*, as may be amended.

SECTION IV. VIOLATIONS AND PENALTIES.

1. Any person who disobeys, neglects or refuses to comply with any provision of this Ordinance or who causes, allows or consents to any of the same shall be deemed to be responsible for the violation of this Ordinance. A violation of this Ordinance is deemed to be a nuisance *per se*.

2. A violation of this Ordinance is a municipal civil infraction, for which the fines shall not be less than \$100 nor more than \$500, in the discretion of the Court. The foregoing sanctions shall be in addition to the rights of the Township to proceed at law or equity with other appropriate and proper remedies. Additionally, the violator shall pay costs which may include all expenses, direct and indirect, which the Township incurs in connection with the municipal civil infraction.

3. Each day during which any violation continues shall be deemed a separate offense.

4. In addition, the Township may seek injunctive relief against persons alleged to be in violation of this Ordinance, and such other relief as may be provided by law.

5. This Ordinance shall be administered and enforced by the Ordinance Enforcement Officer of the Township or by such other person(s) as designated by the Township Board from time to time.

SECTION V. SEVERABILITY.

The provisions of this Ordinance are hereby declared to be severable. If any clause, sentence, word, section or provision is hereafter declared void or unenforceable for any reason by a court of competent jurisdiction, it shall not affect the remainder of such Ordinance which shall continue in full force and effect.

SECTION VI. REPEAL.

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SECTION VII. EFFECTIVE DATE.

This Ordinance shall take effect _____, 2019.

DUSTY FARMER, CLERK
OSHTEMO CHARTER TOWNSHIP