

HOWELL TOWNSHIP BOARD

REGULAR MEETING

3525 Byron Road

Howell, MI 48855

November 4, 2024

6:30 pm

1. Call to Order
2. Roll Call: () Mike Coddington () Matthew Counts
 () Sue Daus () Jeff Smith
 () Jonathan Hohenstein () Harold Melton
 () Bob Wilson
3. Pledge of Allegiance
4. Call to the Board
5. Approval of the Minutes:
A. Regular Board Meeting October 7, 2024
6. Call to the Public
7. Unfinished Business:
A. Trustee Wilson’s Grievance with Ordinance Enforcement and Zoning Administrator
B. Sound System for Board Room
C. Oakland Tactical v. Howell Township – Supreme Court Brief in Opposition
D. Howell-Mason v. Howell Township – Howell-Mason’s Appeal of Lower Court Decision
8. New Business:
A. 2025 Meeting Dates
B. Sewer Connection Fee
C. Water Connection Fee
D. Zoning Ordinance Section 14.19 Home Occupation – Requested by Shane Fagan
E. Ordinance 284 - Amendment
F. Fowlerville Community Schools Resolution – Informational Correspondence
G. Resolution of Appreciation for Benjamin Costello
H. Township Ethics Policy
I. Human Resource Committee - Recommendations
9. Call to the Public
10. Reports:
A. Supervisor B. Treasurer C. Clerk D. Zoning
E. Assessing F. Fire Authority G. MHOG H. Planning Commission
I. ZBA J. WWTP K. HAPRA L. Property Committee
M. Park & Recreation Committee N. Shiawassee River Committee
11. Closed Session – Burkhart Ridge v. Howell Township
12. Disbursements: Regular and Check Register
13. Adjournment

DRAFT

**HOWELL TOWNSHIP REGULAR BOARD
MEETING MINUTES**
3525 Byron Road Howell, MI 48855
October 7, 2024
6:30 P.M.

MEMBERS PRESENT:

Mike Coddington Supervisor
Sue Daus Clerk
Jonathan Hohenstein Treasurer
Matthew Counts Trustee

Harold Melton Trustee
Bob Wilson Trustee

MEMBERS ABSENT:

Jeff Smith Trustee

Also in Attendance:

9 people were in attendance.

Supervisor Coddington called the meeting to order at 6:30 p.m. The roll was called. Supervisor Coddington requested members rise for the Pledge of Allegiance.

CALL TO THE BOARD:

None

APPROVAL OF THE AGENDA:

September 9, 2024

Motion by Melton, **Second** by Counts, **“To approve the agenda as presented.”** Motion carried.

APPROVAL OF BOARD MEETING MINUTES:

September 09, 2024

REGULAR BOARD MEETING MINUTES

Motion by Hohenstein, **Second** by Melton, **“Move to accept the minutes from September 9th as presented.”**

Motion carried, 1 dissent.

CALL TO THE PUBLIC:

Tim Boal, 66 Santa Rosa Drive- Addressed integrity and prior statements made by Trustee Bob Wilson.

Curt Hamilton, 1367 Crestwood- Spoke on recent court ruling regarding the Wellhead Protection Zone and ordinance enforcement options.

UNFINISHED BUSINESS:

- A. Trustee Wilson’s grievances with Ordinance Enforcement and Zoning Administrator: Trustee Wilson provided his list of names regarding the complaints against Zoning Administrator Hohenstein. It was requested that he provide phone numbers and addresses for the members on the list as originally requested.

- B. Letter to the Board from Deputy Assessor/Deputy Zoning Administrator Makushik- Trustee Wilson refused to apologize to Deputy Assessor/Deputy Zoning Administrator Makushik for the statements that Mr. Wilson made about her. Discussion followed.
- C. Court Opinion and Order, Howell-Mason LLC V. Howell Township: Treasurer Hohenstein reported on the two court cases regarding Howell-Mason LLC lawsuits. Ruling on the first case was in favor of Howell Township, second case is still pending.

NEW BUSINESS

- A. 2024-2025 Budget Update: Deputy Supervisor Kilpela reported on budget, payroll processing, Board of Review. Spoke on allocation of American Rescue Plan Act (ARPA) funds. **Motion** by Wilson, **Second** by Melton, **“To accept Brent’s idea.”** More detail was requested. **“To allocate the remaining unallocated ARPA funds to the completed Sewer projects. Additionally, I move to have the Sewer/Water Fund transfer \$411,637 which is the total amount of the ARPA allocated funds, to the general fund for the benefit of the entire township.”** Motion carried.
- B. Purchase Agreement 8.08-Acres on Bowen Rd.- Treasurer Hohenstein presented the offer to purchase 8.08-acres on Bowen Rd for \$52,000 along with the special assessments being paid off at closing in the amount of \$69,922. **Motion** by Hohenstein, **Second** by Melton, **“To approve Resolution 10.24.542 as presented.”** Roll call: Melton-yes, Coddington-yes, Daus-yes, Wilson- not present in the room during roll call vote, Counts-yes, Hohenstein-yes. Motion carried 5-0.
- C. Ordinance Enforcement- Zoning Administrator Hohenstein discussed options on how to enforce the Township’s Zoning Ordinances. Discussion followed. Trustee Counts would like the Township to check with other municipalities on how they enforce ordinances. It was the consensus of the Board to require a written complaint, but complainants may remain anonymous.

CALL TO THE PUBLIC:

Shane Fagan, 30 Santa Rosa Drive- Spoke on ordinances, changes he would like to see.

REPORTS:

- A. SUPERVISOR:
No report
- B. TREASURER:
Treasurer Hohenstein reported on collected Summer 2024 taxes thus far, investment of Township funds into higher interest rate CDs. Discussed education opportunity for tax collection class for the Deputy Treasurer. **Motion** by Hohenstein, **Second** by Counts, **“To approve the MTA Treasurer’s Guide to Tax Collection Class for the Deputy Treasurer for \$164.50.”** Motion carried.
- C. CLERK:
Clerk Daus reported that absentee ballots have been mailed out.
- D. ZONING:
See Zoning Administrator Hohenstein’s reports

- D. Assessors Report:
See Assessor Kilpela's reports
- E. FIRE AUTHORITY:
Supervisor Coddington reported on the Fire Authority
- E. MHOG:
Trustee Counts reported on MHOG
- F. PLANNING COMMISSION:
See draft minutes
- G. ZONING BOARD OF APPEALS (ZBA):
See draft minutes
- H. WWTP:
See Report
- I. HAPRA:
See the HAPRA meeting packet
- J. PROPERTY COMMITTEE:
No report
- K. PARK & RECREATION COMMITTEE:
Treasurer Hohenstein reported that the Eagle Scout finished the benches for the Township gazebo.
- L. Shiawassee River Committee:
No report

DISBURSEMENTS: REGULAR PAYMENTS AND CHECK REGISTER:

Motion by Hohenstein, **Second** by Melton, **"To accept the disbursements as presented and any normal and customary payments for the month."** Motion carried.

ADJOURNMENT: **Motion** by Counts, **Second** by Hohenstein, **"To adjourn."** Motion carried. The meeting was adjourned at 7:37 pm.

Sue Daus, Howell Township Clerk

Mike Coddington, Howell Township Supervisor

Marnie Hebert, Recording Secretary

No. 24-178

IN THE
Supreme Court of the United States

OAKLAND TACTICAL SUPPLY, LLC, *et al.*,

Petitioners,

v.

HOWELL TOWNSHIP, MICHIGAN,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

**HOWELL TOWNSHIP'S BRIEF
IN OPPOSITION TO PETITION
FOR A WRIT OF CERTIORARI**

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October 21, 2024

332408



COUNSEL PRESS

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QUESTION PRESENTED

Whether the Second Amendment presumptively protects against restrictions burdening the right to train with firearms commonly possessed for lawful purposes?

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INTRODUCTION

Respondent Howell Township is a rural community in Michigan that has a Euclidean form of zoning dividing the community into 12 different land use districts. Although four land use districts allow commercial shooting ranges in Howell Township and firearm training is freely allowed as an individual activity throughout Howell Township, it is impermissible for there to be a commercial shooting range in certain areas of Howell Township.

Petitioners consist of several individuals that live throughout Michigan and a business that leases land in Howell Township. Petitioners have a desire and preference to commercially train at a shooting range that would facilitate shooting up to 1,000 yards and want to do so at their convenient location in Howell Township—which is not located in one of the four zoning districts that allows commercial shooting ranges. The one-count complaint in this case alleges that the Second Amendment has been violated by depriving Petitioners of their preference under the land use restrictions in Howell Township’s Zoning Ordinance.

The claims were dismissed at the pleading stage prior to this Court issuing its decision in *New York State Rifle & Pistol Association, Incorporation v. Bruen*, 142 S. Ct. 2111 (2022), with the trial court concluding that the allegations do not invoke the protections of the Second Amendment. A remand resulted in the application of *Bruen* and another dismissal for the reason the proposed course of conduct was not covered by the plain text of the Second Amendment. The decision of the trial court was affirmed on appeal with the Sixth Circuit agreeing that

the proposed course of conduct was not covered by the plain text of the Second Amendment.

Petitioners seek review in this case as to “[w]hether the Second Amendment presumptively protects against restrictions burdening the right to train with firearms commonly possessed for lawful purposes.” Pet. i. The immediate problem is the Sixth Circuit already answered this question in the affirmative by recognizing that some training with firearms was protected by the Second Amendment and narrowly holding that commercial training at a preferred location in Howell Township or at extremely long distances was not protected by the Second Amendment. The Sixth Circuit clarified that the conduct could not be characterized as just a “right to train with firearms” because the Zoning Ordinance does not infringe that activity—Petitioners and others in Howell Township are able to train with firearms under the Zoning Ordinance. Petitioners claim the decision of the Sixth Circuit created a circuit split by referencing pre-*Bruen* decisions from the Third and Seventh Circuits. The circuits, however, all agree that some training with firearms is protected via implication, and consideration of additional holdings from the Ninth Circuit reveals support for the position taken by the Sixth Circuit in this case that training at a preferred location or at extremely long distances is not protected by the Second Amendment. Petitioners additionally contend that the analysis below somehow conflicts with *Bruen* and *Heller*. Review is not warranted on these grounds, however, because the Sixth Circuit appropriately applied Second Amendment jurisprudence. Strictly applying the *Bruen* framework, the Sixth Circuit defined Petitioners’ proposed course of conduct and provided a textual analysis consistent with

Heller in determining that the plain text of the Second Amendment did not protect the conduct at issue. The appropriate review by the Sixth Circuit forecloses the need for review by this Court.

To the extent this Court nevertheless desired to address issues of the protection of ancillary rights under the Second Amendment, this case would prove to be a poor vehicle to do so. This is because the case is the first of its kind and percolation in the lower courts would aid this Court's review. In addition, even if this Court granted review, it would be unable to fully delve into the question presented because the factual predicate necessary to address ancillary rights is non-existent. Petitioners do not allege that the training facility and length they prefer to train at is closely related to any core rights protected by the text of the Second Amendment. There are other undeveloped portions of the record for purposes of this Court's consideration, including standing and the second prong of *Bruen*.

Howell Township respectfully requests this Court to deny the petition for certiorari.

STATEMENT OF THE CASE

I. Factual Background.

Respondent Howell Township is a rural community of approximately 7,000 people situated in Livingston County, Michigan. Howell Township is a zoned community, and the Howell Township Zoning Ordinance was adopted consistent with the Michigan Zoning Enabling Act, Mich. Comp. Laws §§ 125.3101 – 125.3702 (2006), and its

predecessor. Michigan law provides that when zoning regulations are adopted, including amendments thereto, the qualified electors are able to seek a referendum of the regulations. MCL 125.3402. The qualified electors of Howell Township did not seek a referendum related to any of the restrictions at issue in this case—which is indicative of the lack of issue the community has with the Zoning Ordinance. Michigan law additionally prohibits a total ban of a land use “in the presence of a demonstrated need for that land use within either that local unit of government or the surrounding area within the state, unless a location within the local unit of government does not exist where the use may be appropriately located or the use is unlawful.” MCL 125.3207. No claim that a total ban on firearm training has been made by Petitioners—including those living in Howell Township—which cuts against the arguments made through this case that the Township has adopted an outright ban through its zoning regulations.

Petitioners are five individuals—Scott Fresh, Jason Raines, Matthew Remenar, Ronald Penrod and Edward Dimitroff (collectively, the “Individual Petitioners”)—and one business—Oakland Tactical Supply, LLC (“Oakland Tactical”) (collectively, “Petitioners”). App.31a-37a. Only two of the Individual Petitioners live in Howell Township, and Oakland Tactical does not own, but rather, leases land in Howell Township that is in the AG-Residential District. App.31a-37a.

Prior to filing suit, Petitioners desired to use the leased land to operate a commercially run, outdoor, open-air, 1,000-yard shooting range, but recognized that such a range was not permitted under the Zoning

Ordinance sometime after leasing the property. Mike Paige, the managing member for Oakland Tactical, proposed to Howell Township a textual amendment of the Zoning Ordinance that would allow shooting ranges on any property in the AG-Residential District without discretion of Howell Township’s planning commission and board. App.45a. Howell Township denied this request, understanding that such a textual amendment would allow shooting ranges throughout the largest residential zoning district in Howell Township without proper review. App.45a-46a. No other actions—*e.g.*, requesting conditional rezoning of the parcel, seeking an interpretation of the Zoning Ordinance text, etc.—were taken prior to filing this lawsuit.

At the time this lawsuit was filed, Howell Township allowed for commercial shooting ranges—both indoor and outdoor—in three zoning districts: the Highway Services Commercial Zoning District, the Regional Service Commercial Zoning District, and the Heavy Commercial Zoning District. Howell Township amended the Zoning Ordinance in good faith during the pendency of the lawsuit to clarify any ambiguity that Petitioners claimed shooting ranges were not allowed in Howell Township.¹ It is undisputed the Zoning Ordinance as amended consistent with the Township’s Master Plan allows shooting ranges—both indoor and outdoor—in four land use districts: the Regional Service Commercial

1. The Sixth Circuit recognized the original Zoning Ordinance was “ambiguous” but that the amendments thereto foreclosed whatever ambiguity existed. App.621a-622a. The amendment of a zoning ordinance to clarify ambiguity is routine in litigation under Michigan zoning law. *Lockwood v. City of Southfield*, 93 Mich. App. 206, 212 (1979).

District, the Highway Service Commercial District, the Industrial Flex Zone District, and the Industrial District. It is additionally undisputed Howell Township does not regulate the individual activities of target shooting, training, or hunting. It is further undisputed Howell Township also allows in any district for there to be accessory uses and accessory structures that are customarily incidental to principal uses—*i.e.*, individuals discharging firearms in Howell Township on property. This means the Individual Petitioners are able to and presently do engage in target shooting practice and training in the Township without any conflict with the Zoning Ordinance. Notwithstanding, Petitioners filed suit seeking to enjoin the Zoning Ordinance so that an outdoor, open-air, 1,000-yard, commercial shooting range could be constructed and used, and requested damages for the missed opportunity at operating such a commercial range during the time Oakland Tactical had leased the land. App.51a-52a.

II. Procedural Background.

On November 2, 2018, Petitioners filed suit in the United States District Court for the Eastern District of Michigan against Howell Township alleging a single count under the Second Amendment. ECF No. 1. Petitioners amended their complaint twice but maintained a one-count complaint under the Second Amendment. ECF No. 44; App.30a-53a.

On June 19, 2020, Howell Township moved to dismiss Petitioners' operative complaint under Federal Rule of Civil Procedure 12(c) arguing Petitioners lack standing and failed to state a claim for a violation of the Second Amendment. ECF No. 61. The District Court granted

Howell Township’s motion reasoning that Howell Township did not violate any Second Amendment rights and that the Zoning Ordinance on its face allows shooting ranges in other districts. ECF No. 4; App.19a-27a. Petitioners moved to reconsider and thereafter appealed.

On June 23, 2022, this Court issued its decision in *New York State Rifle & Pistol Association, Incorporation v. Bruen*, 142 S. Ct. 2111 (2022). Petitioners’ appeal was pending, so the Sixth Circuit remanded the case to the District Court to consider the plausibility of Petitioners’ Second Amendment claim under the *Bruen* framework. ECF No. 43-1; App.1a-7a. In the process, the Sixth Circuit noted that Petitioners had alleged several proposed courses of conduct, and “most recently framed its proposed course of conduct as the right to train on ‘outdoor, long-distance shooting ranges.’” App.6a.

On February 17, 2023, the District Court again dismissed Petitioners’ complaint—strictly applying *Bruen*—determining the proposed course of conduct was best described as “the construction and use of an outdoor, open-air 1,000-yard shooting range” and opining that “conduct is clearly not covered by the plain text of the Second Amendment.” ECF No. 117; App.644a-645a. The District Court rejected another new framing of the proposed course of conduct by Petitioners explaining the “proposed course of conduct could not be simply ‘training with firearms’ because the zoning ordinance does not prohibit ‘training with firearms.’” App.644a. Petitioners appealed again.

On May 31, 2024, the Sixth Circuit affirmed the decision of the District Court with all three judges writing opinions:

Judge White. Judge White delivered the opinion of the Sixth Circuit and agreed with Petitioners “that at least some training is protected, not as a matter of plain text, but because it is a necessary ancillary to the right defined in *Heller*.” App.609a. However, Judge White explained the inquiry under *Bruen* did not stop there because *Bruen* requires attention and precision when defining the proposed course of conduct—courts are required to “look to the intersection of what the law at issue proscribes and what the Petitioners seek to do.” App.618a. The proposed course of conduct of Petitioners was defined by Judge White as either “(1) engaging in commercial firearms training in a particular part of the Township; [or] (2) engaging in long-distance firearms training within the Township.” App.619a. Neither course of conduct was protected by the plain text of the Second Amendment because Petitioners failed to make any “convincing argument that the right [to engage in firearm training] extends to training in a particular location or at the extremely long distances Oakland Tactical seeks to provide. Nor have they established that the Zoning Ordinance infringes on the rights the Second Amendment Protects (i.e., a right necessary for self-defense).” App.620a.

Judge Cole (Concurring). Judge Cole agreed with the decision of Judge White but penned a separate concurrence to explain his position that the Sixth Circuit should not have expounded “on whether ancillary rights exist as a necessary

implication to the Second Amendment.” App.625a-626.

Judge Kethledge (Dissenting). Judge Kethledge recognized that this was a “hard case in which the majority” addressed the issues “thoughtfully and evenhandedly.” App.628a. Judge Kethledge dissented because he disagreed Petitioners’ “claims fall outside the coverage of the Second Amendment’s text on the grounds that” the training is specified to a particular location. App.633a. Judge Kethledge reasoned the allegation the Individual Petitioners sought to engage in firearm training was enough to survive the first step of *Bruen* and the Township should be required to demonstrate that its regulations were “consistent with the Nation’s historical traditions of firearm regulation.” App.636a. Judge Kethledge’s dissent, however, failed to acknowledge that the individuals can train throughout Howell Township.

On June 14, 2024, Petitioners requested en banc review, but the petition was denied on July 8, 2024. ECF No. 43-1. A petition for a writ of certiorari was filed with this Court on August 16, 2024.

REASONS FOR DENYING THE PETITION

I. This Court’s Review of the Question Presented is Unnecessary.

Petitioners have requested this Court to review “[w]hether the Second Amendment presumptively protects

against restrictions burdening the right to train with firearms commonly possessed for lawful purposes.” Pet. i. Posed in a broad sense focused on the right to train, this Court’s review is entirely unnecessary for the following two reasons.

A. The Sixth Circuit Already Answered the Question Presented in the Affirmative.

Two of the three judges below explicitly recognized the answer to the question presented was yes, and the other judge concurred only to state the question need not be answered:

Judge White: “We agree with the latter argument—that at least some training is protected, not as a matter of plain text, but because it is a necessary ancillary to the right defined in *Heller*.” App.609a.

Judge Cole (Concurring): “Because it is unnecessary for us to take a position on ancillary rights to the Second Amendment, we would be best served by waiting to see how the law develops and if the Supreme Court addresses the issue directly.” App.627a.

Judge Kethledge (Dissenting): “Training with firearms is obviously necessary to using them effectively; restrictions on training can therefore hinder the right to bear arms; and so a right to training with firearms might well be expressly (and not just impliedly) covered by the Second Amendment’s text. Either way, as

a matter of precedent and common sense, the Second Amendment's text cover a right to train with firearms." App.630a.

Judge White even went so far as to review and organize positions of individual Justices on the Supreme Court understanding this Court would likely accept some training with firearms is protected to make clear the Sixth Circuit was not overlooking the recognition that some training with firearms is constitutionally protected. App.609a-610a. But the actual holding by Judge White was limited insofar as it held that training at a preferred location in Howell Township or at extremely long distances was not protected by the Second Amendment.

The point is that given the Sixth Circuit's recognition that some training with firearms is protected in dismissing the case, review by this Court would be entirely academic. App.644a; App.621a-622a. The answer to the question would be particularly advisory on this point because Petitioners have no such injury—Howell Township and Petitioners agree that individual persons discharging firearms for target shooting and hunting on private or public property is not limited by the Zoning Ordinance.

B. Petitioners Do Not Allege They Are Unable to Engage in Conduct Covered by the Question Presented.

Petitioners focus on firearm training in the question presented to this Court—but Petitioners do not claim that they are unable to train in Howell Township; rather, Petitioners claim they are unable to commercially train at a preferred location that is convenient for them. This is

paramount to understand at this stage because it further reveals the question being presented to this Court is academic in nature. Perhaps more importantly, however, it reveals the lack of support that exists for review based on the authority cited.

The authority relied on by Petitioners is Justice Thomas' concurrence in *Luis v. United States*, 578 U.S. 5 (2016) and Justice Alito's dissent in *New York State Rifle & Pistol Association v. City of New York*, 590 U.S. 336 (2020). Both cases are cited for the proposition that ancillary rights—*i.e.*, those rights associated with the core right under the Second Amendment—are categorically protected by the plain text of the Second Amendment. App.1. The problem with reliance on these opinions is that the cases dealt with regulations that precluded the exercise of core constitutional rights through severe restrictions on closely related activities to the exercise of core rights under the Second Amendment. A critical reading of the cases—not merely cherry-picking specific quotes—is necessary to understand this point completely.

The issue in *Luis* was whether a federal statute providing that a Court may freeze all assets of a criminal defendant before trial was violative of the Sixth Amendment. *Id.* at 8-10. A plurality of justices endorsed a balancing test to determine whether the seizure of assets violated the Sixth Amendment and held the government's interest in preserving a criminal defendant's assets for eventual forfeiture does not trump her constitutional right to spend legitimately acquired assets on an attorney. *Id.* at 23. Justice Thomas wrote separately disavowing the balancing test but agreed that a total freeze of assets violates the Sixth Amendment. *Id.* at 25. Petitioners

claim that Justice Thomas here recognized categorical protections for ancillary rights. What Petitioners fail to mention is Justice Thomas' dicta concerning incidental burdens related to the core right under the Sixth Amendment:

Numerous laws make it more difficult for defendants to retain a lawyer. But that fact alone does not create a Sixth Amendment problem. For instance, criminal defendants must still pay taxes even though "these financial levies may deprive them of resources that could be used to hire an attorney." . . . So I lean towards the principal dissent's view that incidental burdens on the right to counsel of choice would not violate the Sixth Amendment. [*Id.* at 34.]

This was an analysis where Justice Thomas was engaging in a test similar to *Bruen* relying on the "Sixth Amendment's text and common-law backdrop." *Id.* at 24. Even the authority that Justice Thomas relies on—*i.e.*, Justice Scalia's dissenting opinion in *Hill v. Colorado*, 530 U.S. 703, 745 (2000)—qualifies the protection of activities related to the exercise of a core right:

There comes a point . . . at which the regulation of action intimately and unavoidably connected with [a right] is a regulation of [the right] itself. [*Id.*]

The allegations in this case do not even border on the point to which Petitioners could allege that it is a regulation of the core right of the Second Amendment

itself—making reliance on Justice Thomas’ concurrence in *Luis* inapposite. In other words, Petitioners are unable to position themselves in the shoes of the plaintiff in *Luis* because they do not allege they are unable to engage in closely related conduct necessary to effectuate the core right under the Second Amendment.

The issue in *City of New York* related to an entire ban on an activity that is concomitant to the core right under the Second Amendment. *Id.* at 337. A regulation completely prohibited individuals from transporting firearms to a shooting range outside of the City, and there were no alternative means to train within the City. *Id.* Although the case became moot due to a change in the regulations, Justice Alito dissented, encouraging the Court to review an issue that could repeat itself in the future. *Id.* at 340. Justice Alito discussed that a complete ban on training is problematic under the Second Amendment because there is a corresponding right to engage in training “necessary to use it responsibly.” *Id.* at 364-365. It was that right—*i.e.*, the right to engage in any firearm training at all—that was implicated in the case. The key language is in this sentence by Justice Alito: “Once it is recognized that the right at issue is a concomitant of the same right recognized in *Heller*, it became incumbent on the City to justify the restrictions its rule imposes[.]” *Id.* at 365. The right “at issue” involved transporting the firearm to a training facility because training generally was completely restricted within the City—so it was concomitant to the right recognized in *Heller*. Conversely, the right “at issue” in this case cannot be training generally because there is not an infringement of firearm training closely related to the core rights of the Second Amendment by the challenged regulation in Howell Township. Yet, in

its question presented, Petitioners allege the right “at issue” is training with firearms generally but that is not restricted by Howell Township.

The point here is that review is unnecessary because Petitioners do not allege they are unable to engage in the conduct in the question presented, making this case markedly different from *Luis* or *City of New York*.

* * *

This Court should not waste its resources to engage in a purely academic debate as to whether training is protected by the Second Amendment provided the Sixth Circuit answered the question in the affirmative and Petitioners do not allege they are unable to engage in the conduct in the question presented.

II. The Claimed Circuit Split is Illusory.

Petitioners compare two pre-*Bruen* cases from the Third and Seventh Circuits to the Sixth Circuit post-*Bruen* case to claim a split amongst the circuits for whether training with firearms is protected under the Second Amendment. *Ezell v. City of Chicago (Ezell I)*, 651 F.3d 684 (7th Cir. 2011); *Ezell v. City of Chicago (Ezell II)*, 846 F.3d 888 (7th Cir. 2017); *Drummond v. Robinson Township*, 9 F.4th 217 (3d Cir. 2021). Petitioners oversell the distinction between these pre-*Bruen* cases and this case post-*Bruen*. Similar to the Third and Seventh Circuits, the Sixth Circuit recognized that some training with firearms was protected under the Second Amendment—but the Sixth Circuit held that a specific type of training at their preferred location was not covered. In discussing

the purported circuit split, Petitioners also fail to address the holdings of the Ninth Circuit that further support the decision of the Sixth Circuit. *See Jackson v. City & County of San Francisco*, 746 F.3d 953 (2014); *Teixeira v. County of Alameda*, 873 F.3d 670 (2017). Based on a proper reading of these decisions, there is no conflict among the circuits and review is not warranted.

A. The Circuits Agree Some Training with Firearms is Protected.

The problem with the argument made by Petitioners is that they overstate the holdings in *Ezell I*, *Ezell II*, and *Drummond*, while misstating the holding of the Sixth Circuit. The holdings all agree: some training with firearms is protected. App.609a (“at least some training is protected”).

In *Ezell I*, the Seventh Circuit took on the narrow textual question as to whether “range training is categorically unprotected by the Second Amendment” and determined that it was not. *Id.* at 705-706. The analysis of the Seventh Circuit did not require significant nuance into the type of training at issue because the City of Chicago had enacted a “firing-range ban” and individual training within the City was not practical. *Id.* at 708. So, all that was before the Seventh Circuit in *Ezell I* was the question as to whether any range training was protected because no training otherwise was allowed under the City of Chicago’s zoning scheme. That circuit court held that range training was not categorically unprotected. Taken to its logical conclusion, this means the Seventh Circuit held that only some training is protected by the Second Amendment.

In *Ezell II*, seven years after *Ezell I* was decided, the Seventh Circuit considered a slightly modified zoning scheme enacted by the City of Chicago. Instead of a complete ban, an amended zoning ordinance provided that “about 2.2% of the city’s total acreage even theoretically” could site a shooting range. *Id.* at 894. Still several years pre-*Bruen*, the Seventh Circuit was not required to look at the proposed course of conduct, so it relied on its previous holding that not all range training was categorically unprotected to advance to a scrutiny analysis in the face of essentially a ban on training. *Id.* at 893 (“Range training is not categorically outside of the Second Amendment”). The zoning scheme—that is obviously different than the one enacted by Howell Township—was struck down again under scrutiny analysis. *Id.* at 892-896. The Seventh Circuit’s holding remained limited insofar as it only recognized that some training was protected by the plain text of the Second Amendment.

Collectively, the Seventh Circuit in *Ezell I* and *Ezell II* narrowly held that range training is not categorically unprotected—*i.e.*, some range training is protected. This was an easy decision to arrive at based on the City of Chicago’s essential ban on range training and the City’s landscape not being conducive to individuals training on their own properties, nearby ranges, and public lands like can be done in Howell Township. The Seventh Circuit did not hold that range training of any form or fashion was categorically protected.

The Third Circuit was no different. In *Drummond*, there were two zoning restrictions at issue: (1) the “rim-fire rifle rule” that limited the weapons that could be used at a shooting club; and (2) the “non-profit ownership rule”

that required sportsman clubs to be nonprofit in nature. *Id.* at 224. Still pre-*Bruen*, the Third Circuit engaged in an analysis where it first determined if the restrictions implicated the Second Amendment or if they fell within an exception to the Second Amendment’s guarantee. *Id.* at 226. If the restriction did implicate the Second Amendment, only then would the Third Circuit engage in a scrutiny analysis. *Id.* at 229.

In the context of the rim-fire rifle rule, the Third Circuit considered whether it was excepted by the protections of the Second Amendment by analyzing whether the “ratifiers approved regulations barring training with common weapons *in areas where firearms practice was otherwise permitted.*” *Id.* at 227 (emphasis supplied). In the context of the non-profit ownership rule, the Third Circuit considered whether “our ancestors accepted prohibitions on the commercial operation of gun ranges *in areas where they were otherwise allowed.*” *Id.* (emphasis supplied). In response to both inquiries, the Third Circuit determined “neither type of regulation rests on deep historical foundations” and therefore held that the Second Amendment afforded protection to the conduct, and that was the extent of the holding that is relevant to this case. *Id.* at 225-226. In fact, the Third Circuit explicitly stated it was only analyzing the two zoning restrictions at issue: “we survey only the historical terrain necessary to settle whether the specific rules Drummond challenges fall within ‘exceptions to the Second Amendment.’” *Id.* at 226. The Third Circuit even recognized that not all rules “restricting firearm purchase and practice to zoning districts compatible with those uses trigger heightened scrutiny” and there is not a “standalone right to . . . range time” under the Second Amendment. *Id.* at 228.

The Sixth Circuit below recognized the holdings in *Ezell I*, *Ezell II*, and *Drummond* by acknowledging that “some training with firearms” is protected by the Second Amendment. App.609a. In other words, the Sixth Circuit and the Third and Seventh Circuits agree some training is protected.

B. The Holdings of the Circuits Do Not Conflict.

Petitioners erroneously contend that the decision of the Sixth Circuit is “irreconcilable” with the holdings of *Ezell I*, *Ezell II*, and *Drummond*. Pet. 14. As stated, the Seventh Circuit in *Ezell I* and *Ezell II* held that range training was not categorically unprotected, and *Drummond* held that regulations on the types of guns that can be discharged or the corporate status of a company where training is otherwise allowed implicated the Second Amendment. Applying these holdings to the decision below leads to no conflict, and considering decisions from the Ninth Circuit supports the line the Sixth Circuit drew in this case.

The Sixth Circuit preliminarily recognized that some training with firearms was protected as a matter of implication. App.609a. *Ezell I*, *Ezell II*, and *Drummond* do not conflict therewith. The Sixth Circuit could not stop there in its analysis, however; *Bruen* demands courts not look to a broad concept encompassed within the Second Amendment—*e.g.*, the right to self-defense—but rather the specific proposed course of conduct at issue—*e.g.*, carrying handguns publicly for self-defense. *Bruen*, 142 S. Ct. at 2134. Strictly applying the *Bruen* framework, the Sixth Circuit determined the specific training activities at issue were “engaging in commercial firearm training in a particular part of the Township” and “engaging in long-distance firearms training within the Township.” *Ezell I*,

Ezell II, and *Drummond* did not deal with either of these types of training, so the claim of a conflict necessarily fails.

Moreover, *Ezell I*, *Ezell II*, and *Drummond* dealt with effective bans. Here, the Sixth Circuit determined no effective ban existed because individual training was permitted, and commercial range training in a particular location could occur in four districts with no limit and the length of the range. The issue Petitioners have with the Zoning Ordinance is that they are not able to train at their preferred distance in their preferred location of Howell Township.

The claimed conflict here seems to essentially be that it is not possible to recognize ancillary rights while not extending protection to all claimed ancillary rights. The authority from the Ninth Circuit left out of Petitioners' argument reveals that is not true.

The Ninth Circuit addressed ancillary rights alleged to be concomitant to the core right under the Second Amendment in *Jackson v. City & County of San Francisco*, 746 F.3d 953 (2014), in evaluating a regulation that purportedly eliminated a person's ability to obtain ammunition. The Ninth Circuit recognized there could be a problem if the regulation prohibited the purchase of firearms thereby making "it impossible to use firearms for their core purpose." *Id.* at 967. However, the Ninth Circuit ultimately held that the regulations "do not destroy the Second Amendment right" and survived the then-applicable scrutiny analysis. *Id.* at 970.

Three years later, the Ninth Circuit considered another challenge couched in the context of ancillary

rights in *Teixeira v. County of Alameda*, 873 F.3d 670 (2017). The regulation there prohibited firearm sales near residentially zoned districts, schools and day-care centers, other firearm retailers, and liquor stores. *Id.* at 673. The plaintiff alleged that the zoning restrictions violated the Second Amendment by impairing the sales of firearms and restricting firearm training. *Id.* at 676-681. The Ninth Circuit—while distinguishing both *Ezell I* and *Ezell II*—explained that “gun buyers have no right to have a gun store in a particular location, at least as long as their access is not meaningfully constrained” and the zoning regulations did “not burden conduct falling within the” Second Amendment. *Id.* at 689-690.

Jackson and *Teixeria* explain that there is nothing inconsistent about the recognition of ancillary rights and recognizing that not all ancillary right cases invoke the protections of the Second Amendment—which is exactly what the Sixth Circuit held in this case. In fact, the idea that there is not a Second Amendment right to have a shooting range in a preferred location is one that the circuits are in agreement on when one considers the opinion below and *Teixeira*.

* * *

Petitioners suggest this Court grant review because decisions out of the Third and Seventh Circuits conflict with the decision of the Sixth Circuit. Pet. 14. Pre-*Bruen* holdings that training is not categorically unprotected, *Ezell*, 651 F.3d at 705-706, and specific aspects of training implicate the Second Amendment, *Drummond*, 9 F.4th at 225-226, do not conflict with the decision below that strictly applied *Bruen*, and a full review of circuit holdings

reveal the Sixth Circuit correctly addressed ancillary rights.

III. The Sixth Circuit Appropriately Applied Second Amendment Jurisprudence.

Petitioners argue as an additional basis for review that the Sixth Circuit’s decision conflicts with both *Bruen* and *Heller*. But the Sixth Circuit appropriately analyzed the case under Second Amendment jurisprudence by defining the proposed course of conduct consistent with *Bruen* and engaging in a textual analysis faithful to *Heller*.

A. The Sixth Circuit’s Analysis of the Proposed Course of Conduct was Consistent with *Bruen*.

This Court announced in *Bruen* the framework to analyze claims under the Second Amendment:

When the Second Amendment’s plain text covers an individual’s conduct, the Constitution presumptively protects that conduct. The government must then justify its regulation by demonstrating that it is consistent with the Nation’s historical tradition of firearm regulation. [*Id.* at 24.]

The threshold inquiry as to whether conduct is covered by the Second Amendment requires a court to determine “whether the plain text of the Second Amendment protects [the] proposed course of conduct.” *Id.* at 32.

This Court in *Bruen* immediately defined the proposed course of conduct as “carrying handguns publicly for self-

defense.” *Id.* Even pre-*Bruen*, this Court consistently identified and defined the conduct at issue in Second Amendment challenges before determining whether the conduct is protected by the Second Amendment. For example, in *United States v. Miller*, the Court characterized the course of conduct as “the possession or use of a ‘shotgun having a barrel of less than eighteen inches in length[.]’” 307 U.S. 174, 178 (1939). Similarly, in *Heller*, the Court characterized the conduct at issue as the possession of a handgun in one’s own home for self-defense. 554 U.S. at 628. In *McDonald v. City of Chicago*, this Court described the conduct at issue as “Chicago residents who would like to keep handguns in their homes for self-defense[.]” 561 U.S. 742, 750 (2010) (plurality opinion). *Bruen* similarly looked at the conduct of responsible law-abiding persons wanting to carry arms in public for self-defense and what was being regulated. In summary: look to what a plaintiff seeks to do and what is being regulated to define the conduct claimed to be protected by the Second Amendment.

The Sixth Circuit adhered to the analysis laid out in *Miller*, *Heller*, *McDonald*, and, most importantly, *Bruen*, when it analyzed the proposed course of conduct on a specific level, as it explicitly explained:

The *Bruen* Court’s approach to defining the proposed course of conduct bears this out. In *Bruen*, the challenged law required gun-license applicants who sought to carry firearms in public to show “proper cause” for the issuance of an unrestricted license to carry a concealed handgun. 597 U.S. at 12-13. The *Bruen* plaintiffs wished to carry their handguns in public

for self-defense and applied for unrestricted licenses, which were denied for failure to show proper cause. *Id.* at 15-16. Rather than defining the proposed conduct at the high level of generality urged by Plaintiffs—*i.e.*, “carrying handguns”—the Court’s definition incorporated the purpose and location of the plaintiffs’ desired action. The Court defined the “proposed course of conduct” as “carrying handguns publicly for self-defense,” which it found to be covered by the plain text of the Second Amendment. *Id.* at 32.

The Sixth Circuit’s intentional application of *Bruen* has been emphasized here because Petitioners repeatedly morphed their proposed course of conduct from that in the operative complaint—*i.e.*, the construction and use of an outdoor, open-air, 1,000-yard commercial shooting range—to a general course of conduct—*i.e.*, the general right to train with firearms.

The Sixth Circuit ultimately resolved the difficulty in defining the proposed course of conduct by remaining consistent with *Bruen* and looking at “the intersection of what the law at issue proscribes and what the plaintiff seeks to do.” App.618a. The Sixth Circuit analyzed the allegations and looked at whatever activity was being infringed:

Plaintiffs’ allegations and arguments make clear both that they wish to engage in conduct more specific than “firearms training” and that the Zoning Ordinance does not infringe their right to possess and carry arms in case

of confrontation. First, as Plaintiffs stress, the Zoning Ordinance does not in fact ban all training—it permits “shooting on private property as an accessory use throughout the Township.” One of Plaintiffs’ repeated objections is that the Zoning Ordinance places restrictions on commercial shooting ranges, while allowing “unorganized” non-commercial shooting on private property. It is uncontested that Oakland Tactical could invite the individual Plaintiffs to train on its property as guests. Thus, at a minimum, Plaintiffs’ proposed conduct necessarily involves commercial training.

And, examining Plaintiffs’ allegations and argument, their proposed conduct is narrower than commercial training alone. The core of Plaintiffs’ challenge is that Oakland Tactical seeks to construct a commercial range within Howell Township offering target shooting at up to 1,000 yards . . . Plaintiffs allege that the Zoning Ordinance prevents them from engaging in their desired training in two ways: first, it prohibits any commercial facility on Oakland Tactical’s leased parcel of land; and second, the zoning districts permitting commercial recreational facilities do not contain sufficient “undeveloped land available . . . for a safe, long-distance rifle range.”

Plaintiffs have therefore offered two proposed courses of conduct: (1) engaging in commercial firearms training in a particular part of the

Township; and (2) engaging in long-distance firearms training within the Township. [App.618a-620a.]

The Sixth Circuit explicitly rejected the framing of the conduct that Petitioners put forward to this Court—*i.e.*, that the conduct is training with firearms generally—for the reason it belies what is even being regulated: “the Zoning Ordinance does not in fact ban all training—it permits ‘shooting on private property as an accessory use throughout the Township . . . [and] the Zoning Ordinance [] does not prohibit’” shooting ranges in Howell Township. App.618a-619a.

To be sure, Petitioners’ view that any activity that touches training is protected by the Second Amendment is absurd and was rightly rejected. Accepting that view, courts could only look to whether there is any conduct that involves training generally, and, if so, then the government must justify a regulation that is challenged.

This Court has considered such an absurd view in the context of the First Amendment in response to claims that any purported burden on speech warrants protection. *Arcara v. Cloud Books, Inc.*, 478 U.S. 697 (1986). In *Arcara*, a business owner claimed that a generally applicable New York law that resulted in the closure of a bookstore warranted First Amendment protection. *Id.* at 698. The bookstore argued that the closure of the store burdened the right to free speech. *Id.* at 705. In response, this Court explained that claim—*i.e.*, an incidental burden prompts constitutional protections—proved to be too much:

Nonetheless, respondents argue that the effect of the statutory closure remedy impermissibly burdens its First Amendment protected bookselling activities. The severity of this burden is dubious at best, and is mitigated by the fact that respondents remain free to sell the same materials at another location. In any event, this argument proves too much, since every civil and criminal remedy imposes some conceivable burden on First Amendment protected activities. [*Id.* at 705-706.]

The idea that any conduct may warrant constitutional protections because of a purported incidental burden on the exercise of a constitutional right is simply a step too far. The appropriate inquiry under the Second Amendment looks to whether conduct is being infringed.

Judge White carefully considered exactly what activity was being infringed in concluding that it was either engaging in commercial training at a particular place in the Township or at extremely long distances. App.619a-620a. Judge White even took a more conservative approach than necessary by analyzing the extremely long-distance component separate from training in a particular location, instead of analyzing them as the singular proposed conduct as alleged in the operative complaint. In dissent, Judge Kethledge failed to consider the intersection of the conduct and the challenged regulation by defining the conduct as “firearms training” without considering whether the Zoning Ordinance prohibits the same. The error is obvious: without an infringement there is no cause of action under the Second Amendment. *See, e.g., Teixeira*, 873 F.3d at 689-690. The Zoning Ordinance

allows for firearm training in four zoning districts, and the ability to engage in firearm training as an accessory use throughout Howell Township is undisputed.

The Sixth Circuit’s definition of the proposed course of conduct in this case was the result of a strict application of *Bruen* as demanded by this Court’s decisions, and *Bruen* then required a textual analysis consistent with *Heller*.

B. The Sixth Circuit’s Textual Analysis was Consistent with *Heller*.

This Court explained in *Heller* it is the operative clause of the Second Amendment that controls: “The Second Amendment is naturally divided into two parts: its prefatory clause and its operative clause. The former does not limit the latter grammatically, but rather announces a purpose.” 554 U.S. at 577. The prefatory clause is limited to resolving ambiguity: “prefatory clause [is used] to resolve an ambiguity in the operative cause . . . [b]ut apart from that clarifying function, a prefatory clause does not limit or expand the scope of the operative clause.” *Id.* at 577-578.

This Court interpreted the meaning of “keep” “bear” and “arms” and defined the right as one to “have weapons” and “wear, bear, or carry . . . upon the person or in the clothing or in a pocket, for the purpose . . . of being armed and ready for offensive or defensive action in a case of conflict with another person.” *Id.* at 582-584. *Heller* confirmed its conclusion of this textual analysis by looking at the textual meanings from the following specific history: “English history dating from the late 1600s, along with American colonial views leading up to the founding,” “state constitutions that preceded and immediately

followed adoption of the Second Amendment,” and “how the Second Amendment was interpreted from immediately after its ratification through the end of the 19th century.” *Bruen*, 142 S. Ct. at 2128 (quoting *Heller*, 554 U.S. at 600-01, 605, 662, n. 28). *Heller*’s textual approach resulted in the Second Amendment protecting the core right for “law-abiding, responsible citizens to use arms in defense of hearth and home.” *Heller*, 544 U.S. at 635; *McDonald v. City of Chicago*, 561 U.S. 742, 786 (2010) (Stevens, J., dissenting) (plurality opinion) (quoting *Heller*, 554 U.S. at 635). The right, however, was not unlimited: “we do not read the Second Amendment to protect the right of citizens to carry arms for any sort of confrontation, just as we do not read the First Amendment to protect the right of citizens to speak for any purpose.” *Id.* at 595.

The Sixth Circuit applied the analysis to both of Petitioners’ proposed courses of conduct: “(1) engaging in commercial firearms training in a particular part of the Township; and (2) engaging in long-distance firearms training within the Township.” App.619a. The Sixth Circuit recognized that the analysis began “one step removed from the plain text” because they were alleging “implied ancillary rights.” App.618a.

In analyzing the conduct of commercial firearms training in Howell Township, the Sixth Circuit had no issue in concluding that “the Second Amendment protects the right to engage in commercial firearms training as necessary to protect the right to effectively bear arms in case of confrontation[.]” App.620a.² However, the

2. In recognizing that commercial training—as opposed to just training—was protected by the Second Amendment, the

Sixth Circuit similarly had no issue in concluding the Zoning Ordinance “does not interfere with the Second Amendment right to keep and bear arms in case of confrontation” because “the ordinance permits shooting ranges—commercial training—within the Township.” App.620a. The issue was squarely—as defined in the proposed course of conduct—whether the Second Amendment protected commercial training in a particular location of Howell Township.

Petitioners utterly fail to explain the errors of the Sixth Circuit’s textual analysis focused on the proposed courses of conduct and instead revert back to the characterization of the proposed course of conduct. Pet. 22. As clearly explained by the Sixth Circuit, the proposed course of conduct cannot simply be training with firearms because the Zoning Ordinance does not infringe on that right in Howell Township—the Zoning Ordinance restricts where Petitioners can locate a shooting range.

In analyzing the correct proposed courses of conduct, the Sixth Circuit focused on whether the conduct was “necessary” to effectuate the core rights recognized in *Heller* under the Second Amendment. *Luis*, 578 U.S. at 26 (providing protections to “closely related acts necessary” to the exercise of core constitutional rights) (Thomas, J., concurring); *City of New York*, 590 U.S. at 365 (providing the right to take a gun to the range is protected to the extent it is “necessary to use it responsibly”) (Alito, J., dissenting).

Sixth Circuit noted that commercial training had to be protected because, if not, there would be individuals who otherwise would not be able to engage in training. App.620a.

As to the first proposed course of conduct, the Sixth Circuit held that it was not necessary for Petitioners to train in a specific location of Howell Township to effectuate the core right under the Second Amendment. App.620a. Judge Kethledge disagreed because in his view the “circumstance of place” is not relevant to determine whether the plain text of the Second Amendment covers conduct. App.633a. The point missed here is that the specific location Petitioners claim a Second Amendment right to is necessarily part of the claim because the Zoning Ordinance does not ban commercial training in Howell Township. It is Petitioners—not Judge White—that brought the “circumstance of place” into this case when they alleged a right to train at a preferred location in Howell Township. Judge White correctly concluded the Second Amendment does not protect the right to have a commercial shooting range anywhere in Howell Township. The reason is because shooting at the specific location leased by Petitioners is not necessary to effectuate the core right in the Second Amendment as Petitioners are able to train in other areas of Howell Township. Most notably, Judge Kethledge failed to address or explain why training at a particular location was necessary to effectuate the core rights under the Second Amendment.

Turning to the second proposed course of conduct and whether the Second Amendment protects long-distance firearms training in Howell Township, the entire panel agreed—including Judge Kethledge dissenting—that conduct was not protected: “We cannot conclude . . . the plain text of the Second amendment covers the second formulation of Plaintiffs’ proposed course of conduct—the right to commercially available sites to train to achieve proficiency in long-range shooting at distances up to 1,000

yards,” App.623a, “I have no quarrel with the majority’s point about ‘extremely long distances,’” App.632a. The reason is because the core right of the Second Amendment announced in *Heller*—that arms be kept or borne for self-defense or in cases of confrontation—does not require training at distances greater than a half-mile. In other words, the panel agreed training at extremely long distances as Petitioners suggest is not necessary to effectuate the core purpose of the Second Amendment—at least not on the evidence that was provided.

Petitioners claim the Sixth Circuit erred because “firearms in common use for lawful purposes have an effective range that extends to 1,000 yards.” Pet. 26. That argument misses the mark entirely by ignoring the core purpose of the Second Amendment explained in *Heller*: the Second Amendment’s purpose is to secure the right for “law-abiding, responsible citizens to use arms in defense of hearth and home.” *Id.* at 635. The entire panel of the Sixth Circuit agreed on this point, and Petitioners have not identified any other court that has recognized a right to engage in training at such great distances, why training at such long distances is concomitant to the core purpose of the Second Amendment, or why training at a shorter distance is in any way infringed by the Zoning Ordinance.

* * *

Petitioners seek to engage in outdoor, open-air, commercial firearm training in Howell Township at distances beyond 1,000-yards but are unable to on the land Oakland Tactical leases because of the Zoning Ordinance. The Sixth Circuit strictly applied *Bruen* by looking at what Petitioners seek to do and what the Zoning Ordinance

restricts. The intersection of the activity Petitioners seek to engage in and what the Zoning Ordinance restricts led the Sixth Circuit to conclude Petitioners' proposed course of conduct was either commercially training at a preferred location in Howell Township or training at long distances of 1,000 yards in Howell Township. A textual analysis consistent with *Heller* determined that neither proposed course of conduct was necessary to protect the core purpose of the Second Amendment to possess and carry weapons in cases of confrontation. No further review by this Court is necessary.

IV. Even if this Court Desires to Address the Issue of Ancillary Rights, this Case is a Poor Vehicle to Use.

Petitioners attempt to convince this Court that this case is an ideal vehicle for this Court to review the issue of protection of ancillary rights under the Second Amendment. Pet. 18. The opposite is true.

Preliminarily, and although overlooked by Petitioners, this Court must understand that granting review in this case would be to grant review of the first federal case post-*Bruen* to deal with intersection of purported ancillary rights under the Second Amendment and zoning regulations. This Court recognizes under these circumstances that it is appropriate for this Court to decline review and allow percolation in the lower courts. *Box v. Planned Parenthood of Indiana & Kentucky, Inc.*, 139 S. Ct. 1780, 1784 (2019) (Thomas, J., concurring) (“[B]ecause further percolation may assist in our review of the issue of first impression, I join the Court in declining to take up the issue now”); *Calvert v. Texas*, 141 S. Ct. 1605, 1606 (2021) (Sotomayor, J., concurring) (“The legal

question [] is complex and would benefit from further percolation in lower courts prior to this Court granting review”). Review in the context of Petitioners’ framing of the question presented—whether training with firearms is protected by the Second Amendment—seems particularly problematic as an answer by this Court on that issue would reverberate down to other ancillary rights claimed under the plain text of the Second Amendment post-*Bruen* and deprive this Court from having the benefit of independent review as to whether a variety of claimed ancillary rights are protected under the plain text of the Second Amendment. Simply put, review at this point in time would be entirely premature even if this Court feels compelled to address the issue of ancillary rights under the Second Amendment.

The next issue with granting review in this case relates to Petitioners’ failing to explain the entire factual predicate which this case relies. Pled pre-*Bruen*, Petitioners’ proposed course of conduct has shapeshifted at every turn in an attempt to state a claim. In the Sixth Circuit’s initial review—where it remanded the case back to the District Court because of this Court’s decision in *Bruen*—it noted as much. App.6a. By the time the case made it back to the Sixth Circuit, Petitioners—without ever amending their complaint—had gone even further by no longer asserting the right to train outdoor or at long ranges and instead alleged just a general right to train. The problem is that Petitioners have failed to explain, let alone allege in their operative complaint, how the Individual Petitioners are unable to engage in training and the discharge of firearms in Howell Township.

A review of the actual allegations by Petitioners in the operative complaint as opposed to the arguments made

by the lawyers will help this Court avoid being surprised in the event it grants review that the allegations do not match the arguments. *See* Shapiro, *Certiorari Practice: The Supreme Court's Shrinking Docket*, 24 LITIGATION 25 (1998) (“By the same token, if the facts are snarled in confusion the Court will deny review. Such a case presents the danger of an unpleasant and costly surprise: once the true facts have been unraveled, it may appear that the ‘issue presented’ is not really presented at all”). The allegations make clear that it is only convenience desired by Petitioners: all Petitioners allege is that other shooting ranges are not adequate or convenient and they would prefer a shooting range in Howell Township. App.31a-37a. None of the Petitioners allege that it is not possible to train with firearms. What this means is that the review of the question presented should not be granted because the allegations do not match the arguments. Perhaps a different case will make its way through the Court’s post-*Bruen* where the general right to train is infringed—but this is not that case.

The final issue with granting review for this case relates to all of the unresolved issues in this case. Not only are there issues of standing that were raised by Howell Township but not relied on below in dismissing the case, but Judge Kethledge raised his own concerns about Oakland Tactical’s standing. App.635a-636a. In addition, to the extent this case were to ever advance to Howell Township providing historical analogues to support its zoning regulations, dismissal there would be inevitable as regulations on shooting ranges have historical connections. *See, e.g., Ezell I*, 651 F.3d at 705-706 (discussing historical regulations akin to Euclidean zoning schemes); *Drummond*, 9 F4th 217 at 228 (discussing the

relevant historical authorities pointed out in *Ezell I*). Yet, as this Court is well aware, additional issues may arise based on this Court's recent opinion in *United States v. Rahimi*, 144 S. Ct. 1889 (2024), where seven different opinions were issued concerning the application of history and tradition in assessing the constitutionality of a regulation in a particular case.

CONCLUSION AND RELIEF REQUESTED

For the foregoing reasons, this Court should deny the petition for certiorari.

Respectfully submitted,

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October 21, 2024

STATE OF MICHIGAN
IN THE COURT OF APPEALS

HOWELL-MASON, LLC
A Michigan Limited Liability Company,

Court of Appeals No. _____

Appellant,

Hon. Matthew J. McGivney
Case No. 24-350-AA

v.24-350-AA

HOWELL TOWNSHIP,
A Michigan General Law Township,

Appellee

**APPELLANT HOWELL-MASON, LLC'S
APPLICATION FOR LEAVE TO APPEAL
OR PEREMPTORY REVERSAL**

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OPINIONS AND ORDERS APPEALED

1. Denial of Howell-Mason, LLC's Motion to Adjourn Oral Argument to Align Schedule with Companion Case (denied from the bench on August 15, 2024);
2. Opinion and Order on Appeal, issued September 16, 2024.

JURISDICTION

This Court has jurisdiction to hear this case for the following reasons:

1. Howell-Mason, LLC has filed this application for leave to appeal with the Court of Appeals within twenty-one (21) days after the entry of the order appealed from pursuant to MCR §7.205(A)(1).
2. The procedural motion denied from the bench on August 15, 2024, is being appealed outside of the twenty-one (21) day requirement because it did not make procedural or financial sense to appeal said ruling prior to the main opinion being issued by the lower court.

ALLEGATIONS OF ERROR & RELIEF SOUGHT

1. The lower court abused its discretion in denying and rescheduling several procedural motions aimed at allowing the court to simultaneously consider the constitutionality of an ordinance to be applied and the legality of the application of the ordinance should it be found constitutional.
2. The lower court misapprehended and/or grossly misapplied the substantial evidence test in upholding Howell Township's decision.
3. The lower court made several clearly erroneous findings and interpretations of fundamental principles of law.
4. As such, Appellant, Howell-Mason, LLC, respectfully requests that this Court:
 - a. Peremptorily reverse the lower court; or
 - b. Grant leave to fully appeal this matter.

STANDARD OF REVIEW

The Court of Appeals reviews *de novo* a circuit court's decision when sitting as an appellate body "because the interpretation of the pertinent law and its application to the facts at hand present questions of law." *Ansell v. Delta Cty. Planning Comm'n*, 332 Mich. App. 451, 456, 957 N.W.2d 47, 50 (2020); citing *Hughes v Almena Twp*, 284 Mich App 50, 60; 771 NW2d 453 (2009); *Risko v Grand Haven Charter Twp Zoning Bd of Appeals*, 284 Mich App 453, 458-459; 773 NW2d 730 (2009).

In other words, the Court of Appeals reviews the lower court's decision to determine "whether the lower court applied correct legal principles and whether it misapprehended or grossly misapplied the substantial evidence test to the [municipality]'s factual findings." *Hughes v. Almena Twp.*, 284 Mich. App. 50, 60, 771 N.W.2d 453, 460-61 (2009); citing *Boyd v Civil Service Comm*, 220 Mich. App. 226, 234; 559 N.W.2d 342 (1996). "This standard regarding the substantial evidence test is the same as the familiar "clearly erroneous" standard." *Id.* "A finding is clearly erroneous if the reviewing court, on the whole record, is left with the definite and firm conviction that a mistake has been made." *Id.*

A trial court's decision to grant or deny a procedural motion is reviewed for an abuse of discretion. See *Mich Millers Mut Ins Co v. Bronson Plating Co*, 197 Mich App 482, 494, 496 NW2d 373 (1992); *Park Forest v. Smith*, 112 Mich App 421, 429, 316 NW2d 442 (1982); *PT Today, Inc v. Comm'r of Office of Fin & Ins Servs*, 270 Mich App 110, 151, 715 NW2d 398 (2006).

"An abuse of discretion occurs when an unprejudiced person considering the facts upon which the decision was made would say that there was no justification or excuse for the decision." *City of Novi v. Robert Adell Children's Funded Tr.*, 473 Mich. 242, 254, 701 N.W.2d 144, 152 (2005); citing *Gilbert v DaimlerChrysler Corp*, 470 Mich. 749, 761-762; 685 N.W.2d 391 (2004).

“Discretion is abused when the decision results in "an outcome falling outside [the] principled range of outcomes." *People v Babcock*, 469 Mich. 247, 269; 666 N.W.2d 231 (2003), *see also City of Novi v. Robert Adell Children's Funded Tr.*, 473 Mich. 242, 254, 701 N.W.2d 144, 152 (2005).

STATEMENT OF QUESTIONS PRESENTED

1. Whether the lower court abused its discretion in denying Appellant's motion to adjourn oral argument to align with oral arguments on motions for summary disposition in companion litigation where the instant circuit court appeal challenges the legality of the Township Board's decision (i.e. the legality of how the ordinance at issue was applied) and the companion litigation challenges the legality of the ordinance itself. In refusing to coordinate oral arguments the lower court applied the law before ruling on its legality, thus predetermining the outcome of the companion litigation before the court issued a scheduling order therein.
2. Whether the lower court misunderstood and misapplied *Fonda Island & Briggs Joint Water Authority v. Green Oak Township*, which presents nearly an identical set of facts, circumstances, and legal tests that this case.
3. Whether the lower court failed to address the reasonableness of the ordinance at issue in concluding that the ordinance at issue does not violate any constitutional provisions.
4. Whether the lower court improperly conflated the fundamental concepts of equal protection and procedural due process citing only due process cases to make a ruling on equal protection.
5. Whether the lower court grossly misapplied the substantial evidence test by wholly ignoring expert analysis by State of Michigan scientists and engineers along with other experts with peculiar knowledge of complex issues in favor of speculative comments made by lay objectors far beyond the scope of the rules of evidence.

6. Whether the lower court erred in determining that a township ordinance directly contradicting several statutes and regulations fully administered by the State of Michigan was appropriate.

I. FACTUAL BACKGROUND

Appellant, HOWELL-MASON, LLC, is a Michigan Limited Liability Company with a principal place of business in Howell, Livingston County, Michigan. Appellant is in the business of developing and operating gasoline service stations with attached restaurants.

Appellee, HOWELL TOWNSHIP, is a Michigan General Law Township with offices located at 3525 Byon Road, Howell, Livingston County, Michigan 48855.

Appellant owns three contiguous parcels of real property located at and near the corner of Mason Road and Burkart Road in Howell Township.¹ The Subject Property includes two parcels (Tax ID Nos. 4706-33-300-001 and 4706-33-300-108) that are currently zoned Neighborhood Service Commercial (NSC), in which gasoline service stations are permitted as a special land use. The third parcel is currently zoned residential, master planned commercial, and is not at issue in this matter.

All three of Appellant's parcels are master planned for commercial use and sit within the commercial corridor contemplated by the Township's master plan. The immediate vicinity of the Subject Property has been tapped as an area of significant residential and commercial development in the township, with approximately one thousand (1,000) residential homes approved to be built across the street from the commercial corridor in which the Subject Property is located.² Appellant purchased the Subject Property specifically because of the current and future zoning designations, as well as the significant residential and commercial development in the area.

¹ Appx 194

² Appx 196

The Subject Property is located at the far edge of a large wellhead protection area.³ The Michigan Department of Environment, Great Lakes, and Energy (EGLE) approves and regulates wellhead protection areas.

Section 16.11(C)(8) of the Howell Township Zoning Ordinance states: “No gasoline service station shall be permitted within three hundred (300) feet of a wellhead protection area” without any explanation, reasoning, or objective tests for which evidence could be submitted to determine the reasonableness of a proposed service station development on a case-by-case basis.⁴

In or around late 2020, Appellant approached the Township about submitting its application to develop a gasoline service station and drive through restaurant on the Subject Property. The Township advised that Appellant had to apply to the Zoning Board of Appeals (ZBA) for a use variance to avoid a general prohibition of gasoline service stations in or near wellhead protection areas in the Township’s zoning ordinance. Appellant proceeded as directed. Additionally, the Township verbally told Appellant that gasoline service would likely work in that location and to first obtain approval of the Marion, Oceola, Genoa Water Authority (MHOG).

As instructed, Appellant approached MHOG to discuss the viability of the proposed gasoline service station project in or near the wellhead protection area. On February 1, 2021, MHOG issued a letter to Appellant approving the proposed project with conditions.

On March 16, 2021, the Howell Township ZBA then held a hearing and denied Appellant’s use variance application. This occurred despite the fact that the Howell Township Zoning Ordinance prohibits the ZBA from issuing use variances making this hearing and process wholly unnecessary and inappropriate.

³ Appx 198

⁴ Appx 200-201

After its use variance was denied, Appellant then requested that the Township consider amending §16.11 of its zoning ordinance to allow for gasoline service stations within a wellhead protection area with MHOG's approval. The Howell Township Board of Trustees then proceeded to hold two (2) public meetings on March 20, 2023, and May 8, 2023, at which Appellant's proposed zoning ordinance amendment, Appellant's property, and Appellant's SLUP application, while not explicitly on the agenda, were nevertheless discussed and voted on at the meeting. Appellant was not given notice of these meetings or opportunity to be heard.⁵ Upon information and belief, at one of the meetings held secret from Appellant, the executive director of MHOG stated that it would be most beneficial for Appellant's proposed development to be within the wellhead protection area as MHOG could provide an additional level of oversight. The director of MHOG also stated that MHOG had a large 2,000 gallon above-ground diesel storage tank at its facility which poses substantially more risk than a modern underground tank system, and because it is located within close proximity to the current MHOG wellhead. The Howell Township Board ultimately voted to decline Appellant's proposed zoning ordinance amendment, and later voted to send a wellhead protection ordinance drafted by MHOG and adopted by neighboring municipalities to the Planning Commission for consideration with one significant addition – a complete prohibition of gasoline service stations.⁶

Subsequently, Appellant regrouped, applied, and received permits and/or approvals for the project from all necessary parties, sans the Township, including but not limited to (1) the State of Michigan Department of Licensing and Regulatory Affairs (LARA); (2), EGLE; (3) State of Michigan Fire Marshal; and (4) local fire Marshal.

⁵ Audio recordings of those meetings were provided to Appellant by the Township via Freedom of Information Act request.

⁶ Appx 203-216

On or around June 26, 2023, Appellant submitted a special land use permit application (SLUP) and site plan to develop a new gasoline service station and drive-through restaurant on the Subject Property located in in Howell Township, currently zoned Neighborhood Service Commercial (NSC), in which gasoline service stations are permitted as a special land use. The application was supplemented on or around October 17, 2023.⁷

In conjunction with Appellant’s SLUP application and site plan submission, the Township required Appellant to sign an agreement to reimburse the Township for “all expenses at actual cost for professional services related to the application required by the Township for the issuance of any permits, approvals, reviews, and attendance at meetings, by the Township’s Planner, Landscape Architects, Legal Counsel, Engineering and Administrative Staff, over and above the fees listed in the Howell Township Fee Schedule.” However, the Howell Township Zoning Ordinance does not explicitly specify the reimbursement agreement and procedure.

The 2023 SLUP application, as supplemented, included all other permits/approvals received from State, County, and Local authorities, along with expert reports from qualified experts regarding issues including, but not limited to, underground storage tank technology, expert municipal planning considerations, and favorable hydrogeologic conditions of the Subject Property and surrounding area.

For instance, the geology of the Subject Property and surrounding area provides natural protection of groundwater from intrusion of surface water. Based upon data derived directly from the MHOG Wellhead Protection Plan (August 2023), the groundwater is located within a confined aquifer in which the groundwater flow is in a northerly direction, and the current wellhead and potential future wellhead sites are located upgradient generally several thousand feet south of the

⁷ Appx 218-298

Subject Property. The natural flow of groundwater travels away from wellfields and toward the Subject Property. Additionally, the MHOG aquifer is confined by thick clay layer and bedrock layers approximately which act as a protective barrier preventing surface water from commingling with the aquifer.

On November 21, 2023, the Howell Township Planning Commission conducted a public hearing on Appellant's SLUP application. The meeting was a public free-for-all in which the Commission received inappropriate and incorrect legal advice from its planners, fundamentally misunderstood its role, employed no parliamentary procedure or any cognizable procedure whatsoever, and failed to control members of the public throughout the meeting. The large crowd vowed to appear at all future meetings of any nature regarding Appellant's proposed gasoline service station.⁸

At the conclusion of the meeting the Planning Commission took no action on Appellant's site plan choosing instead to table its review indefinitely and voted unanimously to recommend denial of the SLUP based on the prohibitive language in §16.11(C)(8) of its Zoning Ordinance. The Planning Commission acknowledged its own lack of authority to grant the application at the outset of the hearing.

On December 11, 2023, the Howell Township Board of Trustees held a regular meeting at which they voted to deny the SLUP. The Township Board ignored presentations by qualified experts regarding the nature of the local family-owned business by company ownership, the site plan by Boss Engineering, favorable hydrogeological conditions by Mannik & Smith Group, planning issues by PLB Planning Group, and safety of cutting-edge gasoline storage and dispensing technology by Oscar Larson Co. The meeting quickly devolved into anger over the

⁸ A copy of the meeting minutes can be found at Appx 282-284. The transcript of the meeting is at Appx 287-334. A video of the meeting can be found at ROA 654.

price of gas and the tax code. One Board member explicitly stated that his decision was based solely on his personal aversion to having a gas station near his personal residence in flagrant disregard to the evidence.⁹ No members of the public appeared at the December 11, 2023, Board Meeting.

On February 1, 2021, and again on February 23, 2023, MHOG issued letters approving Appellant's proposed gasoline service station with conditions.¹⁰ However, in a complete reversal, on May 19, 2023, MHOG issued a letter addressed to Township retracting its prior approval of Appellant's project. The Township did not disclose the letter to Appellant until August 2, 2023 – nearly ninety (90) days after it was received by the Township.¹¹ Upon information and belief, the Township colluded with MHOG to retract its approval. What's more, the May 19, 2023, MHOG letter, which was hidden from Appellant for nearly ninety (90) days, was erroneous in many respects, including but not limited to being based on a review of a previous draft of the site plan rather than the final plan submitted to and considered by the Township.

Then, on November 15, 2023, MHOG held a public meeting at which it passed a resolution regarding the inappropriateness of Appellant's proposed project.¹² Appellant was not given notice of the MHOG public meeting and was not provided a copy of the resolution by MHOG nor the Township.

Following the Township Board's denial of Appellant's SLUP application, Appellant submitted its application to the Zoning Board of Appeals to appeal the Board decision and to request dimensional and use variances. The Howell Township Zoning Board of Appeals lacks jurisdiction

⁹ A copy of the meeting minutes is at Appx 335-339. The transcript of the meeting is at Appx 341-367, Exhibit K. ROA 780. A video of the meeting can be found at ROA 655.

¹⁰ Appx 370

¹¹ Appx 374

¹² Appx 376

to hear appeals of SLUP decisions,¹³ and lacks jurisdiction to grant use variances.¹⁴ Nevertheless, on December 16, 2023, Appellant submitted a ZBA application with an explanatory letter from its counsel out of an abundance of caution specifically to fulfill the finality requirements as required by *Paragon v. City of Novi*, 452 Mich 568, 550 NW2d 772 (1996).¹⁵ The Township attorney responded with a letter feigning confusion over the application’s purpose.¹⁶ Appellant then responded with an additional letter further explaining its request and position.¹⁷

The Township attorney responded with a letter taking the position that “jurisdiction” and “authority” are separate and distinct terms, and as such the ZBA had “jurisdiction” over the Appellant’s appeal and was thus obligated to hold a hearing. However, despite having “jurisdiction,” the ZBA lacked “authority” to grant any relief.¹⁸ Appellant then responded with a detailed letter objecting to the Township’s position and submitted a revised ZBA application in case the Township required yet another performative hearing with predetermined outcome.¹⁹

On January 31, 2024, the Howell Township Zoning Administrator issued a letter to Appellant confirming Appellant’s position that the ZBA lacked jurisdiction to hear Appellant’s appeal and variance requests and returned the application and filing fee²⁰.

¹³ Howell Twp. Zoning Ord. § 22.06(C) (“The ZBA may not change the zoning district classification of any property, may not change any of the terms of the Ordinance, and may not take any actions that result in the making of legislative changes to this Ordinance. The ZBA may not hear an appeal from a Township decision regarding a special land use or PUD.”)

¹⁴ Howell Twp. Zoning Ord. § 22.06(F) (“Under no circumstances shall the Board of Appeals grant a variance to allow a use not permissible under the terms of this Ordinance in the zoning district in which the variance is to be located.”).

¹⁵ Appellant’s initial ZBA application is at Appx 378-383

¹⁶ Appx 386

¹⁷ Appx 395

¹⁸ Appx 398

¹⁹ Appx 402-451

²⁰ Appx 453

II. PROCEDURAL POSTURE

Following the Township Board's vote to deny Appellant's SPLUP application, Appellant filed two (2) companion actions:

1. The instant appeal from the Township Board to the Circuit Court challenging the legality of the Board's decision and application of §16.aa(C)(8), Case No. 24-350-AA; and
2. An original action challenging the constitutionality of the ordinance applied by the Board, along with several other claims unable to be proffered in the context of the circuit court appeal, Case No. 24-32242-CZ.

Both the court rules controlling appeals to circuit court and litigation in circuit court allow for both distinct actions to be filed and to proceed simultaneously. *See* MCR § 7.122(A)(2) ("This rule does not restrict the right of a party to bring a complaint for relief relating to a determination under a zoning ordinance."); and MCR § 2.605(c) ("The existence of another adequate remedy does not preclude a judgment for declaratory relief in an appropriate case.").

While the two cases stem from the same facts and circumstances, they are two procedurally and legally distinct actions. An appeal to circuit court challenges the legality of the *decision* of the municipal board, whereas this challenges the legality of an *ordinance* on which the decision was based.

An initial status conference was held on July 16, 2024, at which Appellant was prepared to discuss scheduling, and indicated that it would like to schedule oral arguments in the appeal to be argued at the same time as motions for summary disposition in this case. In that scenario, the court would logically be able to first consider the constitutionality of the ordinance governing the decision of the Township Board before engaging in an analysis of the legality of the application of the ordinance in the appeal. However, it became clear that the court did not understand the law and

procedure and considered the two cases to be duplicative. Court staff indicated that should a motion to consolidate be filed it would be denied.

Following the status conference the court issued an order *sua sponte* staying this case “temporarily until August 15, 2024, or until further order of the Court.”²¹ The order effectively granted a preliminary injunction – an extraordinary writ - without motion or hearing in clear violation of MCR § 3.310. Oral argument in the instant appeal was scheduled for August 15, 2024.

Appellant then filed the following motions to be heard on August 15, 2024:

1. Motion for relief from stay in the companion litigation;
2. Motion for summary disposition in the companion litigation; and
3. Motion to adjourn oral argument in the appeal to align oral argument with motion for summary disposition in the companion litigation.

Within an hour of filing the above referenced motions, the court unilaterally rescheduled the motions for relief from stay and motion for summary disposition to a date following oral argument on the appeal.

On August 15, 2024, the motion to adjourn oral argument was denied from the bench. The appeal proceeded to oral argument. While counsel was informed at the status conference that the court had cleared the afternoon for the oral argument, Appellant was informed mid-argument that the court had other matters to attend to and to wrap it up.

Following oral argument, the court held a status conference in which it lifted the stay in the companion case, but did not issue a scheduling order. A scheduling order was later stipulated to by the parties and submitted to the court.

²¹ Appx 16.

On September 17, 2024, counsel received the court’s Opinion and Order on the appeal dated September 16, 2024, via email. The opinion, in short, determined that this was a legally and logically sound outcome:

STATE OF MICHIGAN (EGLE)
Vested with sole regulatory authority of wellhead protection, drinking water quality,
and underground storage tanks.

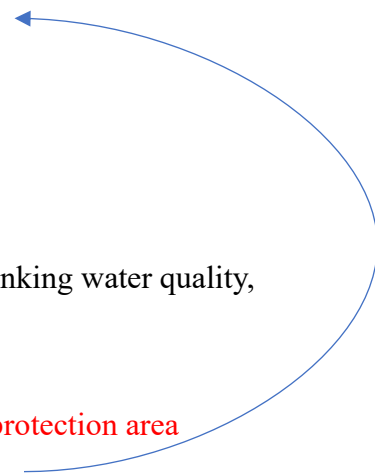
EGLE APPROVED



HOWELL TOWNSHIP
No regulatory authority over wellhead protection, drinking water quality,
or underground storage tanks.

DENIED

**Because the proposed project is in a wellhead protection area
Determined by EGLE**



In the name of “judicial economy,” the court chose to bifurcate two distinct procedural and legal matters arising from a common nucleus of operative fact but chose to *apply* the law at issue before considering the *constitutionality* of the law to be applied. The practical result of this incorrect procedure is that the court has effectively predetermined the outcome of the companion litigation before issuing a scheduling order therein.

III. SUMMARY OF ARGUMENT

To borrow a phrase from the circuit court's opinion, the court would struggle to handle the procedure or analysis of the law more incorrectly.

The lower court abused its discretion in denying Appellant's motion to adjourn oral argument to align with oral arguments on motions for summary disposition in companion litigation. The instant circuit court appeal challenges the legality of the Township Board's decision (i.e. the legality of how the ordinance at issue was applied). The companion litigation challenges the legality of the ordinance itself. In refusing to coordinate oral arguments, the lower court applied the law before ruling on its legality, thus predetermining the outcome of the companion litigation before the court issued a scheduling order therein.

The lower court misunderstood and misapplied of *Fonda Island & Briggs Joint Water Authority v. Green Oak Township*, which presents nearly an identical set of facts, circumstances, and legal tests as this case.

The lower court failed to address the reasonableness of the ordinance at issue likely because the ordinance at issue is so patently unreasonable that any analysis that it was reasonable wouldn't pass the straight face test.

The lower court improperly conflated the fundamental concepts of equal protection and procedural due process citing only due process cases to make a ruling on equal protection.

The lower court grossly misapplied the substantial evidence test by wholly ignoring expert analysis by State of Michigan scientists and engineers along with other experts with peculiar knowledge of complex issues in favor of speculative comments made by lay objectors far beyond the scope of the rules of evidence.

The lower court erred in determining that a township ordinance directly contradicting several statutes and regulations fully administered by the State of Michigan was appropriate.

Peremptory reversal is warranted.

IV. LAW & ARGUMENT

A. THE LOWER COURT ABUSED ITS DISCRETION IN BIFURCATING TWO CASES RESULTING FROM A COMMON NUCLEUS OF OPERATIVE FACT BY APPLYING AN ORDINANCE BEFORE RULING ON THE CONSTITUTIONALITY OF THE ORDINANCE.

1. Standard of review.

A trial court's decision to grant or deny a procedural motion is reviewed for an abuse of discretion. *See Mich Millers Mut Ins Co v. Bronson Plating Co*, 197 Mich App 482, 494, 496 NW2d 373 (1992); *Park Forest v. Smith*, 112 Mich App 421, 429, 316 NW2d 442 (1982); *PT Today, Inc v. Comm'r of Office of Fin & Ins Servs*, 270 Mich App 110, 151, 715 NW2d 398 (226).

“An abuse of discretion occurs when an unprejudiced person considering the facts upon which the decision was made would say that there was no justification or excuse for the decision.”

City of Novi v. Robert Adell Children's Funded Tr., 473 Mich. 242, 254, 701 N.W.2d 144, 152 (2005); citing *Gilbert v DaimlerChrysler Corp*, 470 Mich. 749, 761-762; 685 N.W.2d 391 (2004).

“Discretion is abused when the decision results in "an outcome falling outside [the] principled range of outcomes." *People v Babcock*, 469 Mich. 247, 269; 666 N.W.2d 231 (2003), *see also City of Novi v. Robert Adell Children's Funded Tr.*, 473 Mich. 242, 254, 701 N.W.2d 144, 152 (2005).

2. Abuse of discretion by applying a law before ruling on its constitutionality.

The peculiar procedural posture set forth above is the result of discretionary abuse. The instant appeal and the companion litigation arise from a common nucleus of operative fact but are required by rule to be filed under two separate case codes. First, this appeal challenges the legality of the Township Board's *decision*, including the legality of how the challenged ordinance was applied.

On the other hand, the companion litigation challenges the legality of the *ordinance* itself, along with many other claims incapable of being brought in the context of an appeal. Given the unique procedural requirements Appellant requested that oral argument on this appeal be aligned with oral arguments on motion for summary disposition in the companion litigation so that the court could reasonably analyze the legality of the ordinance before applying it. However, the court chose to do the exact opposite.

In the name of “judicial economy,” the court chose to bifurcate two distinct procedural and legal matters arising from a common nucleus of operative fact but chose to *apply* the law before considering the *constitutionality* of the law to be applied. The practical result of this incorrect procedure is that the court has effectively predetermined the outcome of the companion litigation before issuing a scheduling order therein. Unless the court is poised to issue ruling in the companion litigation that directly contradicts its ruling in this matter, the companion litigation was all but over before the issuance of a scheduling order therein. Thus, the lower court has presented Appellant with two unsavory options: (1) give up and walk away from millions of dollars it has already invested in its project; or (2) incur unnecessary expense in litigating the companion litigation to a conclusion, which the court has all but ensured will be unfavorable to Appellant, and seeking relief on appeal at yet additional expense.

The practical outcome of the lower court’s exercise of discretion is patently incorrect falling far beyond the principled range of outcomes without any justification – let alone a reasonable one. The lower court simply didn’t want to engage with this case and made a political calculation to hand perceived prospective voters their preferred outcome while ignoring all reasonable

procedural and legal analysis to achieve this end.²² There is no other reasonable way to rationalize this conclusion. If “judicial economy” was the true catalyst then all arguments would have been heard at once allowing the court to analyze the issues in good faith, which would allow the court to legitimately decide all issues simultaneously with even result.

While the incorrect procedural ruling of the lower court is sufficient to vacate and remand for a full hearing, the lower court also improperly analyzed every argument proffered by Appellant.

B. THE LOWER COURT ENEGAED IN IMPROPER AND/OR NON-ANALYSIS OF FUNDAMENTAL LEGAL PRINCIPLES AND MISAPPREHENDED OR GROSSLY MISAPPLIED THE SUBSTANTIAL EVIDENCE TEST.

1. Standard of review.

The Court of Appeals reviews *de novo* a circuit court’s decision when sitting as an appellate body "because the interpretation of the pertinent law and its application to the facts at hand present questions of law." *Ansell v. Delta Cty. Planning Comm'n*, 332 Mich. App. 451, 456, 957 N.W.2d 47, 50 (2020); citing *Hughes v Almena Twp*, 284 Mich App 50, 60; 771 NW2d 453 (2009); *Risko v Grand Haven Charter Twp Zoning Bd of Appeals*, 284 Mich App 453, 458-459; 773 NW2d 730 (2009).

In other words, the Court of Appeals reviews the lower court’s decision to determine "whether the lower court applied correct legal principles and whether it misapprehended or grossly misapplied the substantial evidence test to the [municipality]'s factual findings." *Hughes v. Almena Twp.*, 284 Mich. App. 50, 60, 771 N.W.2d 453, 460-61 (2009); citing *Boyd v Civil Service Comm*, 220 Mich. App. 226, 234; 559 N.W.2d 342 (1996). “This standard regarding the substantial evidence test is the same as the familiar "clearly erroneous" standard.” *Id.* “A finding is clearly

²² A cursory review of the record would indicate that nearly all the materials provided by Appellee are wholly irrelevant to this matter or duplications of relevant material. Appellant cited and attached all relevant documents in its initial brief on appeal.

erroneous if the reviewing court, on the whole record, is left with the definite and firm conviction that a mistake has been made.” *Id.*

2. The lower court’s opinion that *Fonda Island & Briggs Joint Water Authority v. Green Oak Township* has “nothing to do with...this case” is undeniably wrong.

Appellant drew the lower court’s attention to the matter of *Fonda Island & Briggs Joint Water Authority v. Green Oak Township*²³ 2005 Mich App LEXIS 5; 2005 WL 17768. as the facts and legal issues substantially track those in this matter. In response, the lower court stated that Appellant would “struggle to be more incorrect” about the applicability of the case and that it has nothing to do with the issues presented here and isn’t persuasive in the least. Let’s dive in.

- i. *Fonda Island* involved the installation of a gasoline service station in Livingston County.
 - This case involves the installation of a gasoline service station in Livingston County.
- iii. *Fonda Island* involved a gasoline service station proposed to be installed under a SLUP.
 - This case involves a gasoline service station proposed to be installed under a SLUP.
- iv. *Fonda Island* involved a gasoline service station proposed to be installed in a State of Michigan Wellhead Protection Area directly across the street within sight distance of an active municipal wellhead.
 - This case involves a gasoline service station to be installed in a State of Michigan Wellhead Protection Area nearly a half mile from a location where a well may or may not be installed at an unknown future date.
- v. *Fonda Island* geology was unfavorable, with the aquifer from which the municipal well drew water being uncontained and unprotected.
 - The aquifer in this case is fully confined and protected by thick layers of clay and stone from comingling with surface water or groundwater at a higher elevation. Furthermore, the aquifer that may or may not be used for a well in the future is located geologically upgradient from Appellant’s property, thus scientifically negating any potential contamination of the aquifer by Appellant.
- v. *Fonda Island* involved State of Michigan and other expert scientific review v. a mob of lay objectors.

²³ *Fonda Island* was argued by lead counsel for Appellant and even argued in the very courtroom the judge in this matter now sits.

- This case involves State of Michigan and other expert scientific review v. a mob of lay objectors.
- vi. *Fonda Island* involved an analysis of the substantial evidence test.
- This case involves an analysis of the substantial evidence test.
- vii. The *Fonda Island* gasoline service station was installed and has been in place for over two decades

The lower court is correct in that *Fonda Island* is a different case with difference parties in a different decade, but that's it. The EGLE guidance, statutes and regulations discussed herein and in the brief submitted to the lower court, along with the facts of this case fit neatly into the unpublished Michigan Court of Appeals opinion in the patten of *Fonda Island & Briggs Lake Joint Water Authority v. Green Oak Township, et al*, 2005 Mich App LEXIS 5; 2005 WL 17768,²⁴ in which the court of appeals allowed for the installation of a gasoline service station directly across the street from the existing Fonda Island & Briggs Joint Water Authority wellhead.

Specifically, in *Fonda Island*, a property owner applied for a SLUP to develop a 7-Eleven gas station across from the Fonda Island & Briggs Joint Water Authority wellhead. During the pendency of the application a wellhead protection area was approved that included the proposed 7-Eleven property. Unlike this case, the hydrogeological data indicated that the aquifer was not fully confined by clay or limestone. Employees of the Michigan Department of Environmental Quality (now EGLE) testified that that “double-walled underground storage tanks are not considered a major source of contamination...”, that a “gas station was minimal risk”, and that “we can’t draw a 2,000-foot circle around every well in the state and say ‘no development.’” State officials further stated that the MDEQ (now EGLE) ensures that the location of underground storage tanks is compatible with any nearby water wells...” and “if an underground storage tank

²⁴ Appx. 509

is in a delineated wellhead protection area, it must be double walled.” Based in large part on MDEQ statements, the Court of Appeals determined that Green Oak Township’s approval of the 7-Eleven SLUP was proper.

Fonda Island presents a nearly identical set of facts to the instant case, but the hydrogeological conditions in *Fonda Island* are actually far less ideal than those presented here. The lower court has clearly gone out of its way to gaslight distinguishability. A cursory review of *Fonda Island* shows that the lower court’s “analysis” is just plain wrong.

3. The lower court erred in concluding that an ordinance banning one singular industry from State of Michigan wellhead protection areas without any scientific basis was merely an exercise of zoning power without addressing the reasonableness standard.

The lower court’s recitation of the general principles of the Michigan Zoning Enabling Act is correct. The lower court is also correct that a municipality has a legitimate interest in protecting the health, safety, and welfare of the community. However, the court failed to analyze *reasonableness*, or addressing any evidence in the record challenging the reasonableness of the ordinance at issue.

a. A zoning ordinance must be reasonably necessary to the preservation of public health, safety, and welfare.

The Michigan Supreme Court and the Supreme Court of the United States have held that “reasonableness is essential to the validity of an exercise of police power affecting the general rights of the land owner by restricting the character of the owner’s use.”²⁵

²⁵ *Bonner v. City of Brighton*, 495 Mich. 209, 228 n.47, 848 N.W.2d 380, 392 (2014); citing *City of North Muskegon*, 249 Mich 52; 227 N.W. 743; *Moreland*, 297 Mich 32; 297 N.W. 60; *Pere Marquette R Co v Muskegon Twp Bd*, 298 Mich 31; 298 NW 393; *Pringle v Shevnock*, 309 Mich 179; 14 NW2d 827 (1944); *Hammond v. Kephart*, 331 Mich. 551; 50 N.W.2d 155 (1951); *Fenner v City of Muskegon*, 331 Mich 732; 50 NW2d 210 (1951); *Anchor Steel & Conveyor Co v City of Dearborn*, 342 Mich 361; 70 NW2d 753 (1955); *Detroit Edison Co v City of Wixom*, 382 Mich 673; 172 NW2d 382 (1969); *Kropf*, 391 Mich 139; 215 N.W.2d 179; *Bevan v Brandon Twp*, 438 Mich 385; 475 NW2d 37 (1991). See also *Village of Belle Terre v Boraas*, 416 U.S. 1, 94 S Ct 1536, 39 L Ed 2d 797 (1974); *Williamson v Lee Optical of Oklahoma*, 348 U.S. 483; 75 S Ct 461; 99 L Ed 563 (1955); *Penn Central Transp Co v City of New*

According to the Michigan Supreme Court in *Bonner v. City of Brighton*, 495 Mich 209, 226-227, 848 NW2d 380 (2014):

A zoning ordinance must...stand the test of reasonableness – that it is reasonably necessary to the preservation of public health, morals, or safety – and...it is presumed to be so until the plaintiff demonstrates otherwise. Accordingly, a plaintiff may successfully challenge a local ordinance on substantive due process grounds, and therefore overcome the presumption of reasonableness, by proving either that there is no reasonable governmental interest being advanced...or, secondly, that an ordinance is unreasonable because of the purely arbitrary, capricious and unfounded exclusion of other types of legitimate land use from the area in question. The reasonableness of the ordinance thus becomes the test of its legality.

Under the reasonableness standard a presumption of validity prevails unless it can be shown that the ordinance “constitutes an arbitrary fiat, a whimsical ipse dixit, leaving no room for a legitimate difference of opinion concerning its reasonableness.” *Id.* At 232.

b. Constitutional reasonableness.

Article I §17 of the State of Michigan Constitution guarantees that the state shall not deprive any person of "life, liberty or property, without due process of law." *People v. Sierb*, 456 Mich. 519, 522, 581 N.W.2d 219, 221 (1998). “The underlying purpose of substantive due process is to secure the individual from the arbitrary exercise of governmental power. *Id.*, citing *Foucha v Louisiana*, 504 U.S. 71, 78; 112 S. Ct. 1780; 118 L. Ed. 2d 437 (1992).

“The zoning of land is an exercise of a governments police power.” *Hendee v. Putnam Twp.*, 486 Mich. 556, 566, 786 N.W.2d 521, 527 (2010). The Michigan Supreme Court and the Supreme Court of the United States have held that “reasonableness is essential to the validity of an exercise

York, 438 U.S. 104; 98 S Ct 2646; 57 L Ed 2d 631 (1978); *Schad v Borough of Mount Ephraim*, 452 U.S. 61; 101 S Ct 2176; 68 L Ed 2d 671 (1981); *Reno*, 507 U.S. 292; 113 S. Ct. 1439; 123 L. Ed. 2d 1.

of police power affecting the general rights of the land owner by restricting the character of the owner's use.”²⁶

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c. Section 16.11(C)(8) is so patently unreasonable as to facially deny substantive due process to an entire industry.

The lower court opined that “stripped of its thin veneer of exclusionary zoning, Appellant’s argument is just a facial challenge to Section 16.11(C)(8)...” This statement is surprising in that Appellant did not offer an exclusionary zoning argument in writing or in oral argument and has only ever framed a facial constitutional challenge. Therefore, the lower court’s analysis of its

²⁶ *Bonner v. City of Brighton*, 495 Mich. 209, 228 n.47, 848 N.W.2d 380, 392 (2014); citing *City of North Muskegon*, 249 Mich 52; 227 N.W. 743; *Moreland*, 297 Mich 32; 297 N.W. 60; *Pere Marquette R Co v Muskegon Twp Bd*, 298 Mich 31; 298 NW 393; *Pringle v Shevnock*, 309 Mich 179; 14 NW2d 827 (1944); *Hammond v. Kephart*, 331 Mich. 551; 50 N.W.2d 155 (1951); *Fenner v City of Muskegon*, 331 Mich 732; 50 NW2d 210 (1951); *Anchor Steel & Conveyor Co v City of Dearborn*, 342 Mich 361; 70 NW2d 753 (1955); *Detroit Edison Co v City of Wixom*, 382 Mich 673; 172 NW2d 382 (1969); *Kropf*, 391 Mich 139; 215 N.W.2d 179; *Bevan v Brandon Twp*, 438 Mich 385; 475 NW2d 37 (1991). See also *Village of Belle Terre v Boraas*, 416 U.S. 1, 94 S Ct 1536, 39 L Ed 2d 797 (1974); *Williamson v Lee Optical of Oklahoma*, 348 U.S. 483; 75 S Ct 461; 99 L Ed 563 (1955); *Penn Central Transp Co v City of New York*, 438 U.S. 104; 98 S Ct 2646; 57 L Ed 2d 631 (1978); *Schad v Borough of Mount Ephraim*, 452 U.S. 61; 101 S Ct 2176; 68 L Ed 2d 671 (1981); *Reno*, 507 U.S. 292; 113 S. Ct. 1439; 123 L. Ed. 2d 1.

strawman exclusionary zoning and community need issues was improper and irrelevant. Appellant’s brief before the lower court addressed this issue as follows:

“A facial challenge alleges that the mere existence and threatened enforcement of the ordinance materially and adversely affects values and curtails opportunities of all property regulated in the market.” *Paragon Props. Co. v. City of Novi*, 452 Mich. 568, 576, 550 N.W.2d 772, 775 (1996). That is, that the law is unconstitutional in all of its applications. *Wash. State Grange v. Wash. State Republican Party*, 552 U.S. 442, 449, 128 S. Ct. 1184, 1190 (2008) “[A] facial challenge must establish that no set of circumstances exists under which the law would be valid, or show that the law lacks a plainly legitimate sweep. *Ams. for Prosperity Found. v. Bonta*, 141 S. Ct. 2373, 2387 (2021); quoting *United States v. Salerno*, 481 U. S. 739, 745, 107 S. Ct. 2095, 95 L. Ed. 2d 697 (1987); *Washington State Grange v. Washington State Republican Party*, 552 U. S. 442, 449, 128 S. Ct. 1184, 170 L. Ed. 2d 151 (2008) (internal quotation marks omitted).

A brief report prepared by expert land use planner Paul LeBlanc of PLB Planning Group²⁷ eviscerates the constitutionality of § 16.11(C)(8). Summary, the report states as follows:

- i. The subject property is zoned NSC, Neighborhood Service Commercial and is planned for Local Commercial in the Township master plan.
- ii. “Automotive gasoline and service stations” are allowed in the NSC District as a special use, subject to the requirements of Section 16.11 of the ordinance.
- iii. The special use requirements of Section 16.11 mainly specify dimensional standards for the site , building, and access points. However, subsection C.8. states “No gasoline service station shall be permitted within three hundred (300) feet of a wellhead protection area.”
- iv. The subject property is, according to the Marion Howell Ocoola Genoa (MHOG) wellhead protection area map, located on the outer fringe of the designated wellhead protection area....

²⁷ Appx 523.

- v. [A]utomotive gasoline and service station is the only land use in Howell Township subject to this location prohibition. There is no rationale offered in the ordinance for excluding this one use, among all other potential uses, from locating within the wellhead protection area.
- vi. In fact, the NSC District allows, by right, “Vehicle service and repair” without limitation.... While there is no definition in the ordinance, typically the broad heading of vehicle service and repair would include oil change, transmission repair, engine rebuilding, and a range of other activities that generally involve the removal and replacement of motor fluids. Likewise, dry cleaning establishments which may employ a variety of chemicals and solvents in their cleaning process are also permitted without restriction.
- vii. In addition to encompassing the small area zoned NSC, the Howell Township wellhead protection area contains a much larger area zoned AR, Agricultural Residential, which allows many uses that are not subject to the same strict environmental regulation as vehicle service stations but can pose environmental threats. These include general farming, livestock and poultry production, stables, fruit and field crop production, confined animal feedlots, and extraction of natural resources. Within the broad category of extraction, the zoning ordinance also includes processing; transit-mix concrete plant; asphalt, oil, and tar batching plants; and concrete production plants.

After reviewing the zoning ordinance, as well as technical findings from state regulatory agencies, local and state fire marshals, and geological professionals that find the proposed development to be acceptable in this location, I question what legitimate governmental interest is served by prohibiting this single use from locating within the wellhead protection area plus another 300 feet. Clearly, there are numerous commercial, industrial, and agricultural uses (some allowed by right) that have similar operational characteristics and potential impacts to that of an automotive gasoline and service station but are not prohibited from locating in or near a wellhead protection area.²⁸

Considering the foregoing, the ordinance essentially reads thusly: “Gas stations are banned in wellhead protection areas because they’re not allowed in wellhead protection area.” The premise begs the question. The ordinance further contains no option for an applicant to rebut the ban nor any ability to administratively appeal. This is the very definition of “an arbitrary fiat, a whimsical

²⁸ Mr. LeBlanc’s report was not addressed by the court other than to be summarily dismissed as the opinion of a “paid expert.”

ipse dixit, and leaves no room for a legitimate difference of opinion concerning its reasonableness.” *Bonner*, at 232. The fact that the State is fully charged with protecting the quality of public drinking water and has approved Appellant’s application to install underground storage tanks on the Subject Property definitively shows that Appellee’s arbitrary ban is not reasonably related to any legitimate governmental interest whatsoever.

The circumstances here are readily distinguishable from those in the matter of *Houdek v. Centerville Twp*, 276 Mich. App. 568, 741 NW2d 587 (2007), on which the lower court hangs its hat. In *Houdek*, a septage facility operator was denied additional SLUPs to develop new septage facilities based on an ordinance prohibiting development of septage facilities “if an existing public wastewater treatment or septage treatment facility...has the capacity to accept [s]eptage [w]aste and will accept said [w]aste.” The *Houdek* ordinance is clearly reasonable as it contains logical rationale within the text for why septage facilities are limited and when and why facilities will be approved. On the other hand, Howell Township Zoning Ordinance §16.11(C)(8) reads in its entirety thusly: **No gasoline service station shall be permitted within three hundred (300 feet of a wellhead protection area.** To compare the reasonableness of the *Houdek* ordinance with §16.11(C)(8) is to compare apples and spaghetti squash.

The exclusion of only gas stations while allowing any other commercial use in conjunction with the absence of any rationale whatsoever – let alone scientific rationale - indicates that the ban is based purely upon personal aversion to gas stations, which is no reasonable basis for a zoning ordinance. The personal aversion was indirectly addressed by the Township Board at the December 11, 2023, meeting, in which Boardmembers, Wilson and Melton, discussed their personal grievances with gas stations, as outlined below. Additionally, the following exchange occurred between Boardmembers Smith and Wilson:

MR.SMITH (Boardmember): Well, seeings [sic] we're talking about concerns, Mike, I'll also just – I live in that area. I just put a well in. I know about the sandy loam or the line and that that in there. I don't want anything to do with that water runoff. I just don't. And you have all the safeguards in the world, but they're only as good as after something happens. And I don't – I don't want to see that at all. So I'm just throwing that out there.

Mr. WILSON (Boardmember): You guys already know that I'm about protecting our environment.²⁹

These statements were made shortly after presentation of the forgoing scientific and land use planning presentations that clearly indicate the Boardmembers' statements are patently false.

Of course, a personal aversion to a particular industry is not a legitimate basis to enact a wholesale ban of said industry. Considering the foregoing there can be no constitutional application of the ordinance banning an entire industry from existing in wellhead protection areas without any scientific basis under any circumstance and thus is facially unconstitutional. As such, the ordinance is as unreasonable as any ordinance can be and therefore cannot advance any legitimate governmental interest.

d. §16.11(C)(8) also facially violates the equal protection clause. However, the lower court incorrectly lumped equal protection analysis with procedural due process improperly conflating the two fundamental principles.

The lower court styled its analysis of equal protection as “equal protection and due process,” and states that “in order to sustain a claim for violation of the 14th Amendment or other deprivation of due process, the Appellant must demonstrate that the Appellant has some property right or liberty interest that is protected by the 14th Amendment.” The court then goes on to discuss only procedural due process cases to conclude that no equal protection violation occurred, eventually hanging its hat on a U.S. district court case discussing procedural due process. The lower court's non-analysis of fundamental equal protection principles to the point of not even citing an equal

²⁹ Appx 342, p 43 ln 23 – p 44 ln 10.

protection case or properly setting forth equal protection standards constitutes clear reversible error.

The total ban of gas stations facially violates the equal protection clause. The Michigan Supreme Court provided a succinct primer on equal protection in *Shepherd Montessori Ctr. Milan v. Ann Arbor Charter Twp.*, 486 Mich. 311, 783 N.W.2d 695 (2010):

The equal protection clauses of the Michigan and United States constitutions provide that no person shall be denied the equal protection of the law. This Court has held that Michigan's equal protection provision is coextensive with the Equal Protection Clause of the United States Constitution. The Equal Protection Clause requires that all persons similarly situated be treated alike under the law. When reviewing the validity of state legislation or other official action that is challenged as denying equal protection, the threshold inquiry is whether plaintiff was treated differently from a similarly situated entity. The general rule is that legislation that treats similarly situated groups disparately is presumed valid and will be sustained if it passes the rational basis standard of review: that is, the classification drawn by the legislation is rationally related to a legitimate state interest. Under this deferential standard, "the burden of showing a statute to be unconstitutional is on the challenging party, not on the party defending the statute[.]"

Shepherd Montessori Ctr. Milan v. Ann Arbor Charter Twp., 486 Mich. 311, 318-19, 783 N.W.2d 695, 697-98 (2010):

This case involves an equal protection violation devoid of all nuance. Here, one singular industry was arbitrarily selected without any rationale for disparate treatment under the law, as if gasoline service stations are the only industry utilizing underground storage tanks and/or large quantities of petroleum products or hazardous solvents. As noted by expert planner Paul LeBlanc:

[T]he NSC District allows, by right, "Vehicle service and repair" without limitation.... While there is no definition in the ordinance, typically the broad heading of vehicle service and repair would include oil change, transmission repair, engine rebuilding, and a range of other activities that generally involve the removal and replacement of motor fluids. Likewise, dry cleaning establishments which may employ a variety of chemicals and solvents in their cleaning process are also permitted without restriction.

In addition to encompassing the small area zoned NSC, the Howell Township wellhead protection area contains a much larger area zoned AR, Agricultural Residential, which allows many uses that are not subject to the same strict environmental regulation as vehicle service stations but can pose environmental threats. These include general farming, livestock and poultry production, stables, fruit and field crop production, confined animal feedlots, and extraction of natural resources. Within the broad category of extraction, the zoning ordinance also includes processing; transit-mix concrete plant; asphalt, oil, and tar batching plants; and concrete production plants.

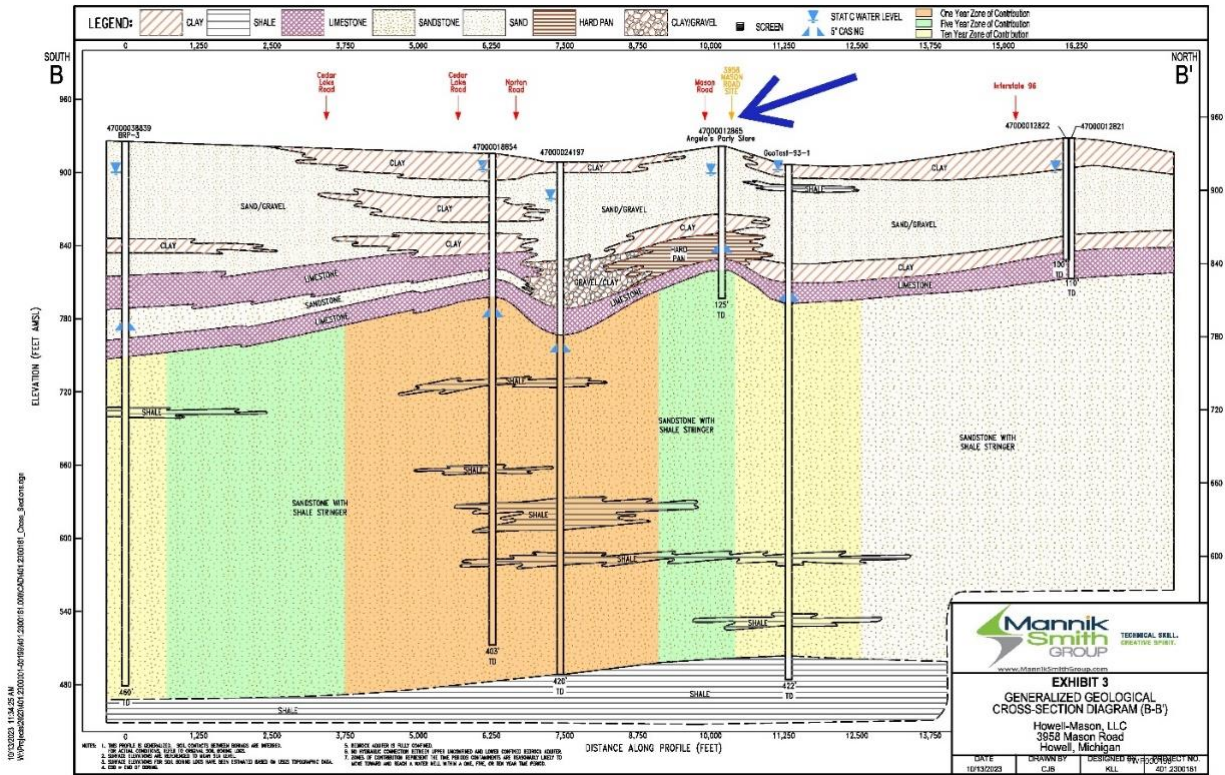
Thus, there is no application of the ordinance that would not deny an entire industry equal protection of the law, and as such the ordinance is facially unconstitutional. As such, the ordinance is as unreasonable as any ordinance can be and therefore cannot advance any legitimate governmental interest.

e. It follows that Section 16.11(C)(8) of Appellee’s Zoning Ordinance is unconstitutional as applied to Appellant.

“Even if an act does not seem on its face to be unconstitutional, it may be unconstitutional as applied.” *In re Advisory Op. Re Constitutionality of P.A. 1975 No. 301*, 400 Mich. 270, 296, 254 N.W.2d 528, 538 (1977); *citing Yick Wo v Hopkins*, 118 U.S. 356, 373; 6 S Ct 1064; 30 L Ed 220 (1886). “An ‘as applied’ challenge alleges a present infringement or denial of a specific right or of a particular injury in process of actual execution.” *Paragon Props. Co. v. City of Novi*, 452 Mich. 568, 576, 550 N.W.2d 772, 775 (1996). If the direct effect is not constitutionally offensive however, [the court] must look for any indirect effect.... The existence of a permissible purpose cannot sustain an action that has an impermissible effect. *In re Advisory Op. Re Constitutionality of P.A. 1975 No. 301*, 400 Mich. 270, 296-97, 254 N.W.2d 528, 538 (1977).

In this case, copious evidence was presented proving in great detail that Appellant’s proposed project is safe and appropriate, including, but not limited to the following summary:

i. FAVORABLE HYDROGEOLOGY:



The full hydrogeological report prepared by Mannik & Smith Group can be found a Appx. 461 , and contains comprehensive analysis of the scientific conditions that lead the State of Michigan to approve Appellant’s project. In summary, the report states that:

MHOG and the City of Howell obtain their potable drinking water from the Marshall Sandstone bedrock aquifer. Lithology of the Marshall Sandstone in the vicinity of MHOG’s wellfield consists of sandstone and limestone interbedded layers approximately 160 to 165 feet in thickness. According to the State of Michigan Department of Environmental Quality-Office of Drinking Water and Municipal Assistance letter dated October 4, 2013:

“MHOG’s production wells #1 through #6 are completed in a confined bedrock aquifer, composed primarily of sandstone and limestone, with an excellent ability to yield groundwater to wells. Hydrogeologic information from the delineation report has been reviewed to establish a geologic sensitivity for the MHOG wells. Geologic sensitivity may be considered a “qualitative” characterization of the protection provided to the aquifer by the overlying lithology. The three categories of geologic sensitivity most often identified are low, moderate, and high, with the order

reflecting a decreasing level of protection. As mentioned, these MHOG municipal wells are apparently completed in an aquifer described as “confined.” With protection provided to the aquifer by the overlying shale layers and depth of the wells (391 to 418 feet). Confined aquifers can be geologically characterized as having “low” geologic sensitivity.

The nearest MHOG and City of Howell Type I potable wells are located hydraulically up-gradient (south-southeast), approximately 3,800 feet southeast and 5,800 feet southeast, respectively, of the proposed Howell-Mason LLC site.... A modern station generally poses no environmental threat to a wellfield located hydraulically up gradient from the proposed station's location. Horizontally, the natural flow of groundwater within the confined aquifer travels away from the wellfield and towards the station.

[W]hen a well field completed in a confined aquifer is positioned up gradient from the proposed station, the geology acts as a protective barrier, reducing the likelihood of potential pollutants reaching and adversely impacting the aquifer.

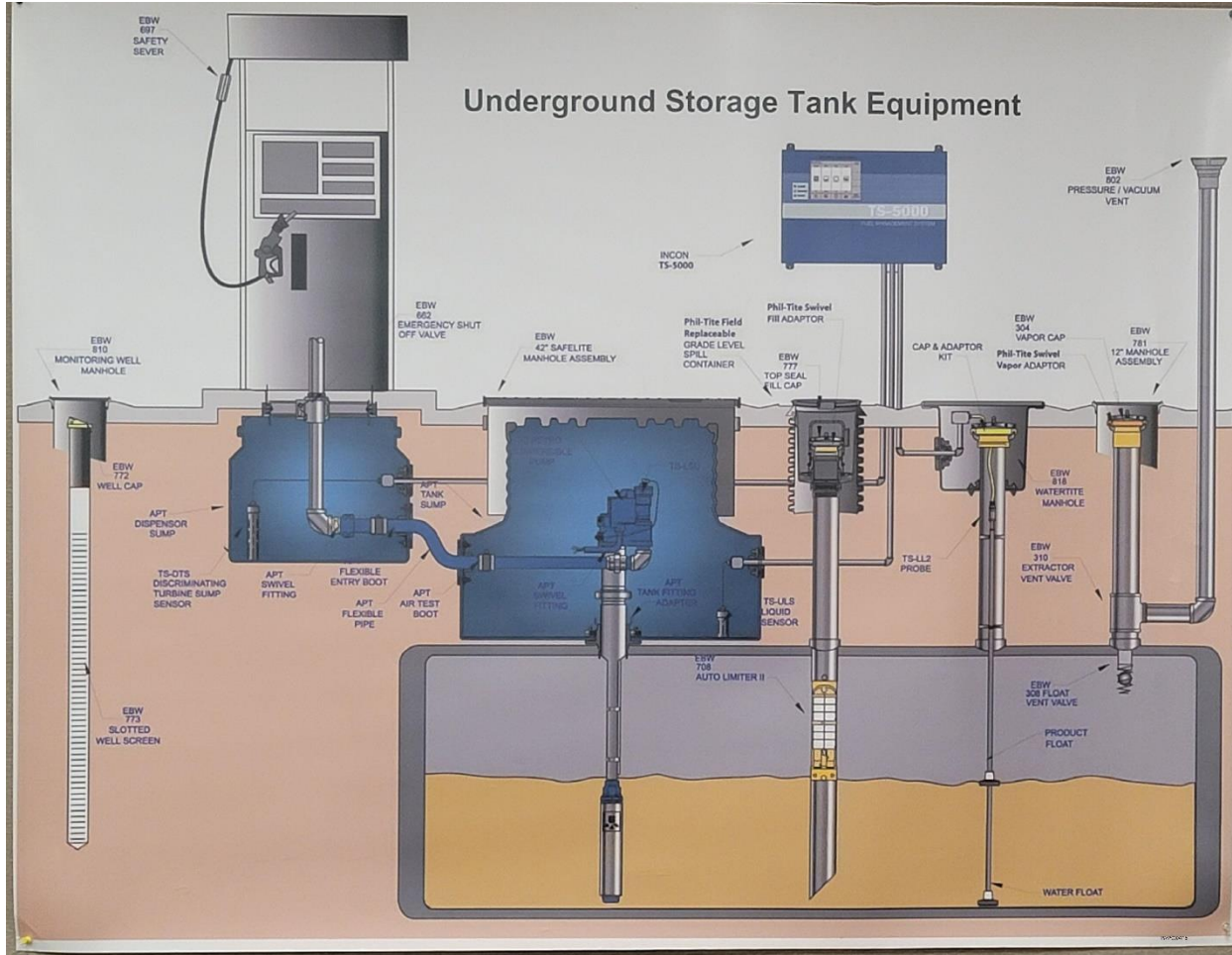
[G]asoline service station[s] typically poses no significant environmental harm to a well field completed in an up gradient confined aquifer due to its location relative to the aquifer and groundwater flow.

When managed in compliance with environmental regulations, gasoline stations can coexist safely with confined aquifers, preserving these vital water resources while meeting the needs of the community. For these reasons, all appropriate State and county agencies issued permits allowing the proposed Howell-Mason, LLC station to be constructed in its proposed location. **In this instance, the Howell Township Ordinance prohibiting a gasoline service at the proposed location is overly prescriptive with no consideration given to the actual geology of the wellhead and the applicants’ use of engineering controls.**

(emphasis added). These principles were also outlined to the Township Board at the December 11, 2023, meeting.³⁰ The record reflects no evidence to the contrary.

³⁰ See Appx 342, p. 10 ln 13 – p 22 ln 22.

ii. STATE-OF-THE-ART TANK AND DISPENSING TECHNOLOGY



As summarized in the Hydrogeological report prepared by Mannik & Smith Group:

[M]odern gasoline service stations are designed and built with robust million-dollar fuel systems that include modern containment measures, such as overfill protection, double-walled piping, electronic line leak detection, double-walled underground storage tanks with multiple layers of protection to prevent leaks. Automated alarm systems are linked directly to the station fuel control system and it will automatically shut the fuel system down and alert the operator in the unlikely event of a leak. Modern double wall underground fuel tanks are made of materials that are highly resistant to corrosion and can withstand harsh conditions, minimizing the risk of groundwater contamination. Additionally, gasoline service stations are subject to strict regulatory oversight and regular inspections, ensuring potential issues are promptly identified and addressed. Furthermore, advancements in spill prevention and remediation technologies have significantly reduced the chances of hazardous substances reaching aquifers – let alone a confined aquifer located up gradient from the location of the proposed Howell-Mason LLC gasoline station.

It is our opinion that the location of the proposed Howell-Mason LLC gasoline station equipped with a state-of-the-art modern containment system poses an extremely low to no chance of risk to the health, safety, and welfare of MHOGs existing and proposed wells³¹.

These principles were discussed by Charlie Burns in great detail at the December 11, 2023, Township Board meeting.³²³³ The record reflects no evidence to the contrary.

Considering the foregoing, and especially considering that the State of Michigan has already approved Appellant's project, the record is replete with substantial evidence detailing why Appellant's project is safe and appropriate. However, the record is conspicuously absent of any evidence to the contrary. As such, application of the ordinance to this case clearly results in an arbitrary injury to Appellant furthering no legitimate governmental interest. The Township's decision must be reversed.

f. THE LOWER COURT MISAPPHRENDLED OR GROSSLY MISAPPLIED THE SUBSTANTIAL EVIDENCE TEST IN UPHOLDING THE TOWNSHIP'S DECISION TO DENY APPELLANT'S SLUP.

The court failed to address scientific expert analysis of State of Michigan officials and summarily dismissed expert analysis of the same data by "paid experts" without any analysis or reasoning whatsoever. According to the lower court, objections by lay citizens far outside the scope of lay opinion testimony is sufficient to trump expert analysis by State of Michigan scientists and other experts with peculiar knowledge of complex concepts.

After Appellant submitted its detailed application that included hydrogeological reports, engineering reports, land use planning reports, and discussion of modern state-of-the-art gasoline storage and dispensing systems, and after presenting the content of those reports to the Township

³¹ Appx 461

³² Mr. Burns is President of leading UST and dispensing company Oscar Larson Co.. He is also a current member of the Stat of Michigan's Rules Committee for USTs and the National Fire Protection Association, as well as being the former president of the national Petroleum Institute. *See* Appx 342, Exhibit K, p 15 ln 15-22.

³³ Appx 342, p 15 ln 7 – p 28 ln 25

Board at the December 11, 2023, meeting, the Board denied Appellant's SLUP and read a pre-prepared statement of their findings, which are fabrications without any evidentiary support in the record. The lower court affirmed.

In this section, the findings of the Township Board will be bolded with arguments following.

FINDING NO. 1: Section 16.11(C-8) of the zoning ordinance prohibits the establishment of a gas service station within 300 feet of a wellhead protection area and the property is located in the MHOG wellhead protection area.

As discussed above, the ordinance is unconstitutional as applied to Appellant's project and property. Furthermore, as discussed below, the ordinance is also: (1) preempted by and/or in direct conflict with a State statutory and regulatory scheme fully administered by State agencies; (2) facially unconstitutional. In addition, reliance upon it to deny Appellant's SLUP while also requiring Appellant to appear at multiple performative hearings and meetings in which the outcome was predetermined deprived Appellant of procedural due process. As such, this finding is unconstitutional, illegal, and otherwise inappropriate.

FINDING NO. 2: The proposed use violates section 16.06(A) as an establishment of a gas station in the area would not be harmonious with the general objectives, purpose, and intent of the zoning ordinance, as the dispensing of gasoline can create noise, smoke, fumes, and odors – which can negatively impact persons and the general welfare of the surrounding area.

First, the Subject Property is currently zoned Neighborhood Service Commercial, which allows gasoline service stations as a special use.

Second, the Subject Property and the entire stretch of land north of the Subject Property abutting the west side of Burkhart Road is master planned for commercial use. The land to the East of Burkhart Road has been approved for development of nearly 1,000 residential homes. Thus, commercial use and intensive residential uses are the intended future plan for the area. As such, this finding is simply contrary to the Township's own legislative acts.

Third, there is no evidence in the record to support the assertion that gas stations create “noise, smoke, fumes, and odors.” This finding is merely an assumption of the Board without any evidentiary support in the record.

FINDING NO. 3: The proposed use violates section 16.06 (D) and (F) of the zoning ordinance, as the state has designated the area in which the gas station is located as a wellhead protection area. Because a wellhead protection area constitutes an area which supplies a public water supply as deemed by EGLE, placement of a gas station within that area has the potential to be hazardous to existing or future neighboring uses and have a substantial adverse impact to natural resources in the area, including wells and watersheds.

This finding essentially says that the State of Michigan, which has full statutory and regulatory authority of the State wellhead protection program, was wrong in its application of its own regulations. The State of Michigan, of course, made findings diametrically opposed to those of the Township and approved the project. This finding is simply supported by no evidence at all and runs afoul of the State Constitution, laws, and regulations.

FINDING NO. 4: Permitting a gasoline station in the wellhead protection areas does not conform to the Master Plan, which seeks to protect existing natural resources and preserve the quality of the Township’s water resources.

As discussed under Finding No. 2, above, the Subject Property and the entire stretch of land north of the Subject Property and abutting the west side of Burkhart Road is master planned for commercial use. The land east of Burkhart Road along the same stretch has been approved for development of nearly 1,000 residential homes. Thus, commercial use and intensive residential uses are the intended future plan for the area. As such, this finding is simply contrary to the Township’s own legislative acts. What’s more the master plan does not mention wellhead protection other than to recommend the establishment of a wellhead protection area.

While considering potential impacts to natural resources is certainly a legitimate issue in reviewing development applications, the great weight of the evidence in the record shows that Appellant’s proposed use presents no danger to resources. As such, this finding is unfounded.

FINDING NO. 5: Information contained within the Township Planner’s report.

The township planner’s report only addresses the site plan, which was tabled indefinitely by the Planning Commission and not ripe for the Board’s consideration.

FINDING NO. 6: Comments from the public (on which the lower court hung its hat).

No public comment was made at the December 11, 2023, meeting. The record does not reflect that the Board received any comments via written correspondence. To the extent this finding is predicated on public comment made at the November 21, 2023, Planning Commission meeting, those comments were merely statements of personal aversions to gas stations and misunderstandings of hydrogeology and municipal planning. The expert reports and testimony in evidence clearly indicate that the public’s concerns are unfounded.

1. The lower court disregarded the rules of evidence regarding lay and expert testimony.

Furthermore, the lower court placed inappropriate weight on speculative lay comments while discounting expert testimony and reports by “paid experts” as well as scientists and other State of Michigan employees with peculiar knowledge of underground storage tanks, hydrogeology, and fire codes.

MRE 701, provides the standard for lay opinion testimony. *See also People v Daniel*, 207 Mich App 47, 57; 523 NW2d 830 (1994). Opinion testimony by lay witnesses is permissible when that testimony is "(a) rationally based on the perception of the witness and (b) helpful to a clear understanding of the witness' testimony or the determination of a fact in issue." MRE 701. In addition, the lay opinion testimony must not be based in "scientific, technical, or other specialized knowledge" within the scope of MRE 702. An "expert" is "a witness qualified as an expert by knowledge, skill, experience, training, or education." MRE 702. Expert testimony by a witness is permissible when "the court determines that scientific, technical, or other specialized knowledge

will assist the trier of fact to understand the evidence or to determine a fact in issue," and "(1) the testimony is based on sufficient facts or data, (2) the testimony is the product of reliable principles and methods, and (3) the witness has applied the principles and methods reliably to the facts of the case." MRE 702.

In this case, several members of the public made wholly unfounded, speculative, and outright false statements relating to technical hydrogeological issues that were entirely discounted by expert reports and testimony. What's more, the lower court placed importance on hearsay testimony regarding an alleged leak from another station owned by Appellant for which there is no evidence other than a law statement. The lower court's "analysis" of the evidence was handled with complete disregard of the rules of evidence and fundamental principles of law. Were this court to uphold the lower court's decision then a dangerous precedent would be set that any statement made by any person on any subject is sufficient to rebut expert testimony, thus making lay statements far outside the scope of MRE 701 the most powerful evidence in the State's jurisprudence. Not only is this illogical and contrary to fundamental principles of evidence but would essentially hand any municipality a license to deny any permit based upon speculation and conjecture by lay citizens.

FINDING NO 7: Information provided by the Planning Commission as reflected in their minutes.

The Planning Commission minutes merely summarizes three (3) things:

1. Comments received from the public. As discussed immediately above, those comments were merely statements of personal aversions to gas stations and misunderstandings of hydrogeology and municipal planning going far beyond the scope of lay opinion testimony governed by MRE 701. The expert reports and testimony in evidence by both State of

Michigan scientists and officials as well as other experts clearly indicate that the public's concerns are unfounded.

2. The Planning Commission's vote denying Appellant's SLUP based solely upon the gas station ban in § 16.11(C)(8). And,
3. The Commission's vote to table Appellant's site plan indefinitely.

In short, there is no information in the Planning Commission minutes that lend any credibility to the Board's decision, which is clearly unsupported by competent and material evidence on the whole record.

In short, there is no information in the Planning Commission minutes that lend any credibility to the Board's decision, which is clearly unsupported by competent and material evidence on the whole record.

g. Section 16.11(C)(8) of the Township's Zoning Ordinance is preempted by and/or in direct conflict with State of Michigan statutory and regulatory schemes fully administered and interpreted by State agencies.

1. Preemption and conflict, generally.

Under Const 1963, art 7, § 22, a Michigan municipality's power to adopt resolutions and ordinances relating to municipal concerns is "subject to the constitution and law". "Local governments have no inherent powers and possess only those limited powers which are expressly conferred upon them by the state constitution or state statutes or which are necessarily implied therefrom.: *Hanselman v. Wayne Co Concealed Weapon Licensing Bd.*, 419 Mich 168, 187, 351 NW2d 544 (1984; *see also Conlin v. Scio Twp.*, 262 Mich App 379 386, 686 NW2d 16 (2004).

"[G]enerally, a municipality may not prohibit what state law allows." *Conlin v. Scio Twp.* 262 Mich App 379, 385, 686 NW2d 16 (2004). "It is the rule that, in the absence of specific statutory or charter power in the municipality, the provisions of an ordinance which contravene a State law

are void. What the legislature permits, the city cannot suppress, without express authority therefor. *Walsh v. River Rouge*, 385 Mich. 623, 635, 189 N.W.2d 318, 324 (1971); citing *People v. McGraw*, 184 Mich. 233 (1915).

“A municipality is precluded from enacting an ordinance if 1) the ordinance is in direct conflict with the state statutory scheme, or 2) if the state statutory scheme pre-empts the ordinance by occupying the field of regulation which the municipality seeks to enter, to the exclusion of the ordinance, even where there is no direct conflict between the two schemes of regulation. *People v. Llewellyn*, 401 Mich. 314, 322, 257 N.W.2d 902, 904 (1977).³⁴

2. Appellee’s gasoline service station ban is void as it is preempted by and/or in direct conflict with a State of Michigan statutory and regulatory scheme.

There is no enabling legislation that grants Michigan Township authority to regulate wellhead protection areas, drinking water quality, or underground storage tanks. Section 205 of the Michigan Zoning Enabling Act states that the Act “does not limit state regulatory authority under other statutes or rules.” MCL §125.3205(8).

a. Wellhead protection areas.

The Township concedes that the Michigan Department of Environment, Great Lakes, and Energy (EGLE) approves wellhead protection areas. In the minutes of the December 11, 2023, Board meeting at which Appellant’s SLUP was voted down, the Board resolved in part that “the

³⁴ See also *Grand Haven v. Grocer’s Cooperative Dairy Co.*, 330 Mich 694, 48 NW2d 362 (1951) (“The constitutional limitation on the power of cities to pass laws and ordinances relating to its municipal concerns is that such power is subject to the Constitution and general laws of the State.”); *Detroit v. Judge, Recorder’s Court, Traffic & Ordinance Div.*, 56 Mich. App. 224, 227-28, 223 N.W.2d 722, 724 (1974) (“If the state has *preempted* the field then the ordinance is void even if it is not in conflict with state statutes, and it would be void even if the ordinance followed the exact language of the state statutes in defining prohibited conduct. If the state has not preempted the field and if some provision of the ordinance was in *conflict* with the state statutes then, perhaps, the balance of the ordinance would be valid.”)

state has designated the area in which the gas station is located as a wellhead protection area.”³⁵
That is the only true statement reflected in the resolution.

The State of Michigan Wellhead Protection Program was created following amendments to the Federal Safe Drinking Water Act adopted in 1986. The State of Michigan has adopted Mich. Admin. Code R. 325.12801, *et seq.*, under authority of the Michigan Safe Drinking Water Act (MCL § 325.1001, *et seq.*) to regulate wellhead protection areas. Under the State Wellhead Protection Program regulations, a local water authority may apply to the State for approval of a delineated area for heightened review and management of potential sources of contamination. If the State approves a wellhead protection area, then the State will require extra layers of review and stricter safety requirements for installation and management of new and existing areas of potential contamination and will fund fifty percent (50%) of eligible local water authority management practices implemented by the local water authority. The full extent of appropriate local water authority wellhead protection area management activities is set forth in Mich. Admin. Code R. 325.12817, which states:

Rule 2817. (1) Grant-eligible management activities shall provide an elevated level of protection to the source water protection area or within a 1-mile radius of the well field for a low tritium public water supply well.

(2) Grant-eligible management activities include the following:

(a) The development and implementation of best management practices that reduce the risk of source water contamination.

(b) The development and implementation of source water protection resolutions or ordinances.

(c) On-site inspections for the purpose of improving facility management of potential sources of contamination.

(d) The development and implementation of a program to control abandoned wells, excluding the actual sealing of abandoned wells in a source water protection area.

(e) Incorporation of a source water protection program into a municipality's master plan or other regional land use planning program.

³⁵ Appx 336.

A complete ban of an industry or of installation of underground storage tanks is not contemplated by the regulations. This point is address in guidance documents on the State wellhead protection program published by EGLE specifically for local governments, which states in part that:

The WHPA is...submitted to the Michigan Department of Environment, Great Lakes, and Energy (EGLE) for approval. Once approved, the WHPA receives a higher level of environmental monitoring at the state level for certain activities which are permitted through the state. For example, an underground storage tank must have an extra layer of protection around the tank (secondary containment), or businesses with groundwater discharge permits may need to perform more frequent monitoring. **[T]he WHPP does not exclude any businesses or activities from your WHPA.**³⁶

Further, EGLE summarizes its responsibility to local water authorities under the program as follows:

The state’s responsibility to local governments is to provide technical assistance and guidance during program development and to review and approve programs which meet the state criteria. The state is also responsible for integrating wellhead protection with existing programs which may be modified to support the protection of ground water. **For example, it has been required by the Department of Environment, Great Lakes, and Energy, Materials Management Division, that all new underground storage tanks located within a wellhead protection area receive secondary containment.**³⁷

Not only does the State have full regulatory and approval powers over wellhead protection areas as delineated in the Michigan Safe Drinking Water Act, but its own regulations and guidance publications issued with the intent of helping local governments understand the program explicitly state that a protection area does not preclude any business or activity and uses double walled underground storage tanks – like those approved by the State to be installed by Appellant – as an

³⁶ EGLE Michigan Wellhead Protection Program Guide, EGLE Drinking Water and Environmental Health Division, March 2020, p 7. (emphasis added) Appx 479.

<https://www.michigan.gov/egle/-/media/Project/Websites/egle/Documents/Programs/DWEHD/Source-WaterAssessment/WellheadProtectionProgramGuide.pdf?rev=2c86b289e5b94472b9d36fba0c8c56a2&hash=605D3744CA63A493CCDB916F5270C88A>

³⁷ Appx 493. (emphasis added)

example of an appropriate heightened safety requirement for State-permitted installation within a wellhead protection area. What’s more, the Township’s ordinance purports to double-usurp the State’s authority to regulate wellhead protection areas as the Township unilaterally extended gasoline ban three hundred (300) feet beyond the State approved protection area.

Based on hydrogeological data prepared by MHOG – the water authority that applied to the State to approve the wellhead protection area within Howell Township– and by considering detailed plans for a state-of-the-art storage and dispensing system to be installed at a seven-figure cost, the State of Michigan approved Appellant’s proposed gasoline service station on the Subject Property situated within a wellhead area also approved by the State.

There is no enabling legislation authorizing townships to engage in wellhead protection program-related regulation. The State of Michigan has full authority over review, approval, and administration of well head protection areas. Thus, Appellee’s zoning ordinance completely banning gasoline service stations from wellhead protection areas amounts to an unlawful usurpation the State of Michigan’s sovereign authority to regulate wellhead protection areas, and further usurps MHOG’s ability to manage the wellhead protection area as the wellhead protection area’s managing entity.

b. Drinking water quality.

Public water supplies in Michigan are protected by the Safe Drinking Water Act, Act 399 of 1976 (MCL §325.1001, *et seq*). The legislative intent of the Act is “to provide adequate water resources research institutes and other facilities within the state of Michigan so that the state may assure the long-term health of its public water supplies and other vital natural resources.” MCL § 325.1001a. According to the Act, “the department shall have power and control over public water

supplies and suppliers of water.” MCL § 325.1003. The “department” is defined as “the department of environmental quality or its authorized agent or representative.” MCL § 325.1002(g).

A robust set of well and drinking water regulations were adopted by the department as mandated by MCL § 325.1005, which are found in Mich. Admin. Code § 325.10101, *et seq.* Part 8 of the Safe Drinking Water Act regulations address protection of groundwater sources.³⁸ The regulations regarding location of wells and isolation from potential points of contamination are as follows:

R 325.10807 Location of well.

Rule 807. A well shall be located with due consideration given to the extent of the property, the contour of the land, elevation of the site, the depth to the water table, other characteristics, local groundwater conditions, and other factors necessary to provide a safe and reliable public water supply. A well shall meet all of the following requirements:

- (a) Located so the well and its surrounding area is controlled and protected from potential sources of contamination.
- (b) Adequate in size, design, and development for the intended use.
- (c) Constructed to maintain existing natural protection against contamination of water-bearing formations and to prevent all known sources of contamination from entering the well.
- (d) Protected against the entry of surface water.

R 325.10808 Standard isolation area generally.

Rule 808. The standard isolation areas from any existing or potential sources of contamination, including, but not limited to, storm and sanitary sewers, pipelines, septic tanks, drain fields, dry wells, cesspools, seepage pits, leaching beds, barnyards, or any surface water, other area or facility from which contamination of the groundwater may occur, are established for public water supplies as follows:

- (a) For type I and type IIa public water supplies, the standard isolation area is an area measured with a radius of 200 feet in all directions from the well.
- (b) For type IIb and type III water supplies, the standard isolation area is an area measured with a radius of 75 feet in all directions from the well.

R 325.10809 Standard isolation area; modification; approval.

³⁸ Appx 497.

Rule 809. (1) Modifications of the standard isolation area, if any, shall be determined for a site based on a study of hydrogeological conditions provided to the department by a public water supply under R 325.10813 and R 325.10814.

(2) The department may require an increase or approve a decrease in the standard isolation area of a well.

(3) Approval of the isolation area shall be obtained from the department before construction of a production well used for drinking or household purposes as part of a public water supply.

Not only does the State statutory scheme to protect drinking water place sole regulatory authority with State agencies, but the regulations, read in conjunction with EGLE's guidance on its wellhead protection program, clearly incorporate reasonable flexibility based on objective analysis of scientific data. In contrast, Appellee's Zoning Ordinance attempts to usurp the State's sovereign authority in this regard to implement an illegal blanket ban of an entire industry without any rationale. Moreover, EGLE is an agency that employs engineers and scientists with peculiar knowledge of aquifers, groundwater flow, and fate and transport of potential contaminants. Local governmental entities almost universally lack employees with similar expertise.

Based on hydrogeological data prepared by MHOG, the State of Michigan approved Appellant's proposed gasoline service station on the Subject Property as safe and appropriate in light of the hydrogeological evidence. There is no enabling legislation allowing townships to regulate drinking water quality. Given that wellhead protection areas and drinking water quality are fully administered through pervasive State regulation, it is a necessary corollary that a local ordinance banning an entire industry from existing within a State-approved wellhead protection area is clearly in direct conflict with the Michigan Safe Drinking Water Act statutory scheme. What's more, given that the Act grants the department sole regulatory authority of drinking water protection, a local ordinance purporting to do the same is preempted by the State law.

c. Underground storage tanks.

Like wellhead protection areas and drinking water quality, underground storage tanks are fully and completely regulated by the State of Michigan. And, like the wellhead protection program and drinking water quality protection, the State has promulgated a robust series of regulations adopted pursuant to the Michigan Natural Resources and Environmental Protection Act (MCL § 324.101, *et seq.*), which are found in Mich. Admin. Code. R 29.2101, *et seq.* The regulations encompass 115 pages and are comprehensively scientifically detailed and place an onerous burden on applicants to receive permits for installation and monitoring of tanks. The regulations are so pervasive and complex that they cannot be adequately summarized here.

According to the report prepared by Mannik & Smith Group, Appellant engaged in the following procedure to obtain State of Michigan approval for installation of underground storage tanks pursuant to R. 9, § 280.20(d)(1)(ii) of the Michigan Underground Storage Tank Regulations:

- i. Completed the form BFS-3820 (Notice of Proposed Installation of Underground Storage Tanks) and submitted to the Department of Licensing and Regulatory Affairs (LARA).
 - a. The form contained a list of proposed equipment (USTs, product piping, dispensers, leak detection equipment, and backfill materials).
 - b. LARA reviewed with respect to equipment/location and vicinity to potable water wells....
- ii. Following the completion of a Hydrogeological Study, which is developed with available information from EGLE, and local units of Government), a request for a variance is submitted to LARA along with Hydrogeological Report for review.
- iii. LARA submitted a variance request to EGLE Source Water Unit (SWU) for review and comment.
- iv. EGLE SWU made a determination/recommendation to potential impacts to potable wells and groundwater.

- v. LARA issued approval with conditions... On August 1, 2023, Howell-Mason, LLC, was grant an approval for the installation of the UST system.³⁹

In this case, the State of Michigan, through multiple regulatory agencies, reviewed hydrogeological data prepared by MHOG in conjunction with detailed plans for Appellant’s gasoline service station and based on its expertise granted Appellant permits to install USTs on the Subject Property. There is no enabling legislation allowing for local governments to regulate underground storage tanks. As such, it is clear that Appellee’s complete ban of gasoline service stations within wellhead protection areas is preempted by State law and in direct conflict with the State regulatory scheme.

- d. Given that §16.11(C)(8) is clearly preempted by and/or in direct conflict with a clearly defined State statutory and regulatory scheme, the current circumstances presented in this case are absurd and cannot stand.**

As stated in the Townships Finding No. 3: “Because a wellhead protection area constitutes an area which supplies public water supply as deemed by EGLE, placement of a gas station within that area has the potential to be hazardous...and have a substantial adverse impact to natural resources in the area, including wells and watersheds.” Therefore, the circumstances are thus:

³⁹ Appx 461.

STATE OF MICHIGAN (EGLE)
Vested with sole regulatory authority of wellhead protection, drinking water quality,
and underground storage tanks.

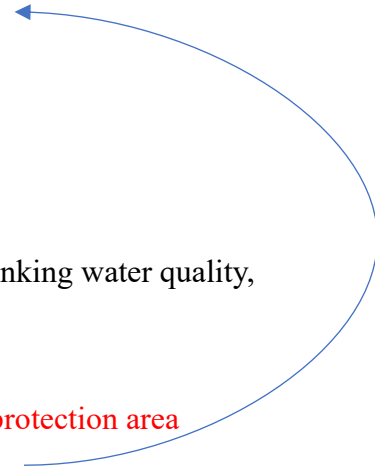
EGLE APPROVED



HOWELL TOWNSHIP
No regulatory authority over wellhead protection, drinking water quality,
or underground storage tanks.

DENIED

Because the proposed project is in a wellhead protection area
Determined by EGLE



These absurd circumstances violate basic principles of federalism, present a clear and obvious conflict with the State's interpretation of State law, and cannot stand.

h. In relying on §16.11(C)(8) to deny Appellant’s SLUP, the Township deprived Appellant of procedural due process causing Appellant to incur significant financial damages.

i. Procedural due process, generally.

“[A]t a minimum, due process of law requires that deprivation of life, liberty or property by adjudication must be preceded by notice and an opportunity to heard. To comport with these procedural safeguards, the opportunity to be hearing must be granted at a meaningful time and in a meaningful manner.” *Bonner v. City of Brighton*, 495 Mich 209, 235, 848 NW2d 380 (2014).

At the core of procedural due process is the requirement that "a person in jeopardy of serious loss [be given] notice of the case against him and opportunity to meet it." *Id. At 238*. Thus, the primary requirement is that "the capacities and circumstances of those who are to be heard "to ensure that they are given a meaningful opportunity to present their case, which must generally occur before they are permanently deprived of the significant interest at stake *Id. at 238-239*.

ii. EGLE-Approved plan for development of a gasoline service station creates a protected property right.

In this case, EGLE, which has full regulatory control over drinking water quality and underground storage tanks, conditionally approved Appellant’s proposed gas station on the Subject Property. As such, Appellant has a constitutionally protected property interest in the conditional approvals granted by the State. While the granting a SLUP is a discretionary act, the SLUP requirements contained in a zoning ordinance and the analysis thereof must be reasonable as opposed to wholly arbitrary and capricious.

Section 504 of the Zoning Enabling Act states that [i]f the zoning ordinance authorizes the consideration and approval of special land uses...under section 502...or otherwise provides for discretionary decisions, the regulations and standards upon which those decisions are made shall be specified in the zoning ordinance. MCL §125.3504(1). “A request for approval of a land use or

activity *shall* be approved if the request is in compliance with the standards stated in the zoning ordinance....”

In this case, the Township relied only upon the unconstitutional and otherwise preempted/conflict gas station ban of §16.11(c)(8) and assumptions without support in the record in denying Appellant’s SLUP application. The Township ignored all expert hydrogeological, engineering, tank technology, and planning presentations and written materials. As the application met all SLUP standards in the Township Zoning Ordinance, the law requires that the Township to grant the permit. The Township chose to ignore the law and arbitrarily deny Appellant’s applications.

iii. The Township afforded Appellant no procedural due process from beginning to end of the application process by requiring large application and review fees and performative hearings with predetermined outcomes.

Appellee has deprived Appellant of procedural due process at every stage of this case by taking the position: (1) that it will not repeal or amend its gas station ban to be harmonious with constitutional principles and state law; (2) that its gas station ban absolutely precludes approval of Appellant’s SLUP application; but (3) Appellant must submit itself to performative public hearings and meetings while reimbursing Appellee over eight thousand dollar (\$8,000) for professional review of plans it cannot approve. That is, the township has “jurisdiction” to hear Appellant’s requests, but lacks “authority” to grant the request.

The absurdity of Appellee’s position can be summed up in a few brief exchanges at the November 21, 2023, Planning Commission meeting:

MR. WILLIAMS (PC Chair): Just so I understand you correctly, Paul [Twp. Planner], that we don’t have the authority to approve a gas station that violates that ordinance of not being within 300 feet of a wellhead protection area.

MR. MONTAGNO (Twp. Planner): That is correct.

MR. WILLIAMS (PC Chair): Thank you. Shall we open the public hearing?⁴⁰

AUDIENCE MEMBER: I first want to ask before I start speaking. You said you don't have authority to vote on the gas station. Can you clarify exactly then what we're speaking about right now then and what decision is going to be made tonight?

MR. WILLIAMS (PC Chair): Well, we don't have the authority to approve, so we must deny, is how I understand that. Is that accurate, Paul [Twp. Planner]? I mean that's how I kind of interpret it if we don't have the authority to approve, there's only one option with that vote.

MR. MONTAGNO (Twp. Planner): Because that is a requirements zoning ordinance [sic], you do not have the authority to change the requirement of the ordinance. Correct.⁴¹

AUDIENCE MEMBER (speaking outside call to the public): I have a question. If the board doesn't have the power to approve the gas station there, why are we still talking about it?

MR WILLIAMS (PC Chair): They have a right to have their request heard.⁴²

Based on the gas station ban in § 16.11(C)(8), the Planning Commission voted unanimously to deny Appellant's SLUP, and astonishingly took no action on Appellant's site plan review choosing instead to table it indefinitely.⁴³

Following the purely performative Planning Commission meeting/public hearing, Appellee then required Appellant to attend a purely performative Township Board meeting to make a presentation prior to a vote. In response to presentations by expert engineers, hydrogeologists, and

⁴⁰ Appx 286, p 56 ln 14-21

⁴¹ Appx 286, p 67, ln 11 – p 68 ln 1

⁴² Appx 286, p 80, ln 19-24

⁴³ Appx 286, p 97 ln 2 – p 98 ln 2

tank and dispensing system executives, the Township Board subjected Appellant to exchanges such as these:

MR. WILSON (Boardmember): I got a question, but it doesn't pertain to tanks, you know what I mean. I'm going to talk on behalf of most of the people in this community, and why is our gas 30 to 40 cents higher per gallon at all of the Mugg & Bopps and most of the gas stations in this county?

MR. BURNS (tank specialist): I don't sell gas. I can't address that. I don't know. If you guys want to take a swing at that?

MR. WILSON (Boardmember): That's the only question I had. If anybody would like to answer it.

CHAIRPERSON CODDINGTON: I'm sure if they can.

MR. LEKANDER (Appellant CEO): We meet the competition. I can't control what Kroger sells it for. We match Kroger when we're with them. We match Speedway where we are. We match whatever the competitors are doing.

MR. WILSON (Boardmember): That's why I buy gas out of town. You don't serve me.

MR. LEKANDER (Appellant CEO): Well, I think that your opportunity is the same as anybody else's. And, you know, if you compare us to all the local markets wherever we do business, we compete with them directly. So I can't tell Kroger what to sell [at], can't tell Speedway, can't tell VG's.

MR. WILSON (Boardmember): That's just the question the entire community would like an answer to, and nobody can get it.⁴⁴

CHAIRPERSON CODDINGTON: Anything else?

Mr. MELTON (Boardmember): I have a couple questions on taxes.

MR. LEKANDER (AppellantCEO): On what?

MR. MELTON (Boardmember): On taxes. It's been kind of a pet peeve of mine for years. I noticed a long time ago they always put the federal tax listed on the pump and then the local tax or the state tax, and you don't see that anymore. And then when you buy fuel, you ask for a receipt, and you still have no idea how much tax is per gallon. Well, I've asked legislators who can't tell me.

MR. BURNS (Tank specialist): I would direct you to the Michigan Petroleum Association. They keep all of that data....⁴⁵

CHAIRPERSON CODDINGTON (wrapping up a long irrelevant discussion of gasoline taxation): Okay. That's a good education.⁴⁶

Once again, the denial of Appellant's SLUP was predetermined, and the Board voted to deny with the primary reason being the gasoline service station ban in §16.11(C)(8) of the Zoning Ordinance. Throughout the municipal process the Township also extracted over eight thousand dollars (\$8,000) in application and review fees from Appellant and forced it to incur tremendous expense to present experts at multiple performative hearings with a predetermined outcome.

It is clear from the record that Appellee never afforded Appellant any *meaningful* opportunity to be heard resulting in a fundamental deprivation of procedural due process. In short, Appellee sent Appellant on a wild goose chase without any geese to chase. In doing so, the Township cashed checks from Appellant in excess of \$8,000.00 and caused Appellant to unnecessarily incur six-figures in professional fees and related costs and experience significant delay and diversion of resources in the administration of its other businesses. In doing so, Appellee treated the law and constitution as a mere recommendation which it ignored to the detriment of Appellant, which was without reasonable recourse as Appellee's bespoke procedure was rolled out.

The lower court's obvious disinterest in engaging in a good faith analysis of this case and the companion litigation only perpetuated the injustice served upon Appellant.

⁴⁵ Appx 342, p 29 ln 4 – p 30 ln 5

⁴⁶ Appx 342, Exhibit K, p 33, ln 1-2

V. CONCLUSION

To borrow a phrase from the circuit court's opinion, the court would struggle to handle the procedure or analysis of the law more incorrectly

The lower court abused its discretion in denying Appellant's motion to adjourn oral argument to align with oral arguments on motions for summary disposition in companion litigation. The instant circuit court appeal challenges the legality of the Township Board's decision (i.e. the legality of how the ordinance at issue was applied). The companion litigation challenges the legality of the ordinance itself. In refusing to coordinate oral arguments the lower court applied the law before ruling on its legality, thus predetermining the outcome of the companion litigation before the court issued a scheduling order therein.

The lower court misunderstood and misapplied *Fonda Island & Briggs Joint Water Authority v. Green Oak Township*, which presents nearly an identical set of facts, circumstances, and legal tests that this case.

The lower court failed to address the reasonableness of the ordinance at issue.

The lower court improperly conflated the fundamental concepts of equal protection and procedural due process citing only due process cases to make a ruling on equal protection.

The lower court grossly misapplied the substantial evidence test by wholly ignoring expert analysis by State of Michigan scientists and engineers along with other experts with peculiar knowledge of complex issues in favor of speculative comments made by lay objectors far beyond the scope of the rules of evidence.

The lower court erred in determining that a township ordinance directly contradicting several statutes and regulations fully administered by the State of Michigan was appropriate.

Peremptory reversal is warranted. At a minimum, leave to appeal should be granted.

Respectfully submitted,

LAW OFFICE OF PAUL E. BURNS
Attorneys for Appellant

BY: /s/ Jeffrey D. Alber
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WORD COUNT CERTIFICATION

This document contains 12,365 countable words. MCR §7.212(B)(3).

RECEIVED by MCOA 10/7/2024 2:23:21 PM

**Howell Township
Livingston County, Michigan
Resolution to Establish Township Meeting Dates for 2025
November 4, 2024
11.24.543**

At a regular meeting of the Howell Township Board, held at the Township Hall on the 4th day of November 2024 at 6:30 p.m.

Present:

Absent:

The following resolution was offered by _____ and supported by _____

WHEREAS, the Board of the Township of Howell, County of Livingston, State of Michigan, at a regular meeting, desires to set the meeting dates for the calendar year 2025 per MCL 41.72a(1)

NOW, THEREFORE, BE IT RESOLVED, by the Board of Howell Township, that the Township Board’s regular meetings take place on the second Monday of each month, the Planning Commission’s regular meetings take place on the fourth Tuesday of each month, and the Zoning Board of Appeals’ regular meetings take place on the third Tuesday of each month; and

WHEREAS, exceptions due to holidays shall follow MCL 41.72a(1) and be the next secular day, and the Township Board’s March meeting will be the first Monday of the month due to March Board of Review, and the Planning Commission’s and Zoning Board of Appeals’ meetings in November and December will be one week prior due to Thanksgiving and Christmas as shown on the attached calendar.

Yeas:

Nays:

RESOLUTION DECLARED _____

STATE OF MICHIGAN)
) ss
COUNTY OF LIVINGSTON)

I, the undersigned, the duly qualified and acting Clerk for the Township of Howell, Livingston County, Michigan, do hereby certify that the foregoing is a true and complete copy of certain proceedings taken by the Howell Township Board at a meeting held on this day, and further certify that the above resolution was adopted at said meeting.

Sue Daus, Howell Township Clerk

2025

January

S	M	T	W	T	F	S
			1	2	3	4
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19	20	21	22	23	24	25
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February

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March

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23	24	25	26	27	28	29
30	31					

April

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27	28	29	30			

May

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June

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July

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August

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24	25	26	27	28	29	30
31						

September

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28	29	30				

October

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12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

November

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16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

December

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7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

Township Board

Planning Commission

Zoning Board of Appeals

Township Closed

**HOWELL TOWNSHIP BOARD MEETINGS
2025**

The Howell Township Board will meet on the **2nd** Monday of the month at **6:30 p.m.**

Howell Township Hall
3525 Byron Road
Howell, Michigan 48855
(517)546-2817

*MEETINGS ARE NOT THE 2nd MONDAY OF THE MONTH

Meeting Dates

January 13
February 10
March 3* - Due to March Board of Review
April 14
May 12
June 9
July 14
August 11
September 8
October 14* - Due to Columbus / Indigenous People's Day
November 10
December 8

**PLANNING COMMISSION MEETINGS
2025**

The Howell Township Planning Commission will meet on the **4th Tuesday** of each month, at **6:30 p.m.** at the Howell Township Hall 3525 Byron Road, Howell, Michigan 48855 (517)546-2817.

*Meetings are on alternate dates due to Holidays

Meeting Dates	Application Due Date
January 28	December 23, 2024
February 25	January 28
March 25	February 25
April 22	March 25
May 27	April 22
June 24	May 27
July 22	June 24
August 26	July 22
September 23	August 26
October 28	September 23
*November 18	October 28
*December 16	November 25

**ZONING BOARD OF APPEALS (ZBA) MEETINGS
2025**

The Howell Township ZBA will meet on the **3rd Tuesday** of the month as needed at **6:30 p.m.** at the Howell Township Hall, 3525 Byron Road, Howell, Michigan 48855 (517)546-2817.

*Meetings are on alternate dates due to Holidays

Meeting Dates	Application Due Date
January 21	December 17, 2024
February 18	January 21
March 18	February 18
April 15	March 18
May 20	April 15
June 17	May 20
July 15	June 17
August 19	July 15
September 16	August 19
October 21	September 16
*November 12	October 21
*December 9	November 18

**Howell Township
Resolution Setting Township Sewer Charges**

Resolution Number 11.24.544

At a regular meeting of the Howell Township Board, Livingston County, Michigan, held at the Township Hall, 3525 Byron Road, Howell Michigan, on the 4th day of November 2024 at 6:30 p.m., Eastern Daylight Time.

Present:

Absent:

The following resolution was offered by _____ and supported by _____:

WHEREAS, Ordinance 21 of Howell Township, entitled the Wastewater Collection and Treatment System Ordinance, provides for the operation and maintenance of a sanitary sewage disposal system by the Township;

WHEREAS, Ordinance 21 empowers the Township with the authority to fix from time to time just and reasonable rates and other charges as may be deemed advisable for supplying the inhabitants of the Township and others with a sanitary sewage disposal system; and

WHEREAS, Section 5-B of Ordinance 21 authorizes the Township Board to, by ordinance or resolution, establish the fee for the connection permit for each single family residential premises or single family Residential Equivalent (RE) connecting to any sanitary sewer lines within the Township; and

WHEREAS, Section 7-L of Ordinance 21 establishes that each single family residential premises or single family Residential Equivalent (RE) connecting to any sanitary sewer lines within the Township shall pay a connection fee of \$4,200.00 as of January 1, 2004, and such amount shall increase by 5% on each succeeding January 1, unless otherwise resolved by the Howell Township Board; and

WHEREAS, Section 7-L of Ordinance 21 further provides that the amount of the Connection Fee may be modified from time to time by the Township Board as may be required to recover the Township’s capacity costs in the system; and

**Howell Township
Resolution Setting Township Water Charges**

Resolution Number 11.24.545

At a regular meeting of the Howell Township Board, Livingston County, Michigan, held at the Township Hall, 3525 Byron Road, Howell Michigan, on the 4th day of November 2024 at 6:30 p.m., Eastern Daylight Time.

Present:

Absent:

The following resolution was offered by _____ and supported by _____:

WHEREAS, Ordinance 181 of Howell Township, entitled the Water Use and Rate Ordinance, provides for the operation and maintenance of a sanitary sewage disposal system by the Township;

WHEREAS, Ordinance 181 empowers the Township with the authority to fix from time to time just and reasonable rates and other charges as may be deemed advisable for supplying the inhabitants of the Township and others with a water supply system; and

WHEREAS, Section 15 of Ordinance 181 authorizes the Township Board to, by ordinance or resolution, establish the fee for the connection permit for each single family residential premises or single family Residential Equivalent (RE) connecting to any water lines within the Township; and

WHEREAS, Section 15-B of Ordinance 181 further provides that the amount of the Connection Fee may be modified from time to time by the Township Board as may be required to recover the Township's capacity costs in the system; and

WHEREAS, the Township Board has historically allowed the Connection Fee to increase by 5% but for in any year where the Township Board has resolved by resolution to maintain the then applicable Connection Fee; and

WHEREAS, for purposes of establishing the Connection Fee as of January 1, 2025, the Township Board desires to resolve the applicable Connection Fee as set forth herein.

NOW, THEREFORE, BE IT RESOLVED b the Township Board of Howell Township, Livingston County, Michigan, as follows:

1. The Connection Fee as of January 1, 2025 is \$ _____ for each single family residential premises or single family residential equivalent (RE).
2. Such amount shall increase by 5% on each succeeding January 1, unless otherwise resolved by the Howell Township Board.

All prior resolutions and parts of prior resolutions insofar as they conflict with the provisions of this resolution are hereby rescinded.

Yeas:

Nays:

RESOLUTION DECLARED _____

STATE OF MICHIGAN)
) ss
COUNTY OF LIVINGSTON)

I, Sue Daus, Clerk of Howell Township, hereby certify this to be a true and complete copy of this resolution, duly adopted at a regular meeting of the Township Board.

Sue Daus, Howell Township Clerk

Howell Township Board,

There is an issue within the township ordinance that I feel the township needs to address. That is the lack of inclusion of many at-home occupations such as a carpenter, bakery, shoe maker, gunsmith, boyer, painter, artist, plumber, electrician or just someone who buys and sells stuff off facebook marketplace. Really the overall ability and the flexibility to be able to provide for one's family from their own homestead. With today's ever rising living and transportation cost, compassion and understanding seems to be missing from the townships ordinances. Certainly none of these professions would be permitted with our permissive zoning.

I ask that you put the "more inclusive home occupations" issue on the agenda for the next township meeting. There are certainly many clever ways residents are making a living or an extra buck to keep food on the table these days. We certainly wouldn't want anyone to be unable to feed their family or worse unable to pay their property taxes!

Consider the scope of the stance the township is making here. If companies that started in a garage like Harley Davidson, Mattel, Disney, Hewlett Packard, Mag-Lite were shut down before they could get off the ground, where would the world be?

www.ohdcsa.com/12-famous-companies-that-started-in-a-garage/

PLEASE DON'T KILL THE AMERICAN DREAM

Thanks,
Shane Fagan

ARTICLE XIV

and areas used for offices, power generators, power transformers, storage, fabrication or manufacture of materials necessary to the provision of essential services. See Sections 14.36 and 20.08 E.

- F. Refer to Ordinance No. 85 Pipeline Ordinance for additional regulations and Refer to Ordinance No. 204 Ordinance to Approve with reservations, a Uniform Video Service Franchise Agreement Submitted by Comcast.

(Ord. No. 1 eff. Jan. 8, 1983; amend. by Ord. No. 97 eff. Feb. 23, 2000)

Section 14.18 SWIMMING POOLS (OUTDOOR).

Private pools shall be permitted as an accessory use in all zoning districts within the rear and side yards only, provided they meet the following requirements:

- A. There shall be a distance of not less than twenty (20) feet between the adjoining property line and the outside of the pool wall.
- B. There shall be a distance of not less than four (4) feet between the outside pool wall and any building located on the same lot.
- C. No swimming pool shall be located less than thirty-five (35) feet from any front lot line.
- D. No swimming pool shall be located less than the distance required for a side yard by the zoning ordinance.
- E. If electrical service drop conductors or other utility wires cross under or over a proposed pool area, the applicant shall make satisfactory arrangements with the utility involved for the relocation of wires before a permit shall be issued for the construction of a swimming pool.
- F. No swimming pool shall be located in an easement.
- G. For the protection of the public, all yards containing swimming pools shall be completely enclosed by a fence not less than four (4) feet in height. The gate shall be of a self-closing and latching type, with the latch on the inside of the gate not readily available for children to open. Gates shall be capable of being securely locked when the pool is not in use for extended periods. Provided, however, that if the entire premises of the residence are enclosed, then this provision may be waived by the Zoning Administrator upon inspection and approval.
- H. Above ground pools require removable ladders, or deck with self latching gate. (Ord. No. 240 eff. September 3, 2010)

(Ord. No. 1 eff. Jan. 8, 1983; amend. By Ord. No.107 eff. May 24, 2000)

Section 14.19 HOME OCCUPATIONS AND ON-SITE SALES.

Home occupations shall be permitted in all residences in all districts and include such customary home occupations as small workshops and businesses: hairdressing, millinery, dressmaking, bookkeeping and accounting service, real estate and insurance sales; professional office for occupancy by not more than one (1) physician, surgeon, dentist, attorney, architect, engineer or similar recognized professional practitioner provided such home occupation shall satisfy the following conditions:

XIV-6

- A. The nonresidential use shall be only incidental to the primary residential use.
- B. The occupation shall utilize no more than twenty-five (25) percent of the ground floor area of the principal structure or an accessory structure not to exceed twenty-five (25) percent of the gross floor area of the principal structure.
- C. Only normal domestic or household equipment and equipment characteristic of small workshops, businesses and professional office shall be used to accommodate the home occupation.
- D. The home occupation shall involve no employees other than members of the immediate family residing on the premises except one non-resident employee shall be permitted per dwelling unit.
- E. All activities shall be carried on indoors. No outdoor activities or storage shall be permitted.
- F. No alterations, additions, or changes to a principal or accessory structure which will change the residential character of the dwelling structure shall be permitted in order to accommodate or facilitate a home occupation.
- G. There shall be no external evidence of such occupations except a small announcement sign not to exceed two (2) square feet in area and attached to the principal or accessory structure.
- H. The permission for home occupations as provided herein is intended to secure flexibility in the application of the requirements of this Ordinance; but such permission is not intended to allow the essential residential character of Residential Districts, in terms of use and appearance, to be changed by the occurrence of home occupations.
- I. Garage sales, rummage sales, yard sales and similar activities may be conducted for no longer than three (3) days and no more than twice per calendar year on the same property.

(Ord. No. 1 eff. Jan. 8, 1983; amend. by Ord. No. 97 eff. Feb. 23, 2000, further amend. by Ord. No.107 eff. May 24, 2000)

Section 14.20 TEMPORARY BUILDINGS AND STRUCTURES.

Temporary buildings and structures are permitted during the period of construction, and sales involving change of ownership or rental occupancy. Such buildings, and structures shall be removed upon completion or abandonment of construction, sale or rental activities and prior to occupancy and use of the building or structure for permitted uses. Also refer to Sections 14.28 and 16.09 for permits to park or use mobile homes on a temporary basis.

Also, refer to Sections 14.25 and 14.28.

(Ord. No. 1 eff. Jan. 8, 1983; further amend. eff. Mar. 31, 2019)



Jonathan Hohenstein
Howell Township Treasurer
3525 Byron Road
Howell, MI 48855

Re: Union at Oak Grove – PILOT Amendment

Dear Mr. Hohenstein:

Union at Oak Grove, LP would like to formally request to further amend Section 9 Duration of the approved Ordinance granting a PILOT for Union at Oak Grove.

The construction of this project unfortunately saw several delays resulting in almost a year of delay in construction completion. Below are only some of the issues during construction causing delay.

- Atypical construction sequencing was required in this County. Typical construction of multi-family allows concurrent construction of the buildings and site. The County required all pavement to be installed prior to allowing any building construction which required 85% of the sitework to be completed before vertical construction could begin. The original construction schedule anticipated significantly more overlap in building and site construction.
- Utility provider delay. Electrical and Gas companies saw delays in labor and materials and did not allow for buildings to open as originally scheduled.
- While this project was not affected by labor shortages due to COVID, the supply chain was still working to re-balance after the affects of COVID leading to a delay in materials, specifically mechanical and electrical supplies, thus causing a delay in building construction.
- Weather was also a factor in completing construction. 2023 was one of the wettest on record in Michigan which slowed progress on our site work.

We would respectfully request the language in the PILOT be amended from the required construction completion date of December 31st, 2023 to December 31st, 2024.

We thank the Township for their continued support, partnership and understanding with this delay. This project cannot succeed without the financial support provided by this PILOT. Please do not hesitate to contact me with any questions.

Respectfully,

Joy M. Skidmore
Director of Development



**HOWELL TOWNSHIP
AMENDED TAX EXEMPTION ORDINANCE - UNION AT OAK GROVE
ORDINANCE NO. 287**

At a regular meeting of the Township Board of Howell Township, Livingston County, Michigan, held at 3525 Byron Rd., Howell, Michigan 48855 on the 4th day of November, 2024, at 6:30 P.M., Township Board Member _____ moved to adopt the following Ordinance, which motion was seconded by Township Board Member _____:

An Ordinance to amend the Howell Township Tax Exemption Ordinance – Union at Oak Grove to amend Section 9 provide for an extension of the duration of time in which the housing project will be completed, extending that time from December 31, 2023 to December 31, 2024.

THE TOWNSHIP OF HOWELL, LIVINGSTON COUNTY, MICHIGAN ORDAINS:

SECTION 1. AMENDMENT TO SECTION 9: DURATION: The Township amends Section 9 to change the completion date of the housing project from December 31, 2023 to December 31, 2024 and amended Section 9 shall read as follows:

SECTION 9. Duration.

This Ordinance shall remain in effect and shall not terminate until the later of thirty (30) years from either May 11, 2022 or the first full year of development operations. Notwithstanding the foregoing, this Ordinance shall automatically terminate if the housing project is no longer subject to income and rent restrictions under the LIHTC Program, qualifies for the LIHTC Program, fails to receive or maintain Authority approval, or the housing project does not commence on or before December of 2021, and is not completed by December 31, 2024.

SECTION 2. SEVERABILITY.

The various sections and provisions of this Ordinance shall be deemed to be severable, and should any section or provision of this Ordinance be declared by any court of competent jurisdiction to be unconstitutional or invalid the same shall not affect the validity of this Ordinance as a whole or any section or provision of this Ordinance, other than the section or provision so declared to be unconstitutional or invalid.

SECTION 3. INCONSISTENT ORDINANCES.

All ordinances or parts of ordinances inconsistent or in conflict with the provisions of this Ordinance are repealed to the extent of such inconsistency or conflict, including the predecessor Ordinances adopted May 20, 2020, and February 17, 2021.

SECTION 4. EFFECTIVE DATE.

This Ordinance shall take effect immediately following its publication as provided by law.

YEAS: _____

NAYS: _____

ABSENT/ABSTAIN: _____

HOWELL TOWNSHIP:

BY: _____

ADOPTED: _____

PUBLISHED: _____

EFFECTIVE: _____

CERTIFICATION

I, Sue Daus, the Clerk of Howell Township, Livingston County, Michigan, do hereby certify that the foregoing is a true and complete copy of Ordinance No. 287 adopted by the Howell Township Board at a regular meeting held on November 4, 2024.

Notice of adoption and publication of the Ordinance was published in the _____ on _____, 2024. The Ordinance shall be effective on _____, 2024, immediately following publication.

By: _____

Sue Daus, Township Clerk

Fowlerville Community Schools

RECEIVED

7677 W. Sharpe Road, Suite A • Fowlerville, MI 48836
 (517) 223-6015 • FAX (517) 223-6022
 Matthew Stuard, Superintendent

OCT 21 2024

HOWELL TOWNSHIP

Fowlerville Community Schools - BOARD OF EDUCATION RESOLUTION

A Resolution of the Fowlerville Community Schools Board of Education Opposing Marijuana Dispensaries and Commercial Marijuana Activities Within the Boundaries of Fowlerville Community Schools and Committing to the Health and Well-Being of Our Students

WHEREAS, permitting commercial marijuana businesses or dispensaries in a community results in increased youth access and sends youth a message that marijuana is a safe drug; and

WHEREAS, there is compelling evidence that allowing commercial marijuana enterprises (medical and/or recreational) in communities leads to dramatic increases in youth marijuana use; and

WHEREAS, marijuana potency has increased significantly over past decades with marijuana extracts ranging from 50% to 80% THC, the addictive chemical in the drug; and

WHEREAS, marijuana use negatively affects the developing teen brain, diminishing the ability to learn; and

WHEREAS, youth marijuana use is strongly associated with academic underperformance; and

WHEREAS, one in six youths that use marijuana become addicted to it; and

WHEREAS, legalized marijuana results in markedly increased drug violations at school; and

WHEREAS, youth marijuana use can worsen depression and can lead to serious mental health issues; and

WHEREAS, the 2018 Michigan state ballot Proposal 1 allows municipalities to determine whether commercialized marijuana businesses will be allowed in their jurisdictions.

NOW, THEREFORE, BE IT RESOLVED THAT: the Board of Education for Fowlerville Community Schools is opposed to any commercial marijuana businesses or dispensaries within the boundaries of Fowlerville Community Schools.

BE IT FURTHER RESOLVED THAT: the Board of Education for Fowlerville Community Schools requests that the elected leaders of the Village of Fowlerville and surrounding townships help protect our students from the negative consequences of marijuana use by prohibiting marijuana businesses in their jurisdictions.

AND BE IT FURTHER RESOLVED THAT: this resolution, having been adopted by the Fowlerville Community Schools Board of Education, be made a permanent part of the records of this School District.

Sincerely,



Fowlerville Board of Education

Amy Sova, Robert Hinton, Susan Charron, John Belcher, Danielle DeVries, Diana Dombrowski and Justin Braska

Cc: Handy Township Board, Village of Fowlerville, Conway Township Board, Cohoctah Township

HOWELL TOWNSHIP
LIVINGSTON COUNTY, MICHIGAN
RESOLUTION OF APPRECIATION
RESOLUTION No. 11.24.546

At the regular meeting of the Howell Township Board, County of Livingston, State of Michigan, held at the Howell Township Hall, 3525 Byron Road, Howell, MI 48855 on November 4, 2024 at 6:30 pm.

Present:

Absent:

The following resolution was offered by _____ and supported by _____:

WHEREAS, Benjamin Costello, Boy Scout Troup 362 completed his Eagle Scout project by building three quality benches for the Howell Township Hall Gazebo.

WHEREAS, Benjamin Costello’s Eagle Scout project provided an inviting space for Howell Township residents to relax and share a conversation.

NOW THEREFORE BE IT RESOLVED, that this Township Board, on behalf of its members, the officials and the employees of Howell Township, and the citizens of the community, do hereby express to Benjamin Costello, sincere and profound appreciation and thanks for the beautifully built benches in the Township’s gazebo along with his dedication, care and commitment to excellence.

BE IT FURTHER RESOLVED, that Benjamin Costello be presented this resolution, and this resolution be spread upon the permanent record of the Township of Howell, Michigan, attested by the Township Supervisor.

Yeas:

Nays:

RESOLUTION DECLARED _____

STATE OF MICHIGAN)
) ss
COUNTY OF LIVINGSTON)

I, Sue Daus, Clerk of Howell Township, hereby certify this to be a true and complete copy of this resolution, duly adopted at a regular meeting of the Township Board.

Sue Daus, Howell Township Clerk

Help communities impacted by Hurricanes Helene & Milton. Donate now

Search



Ben's Eagle Project



Ben Costello is organizing this fundraiser.

Donation protected

My name is Ben Costello. I am a 17 year old from Howell Michigan. I am a Boy Scout from troop 362. I am currently working on a my Eagle project which is to add three benches to the gazebo at Howell Township Hall. This would benefit the community by providing a place for individuals to gather and communicate. I have been in Boy Scout since 6 years old to follow in my dad's (Mathew Costello) footsteps. He had passed when I was 6 years old. I would appreciate any donations given to help support this project. Thank you.



1

Updates (1)

September 11th, 2024

by Ben Costello, Organizer

Hello,

I have reached my goal for my project. I want to thank everyone that donated. My next step is to purchase the materials, pick the date, and start building. Thank you again for helping me to reach my goal of becoming an Eagle Scout, in honor of my dad, Matt, and grandfather, James.

Donations (17)

See top



This fundraiser is located near you



Anonymous
\$10 · 1 mo



Tera Mayer
\$40 · 1 mo

Linda Caillouette

Township Board Ethics

October 24, 2024

During Trustee Bob Wilson's two years on the Township Board he has displayed on numerous occasions inappropriate behavior, language, and actions unbecoming of a Township Trustee.

At the September 9, 2024 Board meeting Trustee Wilson wrote a wholly unacceptable note about the Township Clerk, displayed this note to the crowd, and left it at his Board seat for Township staff to find. This behavior is appalling. Due to the content of Trustee Wilson's note it cannot be included in the Township Board packet, but a copy will be provided to the Board members.

At the October 7, 2024 Board meeting, during the call to the public, Trustee Wilson's conduct was not only unacceptable as a member of the Township Board it was in direct violation of the Township's ethics policy. Treating a member of the public in the manner Trustee Wilson did by yelling and screaming over a citizen's comments during the period in the meeting where the public gets an opportunity to address the Township Board and giving his middle finger during this interaction is beyond belief.

These are just a few of the most recent examples of Trustee Bob Wilson's unethical behavior. Trustee Wilson has also made false statements and allegations of Township Board members and Township staff, has suggested the Township not enforce its Zoning Ordinance for his friends and an organization that he belongs to, and has threatened Township Board members and their families. The Township has had to take actions including paying a Sheriff to attend meetings because of Trustee Wilson's threats.

The Township Board can censure members of the Board for their behavior and can petition the Governor to remove an elected official. These are extreme steps that the Board can contemplate but I wanted to make all Board members aware of the Township's ethics policy, which is attached, and propose two resolutions: Principles of Township Excellence in Governance and a Code of Conduct for Board Members. I hope the Board will see the advantage of these resolutions on behalf of the Township's residents. Should the Board see the benefit we could also work with the Township attorney to adopt an ethics ordinance, such as the model ethics ordinance from the Michigan Attorney General's Office, attached.

Respectfully submitted,
Jonathan Hohenstein

HOWELL TOWNSHIP ETHICS POLICY

Adopted November 10, 2014

Public Office is a public trust to be used solely to advance the public interest. Decisions should be made on the merits and based on objective judgment. Public officials must be accountable for their actions. All actions are considered public. You are no longer a private citizen once you take on an elected or appointed role in the Township. Avoid conduct which could create an appearance of impropriety.

- In conducting their official duties, township officials and employees shall observe both the spirit and intent of all applicable laws, township ordinances, and township policies and procedures. Township officials shall act in a fair, impartial manner.
- Actions of officials and employees shall be consistent with the township's best interest, rather than for personal gain.
- The township shall practice transparency in its affairs, unless there is a legal necessity for confidentiality.
- Civility and respect will be demonstrated in all governance processes and in the delivering township programs and services.
- Honor and respect democratic principles by observing not only the letter of the law but also its spirit.

Several Public Acts guide Public Ethics and are noted below. We have elaborated where necessary in *italics*: PA196 of 1973-Standards of Conduct for Public Officers and Employees

A public officer or employee shall not:

- Divulge confidential information- *A public servant shall not disclose any confidential information, without prior formal authorization of the public body having jurisdiction, concerning any township official or employee, or any other person.*
- Represent own opinion as government's opinion.
- Use government personnel property or funds for personal gain. *Public officials must use public assets for authorized purposes only, and not for personal or political benefit, or for the political benefit of someone else. Political activity should not be permitted under any circumstances during business hours.*

- Solicit or accept a gift, loan or thing of value tending to influence performance of official duties.
- Engage in business transactions in which he or she may profit from official position or confidential information.
- Accept employment or render services in conflict with official duties.
 - *A public servant shall not engage in private employment with, or render services for, any private person who has business transactions with the township, without first making a full public disclosure of the nature and extent of such employment.*
 - *There are standards governing an official holding more than one public office at the same time, and they are found in the Incompatible Public Offices Act (IPOA) 1978 PA566 MCL 15.181 es seq. Section 1 (b) of the Act defines “incompatible offices as public offices held by a public official which, when the official is performing the duties of any of the public offices, result in any of the following with respect to said offices: The subordination of one public office to another.*

Adopted at a regular township board meeting November 10, 2014 by unanimous vote.

**HOWELL TOWNSHIP
LIVINGSTON COUNTY, MICHIGAN
RESOLUTION OF PRINCIPLES OF TOWNSHIP EXCELLENCE IN GOVERNANCE
RESOLUTION No. 11.24.547**

At the regular meeting of the Howell Township Board, County of Livingston, State of Michigan, held at the Howell Township Hall, 3525 Byron Road, Howell, MI 48855 on November 4, 2024 at 6:30 pm.

Present:

Absent:

The following resolution was offered by _____ and supported by _____:

WHEREAS, the Howell Township Board adopts the Principles of Township Excellence in Governance. To maintain the high standards and traditions of Michigan townships, the Howell Township Board adopts the following dynamic principles of governance excellence to guide our stewardship, deliberations, constituent services and commitment to safeguard our community’s health, safety and general welfare.

WHEREAS, the Howell Township Board pledges to:

- Insist on the highest standards of ethical conduct by all who act on behalf of this township.
- Bring credit, honor and dignity to our public offices through collegial board deliberations and through diligent, appropriate responses to constituent concerns.
- Actively pursue education and knowledge and embrace best practices.
- Treat all people with dignity, respect and impartiality; without prejudice or discrimination.
- Practice openness and transparency in our decisions and actions.
- Cooperate in all reasonable ways with other government entities and consider the impact our decisions may have outside our Township’s borders.
- Communicate to the public Township issues, challenges and successes, and welcome the active involvement of stakeholders to further the Township’s wellbeing.
- Strive for compliance with state and federal statutory requirements.
- Refuse to participate in any decisions or activities for personal gain, at the expense of the best interests of the Township.
- Further the understanding of the obligations and responsibilities of American citizenship, democratic government and freedom.

NOW THEREFORE BE IT RESOLVED, the Township Board Adopts the Principles of Township Excellence in Governance.

Yeas:

Nays:

RESOLUTION DELCARED _____

STATE OF MICHIGAN)
) ss
COUNTY OF LIVINGSTON)

I, Sue Daus, Clerk of Howell Township, hereby certify this to be a true and complete copy of this resolution, duly adopted at a regular meeting of the Township Board.

Sue Daus, Howell Township Clerk

**HOWELL TOWNSHIP
LIVINGSTON COUNTY, MICHIGAN
RESOLUTION OF TOWNSHIP BOARD MEMBER CODE OF CONDUCT
RESOLUTION No. 11.24.548**

At the regular meeting of the Howell Township Board, County of Livingston, State of Michigan, held at the Howell Township Hall, 3525 Byron Road, Howell, MI 48855 on November 4, 2024 at 6:30 pm.

Present:

Absent:

The following resolution was offered by _____ and supported by _____:

WHEREAS, the Howell Township Board adopts the Howell Township Board Member Code of Conduct.

WHEREAS, Board members shall:

- Attend as many Board meetings as possible and become informed concerning issues to be discussed and shall inform the Supervisor of any impending absences from a Board meeting.
- Exercise his or her obligation to vote upon the question unless a conflict of interest is present.
- Adopt policy only after full discussion of the issues at public Board meetings.
- Encourage the free expression of opinion by all Board members and seek systematic communication between the Board and the community.
- Work with other Board members to establish effective policy and to delegate authority for the administration of the Township to Township staff.
- Communicate with other Board members and the Supervisor to manage the public reaction to Board policy and Township programs.
- Become informed about current Township government issues by individual study and through participation in programs providing needed information, such as those sponsored by the Michigan Townships Association.
- Support the employment of those people best qualified to serve as Township staff and insist on a regular impartial evaluation of all staff.
- Avoid being placed in a position of conflict of interest and refrain from using the Board position for personal or partisan gain; and take no action that will compromise the Board or the Township staff and respect the confidentiality of information that is privileged under applicable law.

NOW THEREFORE BE IT RESOLVED, the Township Board Adopts the Principles of Township Board Member Code of Conduct.

Yeas:

Nays:

RESOLUTION DELCARED _____

STATE OF MICHIGAN)
) ss
COUNTY OF LIVINGSTON)

I, Sue Daus, Clerk of Howell Township, hereby certify this to be a true and complete copy of this resolution, duly adopted at a regular meeting of the Township Board.

Sue Daus, Howell Township Clerk

MODEL ETHICS ORDINANCE

For Local Units of Government



Attorney General Dana Nessel

INTRODUCTION

While Michigan has several statutes governing the various aspects of ethics in government at both the state and local levels, local governmental entities may, by ordinance, establish and enforce ethics regulations for local public officials and public employees to the extent provided by law and/or charter.

The power to adopt ordinances is a governmental function conferred by the Legislature upon local governmental units for the governance of their local affairs. [OAG, 2003-2004, No 7150, p 107, 108 \(March 1, 2004\)](#). Included in a local government's ordinance authority is the power to enforce ordinances, generally by fines not to exceed \$500.00 or penalties of up to 90 days in jail. Examples of the Legislature having authorized local governmental units to adopt and enforce ordinances are contained in sections 3(k) and 4i of the [Home Rule City Act, MCL 117.3\(k\)](#) and [MCL 117.4i](#); Chap VI, sections 1 through 14 of the [General Law Village Act, MCL 66.1 - MCL 66.14](#); section 24(b) of the [Home Rule Village Act, MCL 78.24\(b\)](#), section 21(5) of the [Charter Township Act, MCL 42.21\(5\)](#); sections 1 through 7 of the [Township Ordinances Act, MCL 41.181 - MCL 41.187](#); and [MCL 46.11\(j\)](#) for counties.

A well drafted ethics ordinance should provide clarity to public officials and employees as to behavior necessary to instill trust and faith in government on the part of the public.

[E]thics in government is not merely the absence of corruption but the presence of trustEthics laws and enforcement efforts aimed solely at deterring corruption fail to apprehend that simple truth. Indeed, they foster the notion, unjustified in fact, that public officials are inherently dishonest. Such a policy not only fails to achieve its narrow goal of combating corruption but also destroys trust in municipal officials and thus ultimately undermines both the perception and reality of integrity in government. The purpose of ethics laws lies not in the promulgation of rules nor in the amassing of information nor even in the punishment of wrongdoers, but rather in the creation of a more ethical government, in perception and in fact

In the end, the touchstone of integrity in governmentreside[s] in the willingness of good citizens to serve in state and local government. Laws and agencies that chill that willingness to serve do far more harm than good. When, however, good citizens clamor to join the ranks of state and local officials, the ethical health of the state and local communities run strong.

Mark Davies, *1987 Ethics in Government Act: Financial Disclosure Provisions for Municipal Officials and Proposals for Reform*, 11 PACE L. Rev. 243, 266-267 (1991).

An ethics ordinance may be aspirational and/or punitive. An aspirational ordinance provides guidance to public officials and employees as to expected and prohibited conduct. An ethics ordinance that is also punitive provides civil and/or criminal penalties for violations of the

ethics ordinance. In drafting an ethics ordinance, consideration must also be given to collective bargaining agreements.

This office has developed this model ordinance as a means of assisting local officials in drafting an ethics ordinance for their local unit of government. While the adoption of such an ordinance is not required by state law, the information contained on this site is designed for local officials seeking to adopt an ethics ordinance. The various chapters and standards of conduct in this model ordinance are offered as suggestions and options for the governing body of a local unit to consider when drafting its own ethics ordinance. The governing body of each governmental unit should seek the advice of its legal counsel when drafting its ethics ordinance.

CHAPTER ONE - PURPOSE AND DEFINITIONS:

Section 1 - 1. Purpose. The purpose of this ordinance is to set forth standards of conduct for the officers and employees of the [type of unit]. The ordinance also provides references to certain state statutes that regulate the conduct of officers and employees of local government. The ordinance provides for an Ethics Ombudsperson to assist the [name of unit's governing body] in the administration of this ordinance. A Board of Ethics is established to hear complaints against officers and employees of the [type of unit] and, when there is a reasonable basis to believe that the respondent has violated Chapter Two of this ordinance, to refer those complaints for prosecution and/or a disciplinary hearing by the appointing authority. The ordinance provides for penalties for violations of this ordinance.

Commentary. If a unit chooses not to provide for an Ethics Ombudsperson or for a Board of Ethics, this section should be adjusted accordingly. If an Ethics Ombudsperson is not provided for, there would be no separate chapter establishing that office. If the Board of Ethics is not established, there should be in its place another Chapter entitled "Filing and Disposition of Complaints."

Section 1 - 2. Definitions.

"Employee" means a person employed by the [type of unit], whether on a full-time or part-time basis.

"Gift" means any gratuity, discount, entertainment, hospitality, loan, forbearance, or other tangible or intangible item having monetary value including, but not limited to, cash, food and drink, travel, lodging, and honoraria for speaking engagements related to or attributable to government employment or the official position of an officer or employee.

"Government contract" means a contract in which the [type of unit] acquires goods or services, or both, from another person or entity, but the term does not include a contract pursuant to which a person serves as an employee or appointed officer of the [type of unit].

"Governmental decision" means a determination, action, vote, or disposition upon a motion, proposal, recommendation, resolution, ordinance, or measure on which a vote by the

members of a legislative or governing body of a public entity is required and by which a public entity formulates or effectuates public policy.

"Immediate family" means a person and a person's spouse and the person's children and step-children, by blood or adoption, who reside with that person.

"Officer or Official" means a person who holds office, by election or appointment within the [type of unit] regardless of whether the officer is compensated for service in his or her official capacity.

"Official action" means a decision, recommendation, approval, disapproval or other action or failure to act which involves the use of discretionary authority.

"Prohibited source" means any person or entity who:

- (1) is seeking official action (i) by an officer or (ii) by an employee, or by the officer or another employee directing that employee;
- (2) does business or seeks to do business (i) with the officer or (ii) with an employee, or with the officer or another employee directing that employee;
- (3) conducts activities regulated (i) by the officer or (ii) by an employee, or by the officer or another employee directing that employee; or
- (4) has interests that may be substantially affected by the performance or non-performance of the official duties of the officer or employee.

CHAPTER TWO – STANDARDS OF CONDUCT

Section 2 – 1. Gift Ban. Except as permitted by this ordinance, no officer or employee of the [type of unit] shall intentionally solicit or accept any gift from any prohibited source or which is otherwise prohibited by law or ordinance.

Section 2 – 2. Exceptions. Section 2 – 1 is not applicable to the following:

- (1) Opportunities, benefits, and services that are available on the same conditions as for the general public.
- (2) Anything for which the officer or employee pays the fair market value.
- (3) Any contribution that is lawfully made under the Campaign Finance Laws of the State of Michigan.
- (4) A gift from a relative, meaning those people related to the individual as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, and including the father,

mother, grandfather, or grandmother of an individual's spouse and the individual's fiancé or fiancée.

(5) Anything provided by an individual on the basis of a personal friendship unless the recipient has reason to believe that, under the circumstances, the gift was provided because of the official position or employment of the recipient and not because of the personal friendship. In determining whether a gift is provided on the basis of personal friendship, the recipient shall consider the circumstances under which the gift was offered, such as: (i) the history of the relationship between the individual giving the gift and the recipient of the gift, including any previous exchange of gifts between those individuals; (ii) whether to the actual knowledge of the recipient the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and (iii) whether to the actual knowledge of the recipient the individual who gave the gift also at the same time gave the same or similar gifts to other officers or employees.

(6) Food or refreshments not exceeding \$[amount to be determined by unit's governing body] per person in value on a single calendar day; provided that the food or refreshments are (i) consumed on the premises from which they were purchased or prepared, or (ii) catered. For the purposes of this Section, "catered" means food or refreshments that are purchased ready to consume which are delivered by any means.

(7) Food, refreshments, lodging, transportation, and other benefits resulting from outside business or employment activities (or outside activities that are not connected to the official duties of an officer or employee), if the benefits have not been offered or enhanced because of the official position or employment of the officer or employee, and are customarily provided to others in similar circumstances.

(8) Intra-governmental and inter-governmental gifts. For the purpose of this ordinance, "intra-governmental gift" means any gift given to an officer or employee from another officer or employee of [type of unit], and "inter-governmental gift" means any gift given to an officer or employee by an officer or employee of another governmental entity.

(9) Bequests, inheritances, and other transfers at death.

(10) Any item or items from any one prohibited source during any calendar year having a cumulative total value of less than \$[amount to be determined by unit's governing body].

Each of the exceptions listed in this Section is mutually exclusive and independent of every other.

Commentary. The dollar amount limitations permitted in Section 2 – 2 should be determined by each local unit based upon the standards of each municipality and the cost of such items in the area. For example, the State of Illinois places limits of \$75 and \$100 in subsections (6) and (10) respectively. However, a rural area of northern Michigan is not likely to be subject to a cost of living similar to that in Chicago or Detroit and the limits should reflect the local standards.

Section 2 – 3. Disposition of gifts. An officer or employee does not violate this ordinance if he or she promptly takes reasonable action to return a gift from a prohibited source.

Section 2 – 4. Confidential Information. A public officer or employee shall not divulge to an unauthorized person, confidential information acquired in the course of employment in advance of the time prescribed by [name of governing body of local unit] or the [name of specific officer] for its authorized release to the public.

See: [Freedom of Information Act \(FOIA\), 1976 PA 442, MCL 15.231 et seq.](#) - Suppression of or refusal to provide public records of the [type of unit] is governed by the FOIA, the Records Retention Schedule of the local unit as approved by the State Archivist, and [MCL 750.491](#) (Public records; removal, mutilation or destruction; penalty).

Section 2 – 5. Personal Opinion. An officer or employee shall not represent his or her personal opinion as that of the [type of unit].

Section 2 – 6. Public Resources. An officer or employee shall use personnel resources, property, and funds under the officer's or employee's official care and control judiciously and solely in accordance with prescribed constitutional, statutory, and regulatory procedures and not for personal gain or benefit.

Section 2 – 7. Personal Profit. A public officer or employee shall not engage in a business transaction in which the public officer or employee may profit from his or her official position or authority or benefit financially from confidential information which the public officer or employee has obtained or may obtain by reason of that position or authority. Instruction which is not done during regularly scheduled working hours except for annual leave or vacation time shall not be considered a business transaction pursuant to this subsection if the instructor does not have any direct dealing with or influence on the employing or contracting facility associated with his or her course of employment with this [type of unit].

Section 2 – 8. Incompatibility and Conflicts of Interest. Except as otherwise provided in Const 1963, statute, or in Section 2 - 10, an officer or employee shall not engage in or accept employment or render services for a private or public interest when that employment or service is incompatible or in conflict with the discharge of the officer or employee's official duties or when that employment may tend to impair his or her independence of judgment or action in the performance of official duties. The simultaneous holding of more than one public position under certain circumstances is contrary to the requirements of the Incompatible Public Offices Act, MCL 15.181 *et seq.* However, the simultaneous holding of certain public positions is specifically authorized by the Michigan Constitution of 1963 or state statute.

See: [Incompatible Public Offices Act, 1978 PA 566, MCL 15.181 et seq.](#)

See: [Const 1963, Article 7, Section 28.](#) Local officials are specifically authorized to serve on the governing bodies of intergovernmental entities.

Section 2 – 9. Personal and financial interests. Except as provided in Section 2 – 10, an officer or employee shall not participate in the negotiation or execution of contracts, making of loans, granting of subsidies, fixing of rates, issuance of permits or certificates, or other regulation or supervision relating to a business entity in which the officer or employee has a financial or personal interest.

See: [Conflict of Interest Act, 1968 PA 317, MCL 15.321 et seq.](#) This Act governs the solicitation by and participation in government contracts by officers and employees of the [type of unit] and preempts all local regulations of such conduct. However, the Conflict of Interest Act does not apply to contracts between the [type of unit] and its officers and employees which are based on the [type of unit]'s powers to appoint officers and hire employees.

See: [State Ethics Act, 1973 PA 196, MCL 15.341 et seq.](#) Section 2 of this Act, [MCL 15.342](#), set forth the standards listed in Sections 2 - 4 to 2 - 9 of this ordinance. However, no sanctions are imposed for violation of these standards by officers and employees of local units of government. Hence, the need for this ordinance to impose sanctions for the violation of these standards of conduct.

Section 2 – 10. State Conflict of Interest Act, Validity of Contracts, and Voting on, Making, or Participating in Governmental Decisions.

(1) This ordinance shall not in any manner vary or change the requirements of [1968 PA 317](#), being sections 15.321 to 15.330 of the Michigan Compiled Laws which governs the solicitation by and participation in government contracts by officers and employees of the [type of unit] and preempts all local regulation of such conduct.

(2) This ordinance is intended as a code of ethics for the [type of unit]'s officers and employees. A contract in respect to which a public officer or employee acts in violation of this ordinance, shall not be considered to be void or voidable unless the contract is a violation of a statute which specifically provides for the remedy.

(3) Subject to subsection (4), sections 2 - 8 and 2 - 9 shall not apply and an officer shall be permitted to vote on, make, or participate in making a governmental decision if all of the following occur:

(a) The requisite quorum necessary for official action on the governmental decision by the [name of unit's governing body] to which the officer has been elected or appointed is not available because the participation of the officer in the official action would otherwise violate sections 2 - 8 and 2 - 9.

(b) The officer is not paid for working more than 25 hours per week for [type of unit].

(c) The officer promptly discloses any personal, contractual, financial, business, or employment interest he or she may have in the governmental decision

and the disclosure is made part of the public record of the official action on the governmental decision.

(4) If a governmental decision involves the awarding of a contract, Sections 2 - 8 and 2 - 9 shall not apply and a public officer shall be permitted to vote on, make, or participate in making the governmental decision if all of the following occur:

(a) All of the conditions of subsection (3) are fulfilled.

(b) The public officer will directly benefit from the contract in an amount less than \$250.00 or less than 5% of the public cost of the contract, whichever is less.

(c) The public officer files a sworn affidavit containing the information described in subdivision (b) with the [name of unit's governing body] making the governmental decision.

(d) The affidavit required by subsection (c) is made a part of the public record of the official action on the governmental decision.

Section 2 – 11. Political Activities of Public Employee or Public Officer.

(1) Employees of local units of government running for office, political campaigning by employees, and limitations on officers and employees seeking support from other employees for those campaigning for public office and for or against ballot proposals are regulated by the [Political Activities by Public Employees Act, MCL 15.401 et seq.](#) Complaints may be filed with the Michigan Department of Energy, Labor and Economic Growth. [MCL 15.406.](#) Violation of the provisions of this Act by employees and appointed officers are subject to appropriate disciplinary action, up to and including termination by the appointing authority. Violations of the ordinance are also subject to the sanctions listed in Chapter Five.

(2) [Michigan Campaign Finance Act, MCL 169.201 et seq.](#) Complaints regarding compliance with this Act may be filed with the Michigan Department of State.

See: [Political Activities by Public Employees Act, 1976 PA 169, MCL 15.401 et seq.](#)

See: [Michigan Campaign Finance Act, MCL 169.201 et seq.](#)

Section 2 – 12. Anti-nepotism. Unless the [name of governing body] shall by a two-thirds (2/3) vote, which shall be recorded as part of its official proceedings, determine that the best interests of the [type of unit] shall be served and the individual considered by such a vote

has met the qualifications for appointive office or employment, the following relatives of any elected or appointed officer are disqualified from holding any appointed office or employment during the term for which said elected or appointed officer was elected or appointed: spouse, child, parent, grandchild, grandparent, brother, sister, half-brother, half-sister, or the spouse of any of them. This Section shall in no way disqualify such relatives or their spouses who are bona fide appointed officers or employees of the [type of unit] at the time of the election or appointment of said officer to elective [type of unit] office.

Section 2 – 13. Representation Before Governmental Body.

An official or employee of the [type of unit] shall not represent any other person in any matter that the person has before the [type of unit] when the officer or employee appoints or otherwise supervises the board, commission, officer or employee responsible for handling the matter.

Section 2 - 14. Transactional Disclosure. Whenever an officer or employee is required to recuse himself or herself under Chapter Two of this ordinance, he or she:

(a) shall immediately refrain from participating further in the matter,

(b) shall promptly inform his or her superior, if any, and

(c) shall promptly file with the Board of Ethics, if any, and clerk of the [type of unit] a signed Affidavit of Disclosure disclosing the reason for recusal. The clerk shall send copies of the Affidavit of Disclosure to all of the members of the governing body of the [type of local unit] and the Affidavit shall be attached to the minutes of its next meeting.

See: [Model Affidavit of Disclosure – Transactional Form](#)

Section 2 - 15. Annual Disclosure Statement.

The following elected and appointed officers and employees shall file an annual disclosure statement: [list should include members of the unit's governing body, other elected and appointed officers and employees, such as the directors and deputy directors of administrative departments, members of the zoning board of appeals and planning commission, and those who regularly exercise significant discretion over the solicitation, negotiation, approval, awarding, amendment, performance, or renewal of government contracts].

The annual disclosure statement shall disclose the following financial interest of the officer or employee or his or her immediate family in any company, business, or entity that has contracted with the [type of unit] or which has sought licensure or approvals from the [type of unit] in the two calendar years prior to the filing of the statement:

(a) Any interest as a partner, member, employee or contractor in or for a co-partnership or other unincorporated association;

- (b) Any interest as a beneficiary or trustee in a trust;
- (c) Any interest as a director, officer, employee or contractor in or for a corporation; and
- (d) Legal or beneficial ownership of [percentage to be determined by the unit's governing body] % or more of the total outstanding stock of a corporation.

The annual disclosure statement shall include a summary listing each business transaction with the [type of unit] involving a financial interest described in this section of the [type of unit] officer or employee and/or the immediate family of the officer or employee during the two prior calendar years.

If there is no reportable financial interest or transaction applicable to the officer or employee and/or the immediate family of the officer or employee, the annual disclosure statement shall contain a certification to that effect.

See: [Model Affidavit of Disclosure – Annual Form](#)

Commentary. It is understood that many local units of government do not have the need, the resources or the expertise to maintain an Ethics Board or Ethics Ombudsperson. However, for those local units who wish to create these vehicles for implementing an ethics ordinance, Chapter Three and Chapter Four (Alternative 1) offer these options.

CHAPTER THREE – ETHICS OMBUDSPERSON

Section 3 – 1. The [chief executive officer or other designated officer if the local unit does not have a chief executive officer], with the advice and consent of the [governing body] shall designate an Ethics Ombudsperson (EO) for the [type of unit].

Section 3 – 2. The EO may recommend to the [type of unit's governing body] that an advisory opinion be sought from the attorney for the [type of unit] regarding any requirement of this ordinance and its application to the officers and employees of the [type of unit].

Section 3 – 3. The EO shall promptly advise the governing body of the [type of local unit] of any problems encountered in the implementation of the ordinance and as to any recommendations that he or she may have for improvement of the ordinance. The EO shall perform such other duties as may be assigned by the [governing body].

CHAPTER FOUR (ALTERNATIVE 1) - BOARD OF ETHICS

Section 4 – 1. There is hereby created a board to be known as the Board of Ethics of the [type of local unit]. The Board shall be comprised of three members appointed by the [chief executive officer or other designated officer if the local unit does not have a chief executive officer] with the advice and consent of the [type of local unit's] governing body. No person shall be appointed as a member of the Board who is related, either by blood or by marriage up to the degree of first cousin, to any elected officer of the [type of unit]. [For entities in which officers are elected on a partisan basis, insert the following: No more than two members of the Board shall belong to the same political party at the time such appointments are made. Party affiliation shall be determined by affidavit of the person appointed.] Members shall serve without compensation.

Section 4 – 2. At the first meeting of the Board, the initial appointees shall draw lots to determine their initial terms of 3, 2, and 1 year(s), respectively. Thereafter, all board members shall be appointed to 3-year terms by the [chief executive officer or other designated officer if the local unit does not have a chief executive officer] with the advice and consent of the [name of unit's governing body]. Board members may be reappointed to serve subsequent terms.

At the first meeting of the Board and thereafter at the discretion of the Board, the board members shall choose a chairperson from their number. Meetings shall be held at the call of the chairperson or any 2 board members. A quorum shall consist of two Board members, and official action by the Board shall require the affirmative vote of two Board members.

The business of the Board, including its hearings, shall be conducted at a public meeting held in compliance with the [Open Meetings Act, 1976 PA 267, MCL 15.261 et seq.](#)

Section 4 – 3. The [name of unit's governing body], may remove a Board member in case of incompetency, neglect of duty or malfeasance in office after service on the Board member by certified mail, return receipt requested, of a copy of the written charges against the Board member and after providing an opportunity to be heard in person or by counsel upon not less than 10 days' notice. Mid-term vacancies shall be filled for the balance of the term in the same manner as original appointments.

Section 4 – 4. The Board shall have the following powers and duties:

(1) To promulgate procedures and rules governing the performance of its duties and the exercise of its powers.

(2) Upon receipt of a signed, notarized, written complaint against an officer or employee, to investigate, conduct hearings and deliberations, issue referrals for disciplinary hearings and refer violations of Chapter Two of this Ordinance or state or federal criminal statutes to the attention of the appropriate attorney with a request for the filing of the appropriate criminal prosecution or civil infraction enforcement. The Board shall, however, act only upon the receipt of a written complaint alleging a violation of this ordinance and not upon its own initiative.

(3) To receive information from the public pertaining to its investigations and to seek additional information and documents from officers and employees of the [type of unit].

(4) To request the attendance of witnesses and the production of books and papers pertinent to an investigation. It is the obligation of all officers and employees of the [type of local unit] to cooperate with the Board during the course of its investigations. Failure or refusal to cooperate with requests by the Board shall constitute grounds for discipline or discharge of appointed officers and employees of the [type of local unit].

(5) The powers and duties of the Board are limited to matters clearly within the purview of this ordinance.

See: [Model Ethics Complaint Form](#)

Section 4 – 5. (a) Complaints alleging a violation of this ordinance shall be filed with the Clerk of the [type of local unit]. The Clerk or member of the Clerk's staff shall attend the Board meetings and act as secretary for the Board.

(b) Within 3 business days after the receipt by the Clerk of a complaint, the Clerk shall send by certified mail, return receipt requested, a notice to the respondent that a complaint has been filed against him or her together with a copy of the complaint. Within 3 business days after receipt by the Clerk of a complaint, the Clerk shall send by certified mail, return receipt requested, a notice of confirmation of receipt of the complaint together with a copy of the complaint to the complainant. The notices sent to the respondent and the complainant shall also advise them of the date, time, and place of the Board hearing to determine the sufficiency of the complaint and to establish whether there is a reasonable basis to believe that the respondent has violated Chapter Two of this ordinance. The Clerk shall also concurrently send copies of the foregoing complaint and notices to the members of the Board.

(c) The Board shall conduct a hearing to review the sufficiency of the complaint and, if the complaint is deemed sufficient to allege a violation of Chapter Two of this ordinance, to determine whether there is a reasonable basis to believe that the respondent has violated Chapter Two of this ordinance based on the evidence presented by the complainant and any additional evidence provided to the Board at the hearing pursuant to its investigatory powers. The complainant and respondent may be represented by counsel at the hearing. Within a reasonable period of time after the completion of the hearing which may be conducted in one or more sessions at the discretion of the Board, the Board shall issue notice to the complainant and the respondent of the Board's ruling on the sufficiency of the complaint and, if necessary, as to whether they find that there is a reasonable basis to believe that the respondent has violated Chapter Two of this ordinance.

If the complaint is deemed sufficient to allege a violation of Chapter Two of this ordinance and the Board finds that there is a reasonable basis to believe that the respondent has violated Chapter Two of this ordinance, then the Clerk shall notify in writing the attorney designated by the [type of local unit's governing body] and shall transmit to the attorney the

complaint and all additional documents in the custody of the Board concerning the alleged violation, with the Board's request for the filing of appropriate criminal or civil proceedings. The Clerk shall also provide these documents to the respondent's appointing authority within the [type of unit] with the Board's request for the commencement of appropriate disciplinary action consistent with any applicable collective bargaining agreement, civil service commission rules or employment regulations of the [type of local unit].

(d) Sections 2b - 2e of the [State Ethics Act, MCL 15.341 et seq](#), set forth protections for officers and employees who act as whistleblowers regarding the conduct of the [type of unit's] officers and employees. Additional whistleblower protections are set forth in the [Whistleblowers' Protection Act, 1980 PA 469, MCL 15.361 et seq](#).

(e) Any person who files a complaint alleging a violation of this ordinance knowing that material information provided therein is not true or that information provided therein was made in reckless disregard for the truth may be subject to a fine of up to \$500 as well as the reasonable costs incurred by the [type of local unit] in investigating the complaint and the reasonable costs incurred by the Respondent in responding to the complaint.

(f) A complaint must be filed with the Clerk within [number of years to be determined by the unit's governing body] years of the date the offense is alleged to have occurred.

CHAPTER FOUR (ALTERNATIVE 2) – FILING AND DISPOSITION OF COMPLAINTS (For use when the ordinance does not provide for a Board of Ethics)

Section 4 – 1. As deemed appropriate in its discretion, the [name of unit's governing body] shall:

(1) Upon receipt of a signed, notarized, written complaint against an officer or employee, investigate, conduct hearings and deliberations, conduct or issue referrals for disciplinary hearings and refer violations of Chapter Two of this ordinance or state or federal criminal statutes to the attention of the appropriate attorney with a request for the filing of the appropriate criminal prosecution or civil infraction enforcement.

(2) Receive information from the public pertaining to its investigations and seek additional information and documents from officers and employees of the [type of unit].

(3) Request the attendance of witnesses and the production of books and papers pertinent to an investigation. It is the obligation of all officers and employees of the [type of local unit] to cooperate with the [name of unit's governing body] during the course of its investigations. Failure or refusal to cooperate with requests by the [name of unit's governing body] shall constitute grounds for discipline or discharge of appointed officers and employees of the [type of local unit].

See: [Model Ethics Complaint Form](#)

Section 4 – 2. (a) Complaints alleging a violation of this ordinance shall be filed with the Clerk of the [type of local unit].

(b) Within 3 business days after the receipt by the Clerk of a complaint, the Clerk shall send by certified mail, return receipt requested, a notice to the respondent that a complaint has been filed against him or her together with a copy of the complaint. Within 3 business days after receipt by the Clerk of a complaint, the Clerk shall send by certified mail, return receipt requested, a notice of confirmation of receipt of the complaint together with a copy of the complaint to the complainant. The notices sent to the respondent and the complainant shall also advise them of the date, time, and place of the [name of unit's governing body] hearing to determine the sufficiency of the complaint and to establish whether probable cause exists that the respondent named in the complaint violated Chapter Two of this ordinance. The Clerk shall also concurrently send copies of the foregoing complaint and notices to the members of the [name of unit's governing body].

(c) The [name of unit's governing body] shall conduct a hearing to review the sufficiency of the complaint and, if the complaint is deemed sufficient to allege a violation of Chapter Two of this ordinance, to determine whether there is a reasonable basis to believe that the respondent has violated Chapter Two of this ordinance based on the evidence presented by the complainant and any additional evidence provided to the [name of unit's governing body] at the hearing pursuant to its investigatory powers. The complainant and respondent may be represented by counsel at the hearing. Within a reasonable period of time after the completion of the hearing which may be conducted in one or more sessions at the discretion of the [name of unit's governing body], the [name of unit's governing body] shall issue notice to the complainant and the respondent of the [name of unit's governing body]'s ruling on the sufficiency of the complaint and, if necessary, as to whether they find that there is a reasonable basis to believe that the respondent has violated Chapter Two of this ordinance.

If the complaint is deemed sufficient to allege a violation of Chapter Two of this ordinance and the [name of unit's governing body] finds that there is a reasonable basis to believe that the respondent has violated Chapter Two of this ordinance, then the Clerk shall notify in writing the attorney designated by the [type of local unit's governing body] and shall transmit to the attorney the complaint and all additional documents in the custody of the [name of unit's governing body] concerning the alleged violation, with the [name of unit's governing body]'s request for the filing of appropriate criminal or civil proceedings. The Clerk shall also provide these documents to the respondent's appointing authority within the [type of unit] with the [name of unit's governing body]'s request for the commencement of appropriate disciplinary action consistent with any applicable collective bargaining agreement, civil service commission rules or employment regulations of the [type of local unit].

(d) Sections 2b - 2e of the [State Ethics Act, MCL 15.341 et seq.](#), set forth protections for officers and employees who act as whistleblowers regarding the conduct of the [type of unit's] officers and employees. Additional whistleblower protections are set forth in the [Whistleblowers' Protection Act, 1980 PA 469, MCL 15.361 et seq.](#)

(e) Any person who files a complaint alleging a violation of this ordinance knowing that material information provided therein is not true or that information provided therein was made in reckless disregard for the truth may be subject to a fine of up to \$500 as well as the reasonable costs incurred by the [type of local unit] in investigating the complaint and the reasonable costs incurred by the Respondent in responding to the complaint..

(f) A complaint must be filed with the Clerk within [number of years to be determined by the unit's governing body] years of the date the offense is alleged to have occurred.

CHAPTER FIVE – SANCTIONS

Section 5 – 1. Sanctions shall not be construed to diminish or impair the rights of an officer or employee under any collective bargaining agreement, nor the [type of local unit's] obligation to comply with such collective bargaining agreements.

Section 5 – 2. State statutes cited in this ordinance contain criminal penalties and civil remedies that apply, as provided in those statutes, to the conduct regulated by those statutes.

Section 5 – 3. A violation of this ordinance may be punished as a civil infraction by a fine of up to \$ [amount to be set by the local unit's governing body].... OR... A violation of this ordinance may be punished as misdemeanor by a fine of up to \$500 and/or 90 days in jail.

Commentary. A specific ordinance violation may be either a civil infraction or a misdemeanor, but not both.

Section 5 – 4. In addition to any other penalty, whether criminal or civil, an employee or officer who intentionally violates this ordinance may be subject to disciplinary action including censure, reprimand, removal, dismissal or discharge.

*Commentary. If the Charter of a Home Rule City or Home Rule Village provides for removal of an elected officer by the governing body of the city or village, the officer may be so removed. Michigan cases recognizing the removal power of city councils pursuant to applicable provisions of a city charter include *McComb v City Council of Lansing*, 264 Mich 609 (1933), *Wilson v City Council of Highland Park*, 284 Mich 96 (1938), and *City of Grand Rapids v Harper*, 32 Mich App 324 (1971). In *Hawkins v Common Council of the City of Grand Rapids*, 192 Mich 276, 285-286 (1916), the Michigan Supreme Court rejected the argument that the power to remove elected city officers rested exclusively with the Governor, upholding the authority of the city council to remove the City's elected treasurer under the provisions of the city charter. However, absent such a provision in a city or village charter, removal of elected officers of local units of government is accomplished only by the Governor. [MCL 168.383](#) (village); [MCL 168.369](#) (township); [MCL 168.327](#) (city); and [MCL 168.268](#) and [MCL 168.207](#) (county).*

Section 5 – 5. In addition, the common law offense of misconduct in office (misfeasance, malfeasance and nonfeasance) constitutes a felony as provided in the [Michigan Penal Code, MCL 750.505](#) and willful neglect of duty constitutes a misdemeanor as provided in [MCL 750.478](#).

**Howell Township
Human Resources Committee Meeting
October 29, 2024 4:00 pm**

Attending: Mike Coddington, Sue Daus, Brent Kilpela, Jonathan Hohenstein

Redistribution of Accounting Clerk Duties

When the Township originally eliminated the Accounting Clerk position the duties were split between the Clerk and Brent. The pay split was not commensurate with the duties and since the former Clerk resigned Brent has been performing all of the duties. With this very busy election season coming to an end the Clerk's Department has started learning some of the Accounting Clerk responsibilities, starting with payroll. Brent presented a proposal for the wage allocations for payroll and the Committee agreed with his proposal.

Workflows

Brent discussed workflows along with comp time and employees currently holding over 80 hours of vacation time.

October 28th Letter to the Township Board

Board members received an email from Shane Fagan regarding his concerns for the events that transpired at the October Board meeting between public attendee Tim Boal and Township Trustee Bob Wilson. The Committee will be looking into Shane's concerns starting with contacting the Livingston County Sheriff's Office. Once the investigation is complete, if there are any actionable items for the Board to discuss it will be brought to the Board.

The Human Resources Committee recommends approval of the proposed redistribution of Accounting Clerk duties and wages as presented.

Respectfully submitted,
Jonathan Hohenstein

Proposed Future Breakdown	Accounting Clerk Duties	Percent Split	Wage per Period	Effective Date
Accounting Clerk - Brent	Budget Preparation, Accounts Payable, General Ledger Journal Entries, Preparing W2 & 1099 Filings, Financial Audit Detail, Bank Recs	80%	\$1,538.55	11/5/2024
Accounting Clerk - Sue	Payroll, 941 Quarterly Reports, Workman Comp Audit, Annual Pension Report	10%	\$192.32	11/5/2024
Accounting Clerk - Marnie	Payroll, 941 Quarterly Reports, Workman Comp Audit, Annual Pension Report	10%	\$192.32	11/5/2024

The plan shifts the duties and the associated wage from Brent to Sue and Marnie. The Clerk and Receptionist will share the payroll duties. Sharing the responsibility helps ensure the payroll processing always has a backup. Brent will still oversee the payroll process and keep the Township in compliance. There is no budget amendment required with the change in wage and duties.

HOWELL TOWNSHIP

1Q24	
G2G CLOUD SOLUTIONS	
Transaction Amount	\$1,351.10
Enhanced Access Fees	\$64.00
Net Enhanced Access Fees	\$39.06
G2G CLOUD SOLUTIONS Share Back Amount	\$19.51
1Q24 Total Quarterly Share Back Amount	\$19.51
2Q24	
G2G CLOUD SOLUTIONS	
Transaction Amount	\$1,740.18
Enhanced Access Fees	\$57.25
Net Enhanced Access Fees	\$34.93
G2G CLOUD SOLUTIONS Share Back Amount	\$17.46
2Q24 Total Quarterly Share Back Amount	\$17.46
3Q24	
G2G CLOUD SOLUTIONS	
Transaction Amount	\$2,056.34
Enhanced Access Fees	\$86.75
Net Enhanced Access Fees	\$52.94
G2G CLOUD SOLUTIONS Share Back Amount	\$26.45
3Q24 Total Quarterly Share Back Amount	\$26.45
4Q24	
G2G CLOUD SOLUTIONS	

1Q24	PRODUCT NAME	Payment Type	Quantity	Transaction Amount	Enhanced Access Fees
	DOG LICENSES - OTC	CREDIT CARD	2	\$50.00	\$5.00
	GENERAL - OTC	CREDIT CARD	9	\$423.12	\$33.00
	SUMMER TAX - OTC	CREDIT CARD	2	\$877.98	\$26.00
	TOTAL		13	\$1,351.10	\$64.00
2Q24	PRODUCT NAME	Payment Type	Quantity	Transaction Amount	Enhanced Access Fees
	DOG LICENSES - OTC	CREDIT CARD	1	\$25.00	\$2.50
	GENERAL - OTC	CREDIT CARD	2	\$475.00	\$17.75
	WINTER TAX - OTC	CREDIT CARD	3	\$1,240.18	\$37.00
	TOTAL		6	\$1,740.18	\$57.25
3Q24	PRODUCT NAME	Payment Type	Quantity	Transaction Amount	Enhanced Access Fees
	DLQ PERSONAL PROPERTY - OTC	CREDIT CARD	1	\$161.34	\$5.50
	DOG LICENSES - OTC	CREDIT CARD	2	\$20.00	\$5.00
	GENERAL - OTC	CREDIT CARD	10	\$1,875.00	\$76.25
	TOTAL		13	\$2,056.34	\$86.75
4Q24	PRODUCT NAME	Payment Type	Quantity	Transaction Amount	Enhanced Access Fees
	DOG LICENSES - OTC	CREDIT CARD	1	\$35.00	\$2.50
	GENERAL - OTC	CREDIT CARD	11	\$874.25	\$45.25
	SUMMER TAX - OTC	CREDIT CARD	7	\$9,567.61	\$265.42
	TOTAL		19	\$10,476.86	\$313.17
YTD			51	\$15,624.48	\$521.17

Transaction Amount	\$10,476.86
Enhanced Access Fees	\$313.17
Net Enhanced Access Fees	\$191.04
G2G CLOUD SOLUTIONS Share Back Amount	\$95.53
4Q24 Total Quarterly Share Back Amount	\$95.53

G2G CLOUD SOLUTIONS Share Back Total	\$158.95
FY2024 Total Year To Date Share Back Amount	\$158.95

2024 HOWELL TOWNSHIP FALL EVENT

The 2024 Howell Township Fall Event took place on Saturday, October 12, 2024, from noon to 3:00 p.m. at the Howell Township Hall. We had three employee volunteers. A total of fifteen vehicles came to the event. The Big Red Barrel collected three pounds of pills and six pounds of needles.

Suggested changes for next year:

1. At the Annual Spring Clean-Up, hand out a save the date announcement for the Fall Event.
2. Replace the yard waste truck with a large item truck.

**Board approval for the 2025 Fall Event to be held on Saturday,
September 13, 2025.**

Dates & Locations

Can't make the date? Register for the online option for access to a recorded class plus a live online Q&A specific to your office.

Dec. 10: Delta Hotels Muskegon Conference Center
939 Third Street, Muskegon (231) 722-0100

Dec. 11: Lansing Community College West Campus
5708 Cornerstone Dr., Lansing (517) 483-9300

Dec. 12: Delta Hotels Kalamazoo Conference Center
2747 S. 11th St., Kalamazoo (269) 375-6000

Dec. 17: Bavarian Inn Lodge
One Covered Bridge Lane, Frankenmuth (989) 652-7200

Dec. 18: Eagle Pointe Plaza
415 E. Main St., Hale (989) 728-2811

Dec. 19: Crystal Mountain Resort
12500 Crystal Mountain Dr., Thompsonville (855) 995-5146

Jan. 6: Memorial Union at Michigan Tech
1503 Townsend Dr., Houghton (906) 487-2543

Jan. 7: Island Resort Conference Center
W399 Hwy. 2 & 41, Harris (906) 466-2941

Jan. 8: Kewadin Conference Center
2186 Shunk Rd., Sault Ste. Marie (906) 632-0530

Jan. 14: Blue Water Convention Center
800 Harker St., Port Huron (810) 201-5513

Jan. 15: Treetops Resort Conference Center
3962 Wilkinson Rd., Gaylord (866) 348-5249

Jan. 16: Comfort Inn & Suites Conference Center
2424 S. Mission, Mt. Pleasant (989) 572-0473

Jan. 17: Morris Lawrence Bldg., Washtenaw Comm. College
4800 E. Huron River Dr., Ann Arbor (734) 677-5060

Lodging and special needs: Refer to your confirmation email for lodging info. Participants with special needs (dietary, accessibility) should call MTA at (517) 321-6467, ext. 230 or email kristin@michigantownships.org at least two weeks in advance.

Cancellations & substitutions Written cancellation requests received at the MTA office at least two weeks before the event will receive a full refund. After that date, registrations will be converted to online access. No refunds will be issued thereafter without extenuating circumstances. You may substitute another individual from your township without incurring a charge; please notify MTA of the change.

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US Postage
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Permit #765



512 Westshire Drive
P.O. Box 80078
Lansing, MI 48908-0078

Help your newest
board members succeed!
Send them to MTA's
New Officials Training.



New Officials Training

A full-day event designed to help
your township's newly elected officials
hit the ground running!



Welcome to Township Government

Upon taking the oath of office as a township official, you are assuming multiple responsibilities, requiring a unique combination of leadership, decision-making and administration, as well as an understanding of statutory requirements. *How do you bring fresh perspectives to the board, while valuing the work of veteran board members? What are the crucial functions you need to perform right now for your specific office?*

This full-day event can help you start out on the right foot! Designed to build on your abilities and understanding of township government, this program enables you to successfully represent and serve your residents while shaping your community's future. We'll review the "hows and whys" of township government, and explore the duties and responsibilities of a township board—and your role.

Continental breakfast and check-in begins at 8:30 a.m. Topics discussed in the morning (9 a.m. to noon) include:

- **The Importance of Advocacy:** Why it's essential, what tools you can use and how you can make a difference.
- **What Townships Do—and Don't Do:** Every township's required government functions, plus the optional "do's" and the "don'ts."
- **Who's in Charge (and What Did I Get Myself Into)?:** How township boards work.
- **Public vs. Private:** You're the government, using public money—what are the rules? What is your "fiduciary" responsibility?
- **Township Revenues:** How does a township pay for government programs and services?

After lunch (included with your registration), join the breakout session (1 to 4 p.m.) geared for your office:

- **Clerks:** records, minutes, notices, financial administration and reporting, accounts payable, elections and additional duties
- **Supervisors:** meeting management, ordinances, lawful expenditures, budgets, township administration, overseeing assessing and risk management
- **Treasurers:** financial administration, internal controls and reporting, defining the types of financial institutions and investments townships may use, receiving/receipting money and other tax collecting duties (MTA offers separate, in-depth tax collection training, **Treasurers Guide to Tax Collection, in November. Visit bit.ly/MTALearning for details. Did you miss it? Visit <https://learn.michigantownships.org> for online options.**)
- **Trustees:** Understanding your role (hint: all board members are "trustees" at the head table), including budgeting, decision-making, and fiduciary responsibility (looking out for the township's best interests)

Register today and watch your email for additional details. Your registration confirmation will include location details, lodging information, and everything you need to know before you go! Can't wait? Visit bit.ly/MTALearning for more.

Can't make the date nearest you? There's an online option, too! Watch a recorded class (available Dec. 20), then join us online for a live Q&A to get your questions answered in real time. We'll begin at 10 a.m. as follows:

Clerks: Jan. 27 Supervisors: Jan. 28 Treasurers: Jan. 29 Trustees: Jan. 30

Continue the learning with MTA publications: Members save up to 20% off books when purchased with registrations. Books are distributed onsite or shipped to online attendees. (Joining us online? Please add shipping \$6 per Basics, \$10 per Essentials.)

OPTION 1: Township Basics package (\$94.50 discounted rate)

Officials Guide to Township Government (specific to your office), *Authorities & Responsibilities of Michigan Townships* and *Introduction to Township Board Meetings*

OPTION 2: Township Essentials collection (\$230 discounted rate)

Includes resources offered in the *Township Basics* package PLUS *Building a Better Budget*, *Introduction to the Freedom of Information Act*, *The Township Guide to Planning & Zoning* and *Policy Matters!*



New Officials Training

Which location will you attend?

- | | |
|---|---|
| <input type="checkbox"/> Dec. 10: Muskegon | <input type="checkbox"/> Jan. 6: Houghton |
| <input type="checkbox"/> Dec. 11: Lansing | <input type="checkbox"/> Jan. 7: Harris |
| <input type="checkbox"/> Dec. 12: Kalamazoo | <input type="checkbox"/> Jan. 8: Sault Ste. Marie |
| <input type="checkbox"/> Dec. 17: Frankenmuth | <input type="checkbox"/> Jan. 14: Port Huron |
| <input type="checkbox"/> Dec. 18: Hale | <input type="checkbox"/> Jan. 15: Gaylord |
| <input type="checkbox"/> Dec. 19: Thompsonville | <input type="checkbox"/> Jan. 16: Mt. Pleasant |
| <input type="checkbox"/> Online option | <input type="checkbox"/> Jan. 17: Ann Arbor |

Township & County

Name & Title Purchase Books? Basics Essentials

Email address

Name & Title Purchase Books? Basics Essentials

Email address

Confirmations will be emailed to individual registrants. To add or update an email, contact MTA at (517) 321-6467, ext. 231 or email database@michigantownships.org

- ▶ **Online Rate*:** \$150/person
- ▶ **In Person Early Rate*:** \$150/person *Expires 2 weeks prior to event*
- ▶ **In Person Regular Rate*:** \$180/person *Applies 2 weeks prior to event*

For in person on-site registration, as space allows, add \$20

_____ (# registered) x \$ _____ (rate*) = \$ _____

_____ (# of Basics) x (\$94.50*) = \$ _____

_____ (# of Essentials) x (\$230*) = \$ _____

Joining us online? Add shipping for books: \$6 per Basics, \$10 per Essentials

AMOUNT ENCLOSED = \$ _____

**Rate applies to MTA members. Non-members, call for rates.*

Payment options

- Check enclosed (payable to MTA)
- Invoice my township (members only)
- Charge to: (circle one) MasterCard VISA

Card # CSV (3-digit code) Expires

Print Card Holder's Name Signature

To register, send completed form to MTA

Mail to P.O. Box 80078, Lansing, MI 48908-0078
fax to (517) 321-8908 or email rebecca@michigantownships.org

Register online at <https://bit.ly/MTALearning>
For registration assistance, call (517) 321-6467, ext. 226.

Monthly Permit List

Grading

Permit #	Applicant	Address	Fee Total	Const. Value
P24-166	LUCY ROAD RESOURCES LLC	HIGHLAND	\$250.00	\$0.00
Work Description: Removal of all trees and branches, seed and straw area.				

Total Permits For Type: 1
Total Fees For Type: \$250.00
Total Const. Value For Type: \$0.00

MHOG

Permit #	Applicant	Address	Fee Total	Const. Value
PMHOG24-029	RAND CONSTRUCTION	2212 GRAND COMMERCE DR	\$0.00	\$0.00
Work Description: 2" meter along with 1.5" irrigation meter				

Total Permits For Type: 1
Total Fees For Type: \$0.00
Total Const. Value For Type: \$0.00

Residential Land Use

Permit #	Applicant	Address	Fee Total	Const. Value
P24-167	T&J HOME IMPROVEMENT	2044 BYRON RD	\$50.00	\$0.00
Work Description: Tear off and replace existing deck with a 20' x 16', 20' x 12' deck.				
P24-165	MR. ROOF ANN ARBOR, LLC	116 CASTLEWOOD DR	\$10.00	\$0.00
Work Description: Re-roof - house and attached garage. No structural changes.				
P24-172	BURKHART ROAD ASSOC LLC	1024 ELLINGTON DR	\$0.00	\$0.00
Work Description: Set new manufactured unit, no charge per consent judgment.				
P24-173	BURKHART ROAD ASSOC LLC	1044 ELLINGTON DR	\$0.00	\$0.00
Work Description: Set new manufactured unit, no charge per consent judgment.				
P24-169	Install Partners LLC	4076 INDIAN CAMP TRL	\$10.00	\$0.00
Work Description: window replacement				
P24-164	ROOFING PD	1637 KIM TRAIL	\$10.00	\$0.00
Work Description: Tear off and re-shingle house, using GAF asphalt shingles. No structural changes. Owner: Mary Frances Grun-Jackson				
P24-168	A-BETTER EXTERIOR, LLC	1585 LAYTON RD	\$10.00	\$0.00
Work Description: Reroof - tear off and re-shingle house and garage. No structural changes.				
P24-178	BLOOMFIELD RANDALL AND CYNTHIA	5568 MASON RD	\$75.00	\$0.00
Work Description: 36' x 40' pole barn located in front of the rear line of the house per the variance granted by the ZBA				
P24-163	SACKER BRANDON ROBERT	3300 OAK GROVE RD	\$75.00	\$0.00

Work Description: 50' x 40' pole barn - approved at 9-17-2024 ZBA for variance due to DTE power line.

P24-171	BURKHART ROAD ASSOC LLC 4424 POOLSIDE DR	\$0.00	\$0.00
	Work Description: Set new manufactured unit, no charge per consent judgment.		
P24-170	MANUS BUILDERS 2240 TOOLEY RD	\$50.00	\$0.00
	Work Description: Removal of old wood deck, replacing as is 44'6" by 20" with Trex		
P24-177	WESCOTT HOUSE LLC 3691 WESCOTT CT	\$150.00	\$0.00
	Work Description: Fence installed in rear yard.		
P24-174	BURKHART ROAD ASSOC LLC 4420 WILLOWBANK DR	\$0.00	\$0.00
	Work Description: Set new manufactured unit, no charge per consent judgment.		

Total Permits For Type:	13
Total Fees For Type:	\$440.00
Total Const. Value For Type:	\$0.00

Sewer Connection

Permit #	Applicant	Address	Fee Total	Const. Value
PWS24-057	BURKHART ROAD ASSOC LLC	1024 ELLINGTON DR	\$5000.00	\$0.00
	Work Description:			
PWS24-059	BURKHART ROAD ASSOC LLC	1044 ELLINGTON DR	\$5000.00	\$0.00
	Work Description:			
PWS24-055	BURKHART RIDGE LLC	4424 POOLSIDE DR	\$5000.00	\$0.00
	Work Description:			
PWS24-061	BURKHART ROAD ASSOC LLC	4420 WILLOWBANK DR	\$5000.00	\$0.00
	Work Description:			

Total Permits For Type:	4
Total Fees For Type:	\$20000.00
Total Const. Value For Type:	\$0.00

Sign

Permit #	Applicant	Address	Fee Total	Const. Value
P24-162	CHESTNUT WOODS LLC	ELIJAH LANE BLDG A	\$75.00	\$0.00
	Work Description: Temporary sign 11.6" wide 3 x 6'8" tall located east of Elijah Lane and 88' north of W. Highland. EXPIRES - 1-1-2025			
P24-175	THE SIGN GUYS DBA IMAGE 360 BRIGHTON	2895 W GRAND RIV	\$225.00	\$0.00
	Work Description: 4' x 8' double sided panel sign with post			
P24-176	PROSIGNS	2395 W GRAND RIVER AVE	\$225.00	\$0.00
	Work Description: 1 wall sign for Grand River Liquor 57.2 square ft. Replace face of sign on existing pole at road.			

Total Permits For Type:	3
Total Fees For Type:	\$525.00
Total Const. Value For Type:	\$0.00

Water Connection

Permit #	Applicant	Address	Fee Total	Const. Value
PWS24-058	BURKHART ROAD ASSOC LLC	1024 ELLINGTON DR	\$5000.00	\$0.00
	Work Description:			
PWS24-060	BURKHART ROAD ASSOC LLC	1044 ELLINGTON DR	\$5000.00	\$0.00
	Work Description:			
PWS24-056	BURKHART ROAD ASSOC LLC	4424 POOLSIDE DR	\$5000.00	\$0.00
	Work Description:			
PWS24-062	BURKHART ROAD ASSOC LLC	4420 WILLOWBANK DR	\$5000.00	\$0.00
	Work Description:			

Total Permits For Type:	4
Total Fees For Type:	\$20000.00
Total Const. Value For Type:	\$0.00

Grand Total Fees:	\$41,215.00
Grand Total Permits:	26.00

Code Enforcement List

10/30/2024

Address	Owners Name	Parcel Number	Date Filed	Origin	Status
1044 DURANT DR Complaint	EM TCK II LLC	4706-28-401-034	09/26/2024		OPEN - COMPLANT RECEIVE
Excessive blowing noise that can be heard in Jonathan's Landing with windows and doors closed.					
Comments					
9.25.24 - Complaint received. Site visit to 1044 Durant Drive and Jonathan's Landing. No noise was observed. Will return on Monday morning (when noise usually starts.)					
9.30.24 - Site visit to Jonathan's Landing. Verified noise as described. Site visit to 1044 Durant Drive. All doors locked. Letter sent to owner.					
4141 W GRAND RIV Complaint	TONON CHIARINA S	4706-20-400-012	09/24/2024		OPEN - COMPLANT RECEIVE
House is neglected, building unsafe, junk in yard.					
Comments					
9.24.24 - Contacted Livingston County Building Department RE performing dangerous building inspection.					
10.3.24 - Received LCBD determination letter. Contacted Spicer RE Dangerous Buildings Hearing Officer availability. Spicer does not currently have availability to perform these duties.					
10.17.24 - Letter sent to owner.					

Code Enforcement List

10/30/2024

Address	Owners Name	Parcel Number	Date Filed	Origin	Status
5407 OAK GROVE RD Complaint	RAMIREZ JUSTICE	4706-02-401-008	09/10/2024	PUBLIC - EMAIL	OPEN - COMPLANT RECEIVE
Garbage outside on the lawn surrounding the house and overflowing from the garage. Garbage is attracting vermin.					
Comments					
9.10.24 - Complaint received. Site visit completed. Letter sent to owner and to bank.					
10.8.24 - Site visit completed. No change in condition. Letter sent to owner and to bank.					
10.17.24 - Original certified letter to owner returned.					
10.21.24 - Letter posted on the house.					
<hr/>					
30 SANTA ROSA DR Complaint	FAGAN SHANE	4706-33-400-050	07/02/2024		OPEN - COMPLANT RECEIVE
Owner is operating a manufacturing business in the SFR zoning district.					
Comments					
7.2.24 - Reviewed information regarding Speakeasy Speed Shop. Not a permitted use in the SFR zoning district. Violation letter sent to owner.					
8.1.24 - Site visit completed. No observed business activity at site.					
9.4.24 - Site visit completed. Searched website and watched YouTube videos. Industrial use is continuing at this location in SFR Zoning district. Letter sent to owner.					
9.30.24 - Communication from owner received, attached. Owner is requesting Township Board to modify home occupation portion of Zoning Ordinance to allow this use in SFR Zoning. Enforcement action will pause until a decision has been made.					
10.16.24 - Ticket submitted to Court					
10.17.24 - Ticket presented to homeowner. Discussion with homeowners.					

Code Enforcement List

10/30/2024

Address	Owners Name	Parcel Number	Date Filed	Origin	Status
3265 W GRAND RIVER A Complaint Starting to add more parking on adjacent lot owned by MDOT without permits.	AMERICAN LEGION P	4706-28-200-010	05/21/2024		OPEN - COMPLANT RECEIVE
Comments 4.25.24 - Received call regarding work being done by American Legion. Site visit, verified work was underway. Contacted MDOT RE approval. 5.21.24 - Site visit completed, violation still present. Sent letter to American Legion. 6.18.24 - Site visit. More work has been completed including installing gravel in excavated area and a tent and fencing has been erected next to gravel area on MDOT property. Letter sent to American Legion. 8.1.24 - Site visit completed. Tent and fencing have been removed, large pile of dirt has been removed, additional gravel parking area still on MDOT property. 9.4.24 - Site visit completed. Violation still present. Posted Notice of Violation Ticket to front door, mailed a copy of the violation. Ticket #: 0202 9.4.24 - Phone conversation with Commander Laura Goldthwait. Requested letter explaining the violation and steps moving forward. Mailed to Legion, emailed to Laura, attached. 9.12.24 - Received correspondence from Legion's attorney denying all responsibility. Documents provided to Township's attorney. Township's attorney has contacted Legion's attorney. 10.8.24 - Site visit completed. Photos of Legion using the additional parking attached.					
3590 W GRAND RIV Complaint Zoning Violations:Outdoor storage without screening, setback issues, parking not hard surfaced, no sign permit.	HASLOCK PROPERTIE	4706-28-100-024	05/06/2024		OPEN - FIRST LETTER SENT
Comments 5.13.24 - Violation letter to Occupant returned. 5.20.24 - Received phone call from owner. Will be preparing a site plan to take before the Planning Commission for approval. 6.20.24 - Received phone call from owner, discussed site plan requirements. 9.4.24 - Sent letter to owner RE site plan progress. 9.12.24 - Spoke to owner, Engineer has site plans almost complete. Will submit for review in the near future.					

Code Enforcement List

10/30/2024

Address	Owners Name	Parcel Number	Date Filed	Origin	Status
4348 CRANDALL RD Complaint	RITCHEY TROY AND	4706-09-400-017	05/01/2024		OPEN - COMPLANT RECEIVE
<p>The front yard of the property is filled with numerous vehicles, including cars, lawn tractors, and an RV that haven't been moved in years. There is also garbage all over the property. I am tired of living next to this mess.</p>					
Comments					
5.1.24 -Complaint received. Site visit completed; verified complaint, photos attached. Letter sent to homeowner.					
6.18.24 - Site visit. Some clean up has been completed, violations still present. Sent letter to owner.					
7.8.24 - Homeowner came in to discuss violation. Owner said they can get the property cleaned up by the end of the month; scheduled site visit.					
8.1.24 - Site visit completed. No action has been completed on site. Letter sent to owner.					
9.4.24 - Site visit completed. No action has been completed on site. Letter sent to owner.					
9.16.24 - Owners came into the office, requested until end of October to clean up the site. Will reinspect in November.					
10.28.24 - Owners came into the office, remaining items will be removed this weekend. Will inspect next week.					
2520 BOWEN RD Complaint	SOJA LORI A AND MO	4706-22-100-011	01/09/2024	PUBLIC - PHONE	OPEN - FIRST LETTER SENT
<p>Backyard looks like a land file.</p>					
Comments					
1.9.2024 Did a site visit. found junk cars and piles of junk.					
1.11.2024 Sent out first letter.					
1.25.2024 The owner was in the office today, said he could have the cars moved in the next two weeks, and ask for ninety days to get the rest of the yard cleaned up.					
3.20.24 - Site visit. Violation still present. Owner working on getting issue resolved. Scheduled future site visit.					
4.23.24 - Site visit. Work is underway. Scheduled reinspection.					
5.1.24 - Additional complaint received. Site visit. Letter sent to property owner.					
5.20.24 - Site visit. Work is underway. Numerous large piles of crushed concrete are on site. Scheduled reinspection as agreed upon.					
6.18.24 - Site visit, spoke to owner. Most of the site has been cleaned up, owner claimed all work will be complete by July 4th. Crushed concrete is being used on the driveway. Will reinspect in July for compliance.					
8.1.24 - Site visit completed. Crushed concrete is mostly distributed on the driveway, one small pile remains. Site clean-up is almost complete.					
9.4.24 - Site visit completed. One pile of crushed concrete remains, clean-up of site incomplete.					
10.8.24 - Site visit completed. Clean-up still not complete. Final violation notice sent to owner.					

Code Enforcement List

10/30/2024

Address	Owners Name	Parcel Number	Date Filed	Origin	Status
5057 WARNER RD Complaint LARGE AMOUNT OF JUNK AND LITTER IN THE YARD.	HARTER EDWARD H	4706-19-200-005	03/14/2022	PUBLIC/ EMAIL	OPEN - SECOND LETTER SEN

Comments

4.17.2023 THERE IS MORE JUNK NOW THEN THERE WAS LAST MARCH OF 2022 OR JANUARY OF 2023.

5.25.2023 I SPOKE WITH MR. HARTER HE IS STARTING TO CLEAN THE SITE UP, HE SAID THAT IT WILL TAKE SOME TIME TO GET IT ALL CLEANED UP. I WILL BEE CHECKING ON HIS PROGRESS EVERY FEW WEEKS TO MAKE SURE HE IS MAKING PROGRESS.

6.29.2023 SOME PROGRESS HAS BEEN MADE. WILL CHECK BACK IN A COUPLE OF WEEKS.

1.9.2024 did a site vist there has been no progress made on the clean up.

1.11.2024 Finial letter sent.

3.20.24 - Site visit. No remediation of issues has taken place. Photos attached.

3.25.24 Spoke to owner. Owner is working on cleaning up the property, has dumpsters being delivered, scrap is in piles and ready to be taken to the scrap yard. Has requested 3 months to get the property cleaned up. Letter sent in confirmation of agreement. Scheduled visit for June 25th.

4.23.24 - Site visit. Violation still present. Scheduled reinspection.

5.20.24 - Site visit. Work has been started. Violation still present. Scheduled reinspection.

6.18.24 - Site visit. Violation still present, no evidence of continued clean up activity. Will reinspect on June 25th as agreed.

6.25.24 - Site visit. Minimal changes to site, violation still present. Letter sent to owner.

8.1.24 - Site visit completed. Owner still working on clean-up.

9.4.24 - Site visit completed, spoke to homeowner. Owner claims to have back of property nearly complete. Dumpster to be arriving next week, neighbors helping to remove scrap in the next few days.

10.8.24 - Site visit completed. No evidence of activity. Final violation letter sent to owner.

Records: 9

Population: All Records

Monthly Activity Report for October 2024 – Assessing Dept/Brent Kilpela

MTT UPDATE:

Howell W P Acquisition Group, LLC v Howell Township: Filed answer to appeal on July 2nd. The Michigan Tax Tribunal Prehearing General Call set for July 16, 2025, with valuation disclosure due by March 19, 2025.

SMALL CLAIMS TRIBUNAL:

No appeals at this time.

ASSESSING OFFICE:

ASSESSOR: The field work with the new oblique imagery started in June. We are through Section 13 for the Residential and Agricultural Classes. I started the work roll for the 2025 assessment roll. The assessed values for the Industrial Class will go up by an average of 12% for the 2025 Assessment Roll. I attended the October Planning Commission meeting.

OTHER: Attended October onsite Wastewater Treatment Plant meeting. Continued training Clerk and Receptionist to assume payroll duties. Attended HR meeting on October 29th to explain the payroll transition.

DRAFT

HOWELL TOWNSHIP PLANNING COMMISSION
REGULAR MEETING MINUTES
3525 Byron Road Howell, MI 48855
October 22, 2024
6:30 P.M.

MEMBERS PRESENT:

Robert Spaulding Vice Chair
Mike Newstead Secretary
Matthew Counts Board Rep.
Paul Pominville Commissioner
Tim Boal Commissioner
Chuck Frantjeskos Commissioner

MEMBERS ABSENT:

Wayne Williams Chair

Also in Attendance:

Township Planner Paul Montagno, Associate Planner Grayson Moore, Zoning Administrator Jonathan Hohenstein, Township Attorney Wayne Beyea

Vice Chair Spaulding called the meeting to order at 6:30 pm. The roll was called. Vice Chair Spaulding requested members rise for the Pledge of Allegiance.

APPROVAL OF THE AGENDA:

Motion by Counts, **Second** by Pominville, **“To approve the agenda.”** Motion carried.

APPROVAL OF THE MEETING MINUTES:

September 24, 2024

Motion by Boal, **Second** by Newstead, **“To approve the minutes as presented.”** Motion carried.

ZONING BOARD OF APPEALS REPORT:

Draft minutes are included in the packet.

TOWNSHIP BOARD REPORT:

Draft minutes are included in the packet.

SCHEDULED PUBLIC HEARINGS:

- A. Special Use Request PC2024-13 and Preliminary Site Plan Review PC2024-14: The Quarry RV Resort, Bedrock Ventures 4944 Mason Road Parcel #s: 4706-31-400-003, 4706-32-300-002, 4706-32-300-003. Vice Chair Spaulding opened the public hearing. Planner Montagno provided an extensive overview of the project and his review comments related to the special use request and preliminary site plan, highlighted the comments from Spicer Engineering. Commissioner Counts inquired about the location of the registration building, the parking deficiencies, the bathhouse calculation taking into account the individual hook-ups at each site. Commissioner Pominville inquired about the concern of increased traffic. Vice Chair Spaulding recused himself from the discussion and voting on this project as he works for the applicant’s brother. **Motion** by Counts, **Second** by Boal, **“To appoint Mike Newstead to moderate this hearing.”** Motion carried. Owner Brad Jonckheere spoke about his family, the history of the property, and the draft plan of the project. Due to the date when the quarry was started it does not currently have a reclamation plan. Commissioner Counts inquired about the changes requested

by the Planner's report, Mr. Jonckheere has no issue with the changes requested. Commissioner Pominville inquired about the swim-up bar, Mr. Jonckheere spoke about the other campgrounds that have swim-up bars and how popular they are. Commissioner Boal spoke about the portion of the property zoned NSC that has the approved brewery, the hours of operation and months of operation, and needing to move the registration building, Mr. Jonckheere does not have an issue with moving the registration building. Commissioner Frantjeskos inquired about a traffic study, Planner Montagno indicated that a traffic study would have to be requested by the Planning Commission. Secretary Newstead took comments from the public:

Andrew Hamm, 14 Santa Rosa Dr.: Spoke in favor of the project

Shane Fagan, 30 Santa Rosa Dr.: Impartial to the project, noticed a lot of RVs in people's driveways, spoke about people's opinions to not allow any new development around them

Mike Reaid, 249 Dieterle: In opposition to project, concerned with noise, prefers people camp up north

JoAnne Shelters, 5101 Mason Rd.: In opposition, traffic issues with Mason Road

Boyd Creech, Mason Rd.: In opposition, traffic issues, decreased property values

Ron Johnson, 254 Olde English Circle: In opposition, decreased property values, traffic issues, need for privacy fence

John Siekinka, 5125 Mason Rd.: In opposition, issue with noise

Sue Johnson, 255 Dieterle Rd.: In opposition, decrease in value, noise issues

Theodore Christiansen, 375 Dieterle Rd.: In opposition

Joe Harvey, 5301 Preston Rd.: Neutral on project, spoke to people's concern about property values around a gravel pit versus around an RV park

Frank Munsell, 6679 Mason Rd.: In favor of project, spoke about all of his property, farm values, Eagle's Grove in Byron and how nice it is, the traffic that has been caused by the people in the room, no issues with traffic from Burkhart Ridge

Laura Webber 550 N. Dieterle Rd.: Concerned with fencing the property and keeping visitors to the park on the park property, concerned with traffic and would like more information

Paul Olhoff, 55 Dieterle Rd.: Concerned with traffic

Gary Shelters, 5101 Mason Rd.: Concerned with sewage issues

Shane Fagan, 30 Santa Rosa Dr.: Spoke on home values, does not think the RV park will bring down values, does not want the Township to tell people what they can do with their property

Andrew Hamm, 14 Santa Rosa Dr.: Proposal is better than a developer putting in houses, does not think project will bring down home values, spoke about a personal ongoing lawsuit, traffic issues

Bob Wilson, 2945 Brewer Rd.: Not much to do in this area, Burkhart Road needs to be changed

Cade Wilson, 1598 Woodhaven: Nothing stays the same forever, negotiate concessions, asks Township to only regulate for health and safety

Motion by Counts, **Second** by Pominville, **“To close the public hearing.”** Motion carried.

Commissioner Boal started looking through the six special use standards from the Zoning Ordinance section 16.06:

1. Harmonious with the Ordinance: Commissioner Boal would like to see more information before making a determination such as a landscaping plan. Commissioner Counts spoke to the fact that this is a preliminary site plan and a lot of detail is not normally provided at this time but as a concept feels that this is a less intense use than a quarry. Commissioner Boal spoke about the usable acres and single family houses.
2. Harmonious with the character of the vicinity: Commissioner Boal and Counts think in concept it could fit well into the area. Planner Montagno discussed setting the hours of operation and management as conditions should this project move forward.
3. Project adequately served by public or private facilities: Commissioner Frantjeskos spoke about the need of a traffic study. Planner Montagno spoke on the proposed septic systems.
4. Hazardous to existing or future neighboring uses: Commissioner Counts spoke to adequate screening, emergency access to Dieterle Road.
5. Will not create excessive requirements at public cost: Commissioner Counts and Planner Montagno spoke about storm water management.
6. Substantial adverse impacts to natural resources: Commissioner Boal would like more information from EGLE.

Discussion followed. **Motion** by Frantjeskos, **“Based on what has been presented as a preliminary site plan that a traffic study be conducted for the area along Mason Road and the impact that the traffic is going to have based on number of parties in cars coming in and out of the proposed campground.”** Clarity was sought. **“To postpone action on the application for the preliminary site plan with the condition of a traffic study be conducted.”** Commissioner Boal suggested friendly amendments to the motion: **“That the screening be addressed, setbacks from the property lines, and that the environment is protected, issue with the parking and bathhouses be addressed.”** Commissioner Counts spoke about the difference between needs for the special use versus for the preliminary site plan. The motion received no support and Commissioner Frantjeskos rescinded his motion. **Motion** by Frantjeskos, **Second** by Boal, **“To postpone action on both the preliminary site plan and the special land use application until a traffic study is completed.”** Commissioner Boal requested a friendly amendment to **“add screening and setbacks.”** Frantjeskos and Boal both accept the changes. Discussion followed. Frantjeskos requested to add to his motion, **“based on the Planner’s report.”** Discussion followed. Commissioner Frantjeskos rescinded his motion. **Motion** by Counts, **Second** by Pominville, **“To postpone action on the special use request PC2024-13 and preliminary site plan review PC2024-14, the Quarry RV Resort, Bedrock Ventures, 4944 Mason Road, based on the findings of fact listed in the Planner’s report dated October 9th, 2024 under special land use standards section 16.06, looking for additional information around property screening of neighbors, setback lines, as well as a traffic study to understand the impact to surrounding neighbors and whether or not this special use is harmonious, in addition to that I would like to note the Spicer Engineering report of October 22nd, 2024 and postpone the preliminary site plan approval as well.”** Motion carried, one abstention. Discussion followed.

Motion by Counts, **Second** by Boal, **“To let Mr. Spaulding do his, take care of his duties, put him back in his chair spot.”** Motion carried.

B. ADU Ordinance

Vice Chair Spaulding opened the public hearing on the ADU Ordinance. Planner Montagno gave an overview of the changes to the draft ADU Ordinance. Chair Spaulding took comments from the public:

Kerry McFarland, 2885 W. Marr Rd.: In favor of allowing ADUs due to her personal situation with her aging parents that do not live near her. Would like detached units to be allowed to give her parents some dignity and privacy.

Shane Fagan, 30 Santa Rosa Dr.: Township needs to include detached units, concerned with affordability, has issue with only allowing two bedrooms.

Bob Wilson, 2945 Brewer Rd.: Concerned with affordability, wants ADUs to be temporary, allow detached units.

Joe Harvey, 5301 Preston Rd.: Concerned with affordability, allow detached units, good for parents and children.

Aaron McFarland, 2885 W. Marr Rd.: Does not see the logic of splitting property for an additional unit.

Sharon Lollo, 2650 Fisher Rd.: What happens when family is no longer using the unit. What happens when they are rental units?

Brian Scagliarini, formerly from 7770 Golf Club Rd.: Need some sort of supplemental units so people can live here.

Andrew Hamm, 14 Santa Rosa Dr.: Housing and rental prices are very high, making an ADU be attached makes it too expensive. Wants to stipulate to family only for ADUs.

Shane Fagan, 30 Santa Rosa Dr.: Does not feel the Township should regulate if ADUs are rentals.

Sharon Lollo, 2650 Fisher Rd.: Clarified her previous comments on renters and how bad renters impact the neighbors.

Aaron McFarland, 2885 W. Marr Rd.: Can you rent without a separate address?

Joe Harvey, 5301 Preston Rd.: Are there rules in place for rental property in the Township?

Andrew Hamm, 14 Santa Rosa Dr.: Spoke on rental units, in favor of allowing ADUs to be rented.

Cade Wilson, 1598 Woodhaven: Difference between an ADU and a house with an additional kitchen and bedrooms?

Brian Scagliarini, 7770 Golf Club Rd.: Don't limit ADUs to family only.

Shane Fagan, 30 Santa Rosa Dr.: Township has other Ordinances to deal with problems with renters.

Public hearing was closed by Chair Spaulding at 8:41 p.m.. and opened to discussion by the Planning Commission. Planner Montagno clarified how multiple family units are not allowed in a single house. Commissioner Boal addressed the rental of ADUs attached or detached. Commissioner Counts along with other commissioners would like to allow detached ADUs as part of the ordinance. Assessor Kilpela spoke to taxable value and the homestead exemption for ADUs. **Motion** by Counts, **Second** by Pominville, **“To table the accessory dwelling units, and Paul, I would ask that you bring it back with the detached ADU included.”** Discussion followed regarding size of the ADU and to take acreage into consideration. Motion carried.

C. Storage Container Ordinance

Vice Chair Spaulding opened the public hearing at 8:56 p.m.. Planner Montagno provided a summary of the changes made to the draft Storage Container Ordinance. Vice Chair Spaulding took comments from the public:

Joe Harvey, 5301 Preston Rd.: Confused if the Ordinance is to allow or not allow storage containers. Wants to allow storage containers due to cost of units versus building traditional storage. Spoke on the rural character of the Township.

Shane Fagan, 30 Santa Rosa Dr.: Ordinance will allow 2 20-foot containers but not 1 40-foot container. Stop worrying about what your neighbor does, if you don't like it pursue your happiness elsewhere.

Andrew Hamm, 14 Santa Rosa Dr.: Restrict the number of containers based on acreage. Spoke to the Ordinance and restrictions for accessory structures based on acreage and setbacks.

Mr. Denure, Oceola Township: Against storage containers. Keep aesthetics in place to preserve the neighborhood.

Cade Wilson, 1598 Woodhaven: Spoke on the issue between himself and his neighbor. Spoke on his shipping containers.

Joe Harvey, 5301 Preston Rd.: Spoke on passing ordinances for aesthetics.

Mr. Denure, Oceola Township: Questioned if there was an approved use for shipping containers. Can they be used for housing?

Cade Wilson, 1598 Woodhaven: Spoke on aesthetics.

Bob Wilson, 2945 Brewer Rd.: Spoke on limits to farmers. Would rather not see stuff around people's yard, would rather everything be nice and neat and tucked away.

Michael Dietz, 3870 Byron Rd.: Spoke on issues with his neighbor, vermin getting under his neighbor's storage containers, position of his neighbor's storage containers.

Andrew Hamm, 14 Santa Rosa Dr.: Wants public hearing comments limited to Howell Township residents.

Sharon Lollo, 2650 Fisher Rd.: Spoke on the language in the draft ordinance regarding the looks of shipping containers. Spoke on being neighborly and keeping the Township looking nice.

Cade Wilson, 1598 Woodhaven: Spoke on his shipping containers, enforcement of Township Ordinances.

Shane Fagan, 30 Santa Rosa Dr.: Spoke on permissive zoning, enforcement of Ordinances, weaponization of Ordinances.

Jamie Body, 2015 Bowen Rd.: Agrees on painting containers or shrubby, standards should be based on acreage. Spoke on Ordinance enforcement being complaint based.

Vice Chair Spaulding closed the public hearing at 9:31 p.m.. Commissioner Pominville spoke about stipulations based on acreage and questioned how the ordinance came to the Planning Commission. Zoning Administrator Hohenstein spoke about all the complaints brought to the Township regarding storage containers being the reason the topic went before the Board and why the Board sent a request to the Planning Commission to draft an ordinance. Discussion followed. Planner Montagno spoke on the International Building Code addressing foundations for shipping containers and the Right to Farm Act protecting farmers for agricultural use. Attorney Beyea spoke on addressing standards in the ordinance. Commissioner Boal spoke about the limit of units per acre. Vice Chair Spaulding inquired about the distinction between accessory structure versus accessory building. **Motion** by Counts, **Second** by Newstead, **“To table the ordinance on portable storage containers and discuss at a later date pending feedback that was provided to the Planner.”** Motion carried.

D. Wellhead Protection Ordinance

Vice Chair Spaulding opened the public hearing at 9:53 p.m.. Planner Montagno provided a summary of the draft Wellhead Protection Ordinance. Attorney Beyea spoke on how an overlay Zoning District works and that the more restrictive overlay district would control in the event of a conflict between ordinance language. Vice Chair Spaulding took comments from the public:

Curt Hamilton, 1367 Crestwood Ln.: Spoke in support of the wellhead overlay district, on the Mugg & Bopps lawsuit, on issues with another Mugg & Bopps gas station.

Frank Munsell, 6679 Mason Rd.: Questions on farmer's rights in relation to the wellhead protection area.

Vice Chair Spaulding closed the public hearing. Commissioner Counts spoke about the prohibited uses in the overlay district. Planner Montagno spoke about farmer protections. Vice Chair Spaulding spoke about prohibited uses that are potentially harmful to the wellhead. Commissioner Frantjeskos inquired about the Enbridge pipeline. **Motion** by Boal, **Second** by Counts, **“To forward this to the Board with our recommendation for approval.”** Attorney Beyea spoke about the regulated substances portion of the ordinance may need more clarification before the Board can approve the ordinance. Commissioner Boal rescinded his motion. Discussion followed. **Motion** by Counts, **Second** by Newstead, **“To table discussion on wellhead protection area until such time as language can be drafted around regulated substances and how it applies to either permitted principle use versus prohibited use.”** Motion carried.

OTHER MATTERS TO BE REVIEWED BY THE PLANNING COMMISSION:

- A. 2025 Planning Commission Meeting Dates
Zoning Administrator Hohenstein indicated that this is the draft calendar for 2025 and inquired if the Commission wanted any changes to their meeting dates.
- B. Ordinance Violation Report
Report is in the packet, there were no questions.

OLD BUSINESS:

- A. Planning Commission Bylaws Update
Zoning Administrator Hohenstein spoke about the updated bylaws and the public hearing section and requested to change it to match the process that the Planning Commission takes on public hearings. Section 3-G, number 6 will be moved to number 3. **Motion** by Counts, **Second** by Newstead, **“To approve Howell Township Planning Commission bylaws as amended.”** Roll call vote: Newstead – yes, Frantjeskos – yes, Spaulding – yes, Counts -yes, Pominville – yes, Boal – yes. Motion carried (6-0).

NEW BUSINESS:

Commissioner Boal asked Township Attorney Beyea about the lawsuit over PA-233 started by the law firm Foster and Swift. Attorney Beyea spoke on PA-233 for renewable energy projects and the class-action lawsuit started by Foster and Swift on behalf of municipalities in the state.

CALL TO THE PUBLIC:

Frank Munsell, 6679 Mason Rd.: Spoke on living together and being a good neighbor.

Shane Fagan, 30 Santa Rosa Dr.: Spoke on the storage container ordinance and his concerns.

Bob Wilson, 2945 Brewer Rd.: Spoke on Shane Fagan’s comments.

Andrew Hamm, 14 Santa Rosa Dr.: Spoke on an ongoing personal lawsuit and Board moral ethics.

ADJOURMENT:

Motion by Pominville, **Second** by Counts, **“To adjourn.”** Motion carried. The meeting was adjourned at 10:32 p.m.

Date

Mike Newstead
Planning Commission Secretary

Jonathan Hohenstein
Recording Secretary

Howell Township
Wastewater Treatment Plant Meeting
Meeting: October 16, 2024 10 am

Attending: Greg Tatara, James Aulette, Sue Daus, Brent Kilpela, Jonathan Hohenstein

Please see the attached report for details on the plant operation.

Tour: Greg and James gave us a tour of the plant and the projects that are underway or being discussed for the future.

Hatch Stamping: Pump station 70 had a back-up event. Even though an operator was at the station within 20 minutes of the alarm, due to the size of the wet-well and because the Hatch Stamping building was built so low, sewage backed up into Hatch. Greg has been looking into ways to solve Hatch's problem and is trying to schedule a meeting to discuss.

Concrete Sidewalk Restoration: The sidewalk restoration was completed around the RAS building from the scum drains project. The MHOG crew got the yard all put back together and seeded.

Respectfully submitted,
Jonathan Hohenstein

Howell Township Monthly Wastewater Operations Report



Concrete Sidewalk Restoration

October 2024

Howell Township Plant Operations

Summary

Please find in this report details that describe the monthly operating characteristics and the performance of the wastewater treatment plant, as well as any other noteworthy items that occurred in September.

During the last month of operations, we treated **9.85MG** of wastewater with no permit violations.

All preventative maintenance was completed at the plant.

The WWTP lost power a couple different times last month. DTE was notified and restored power within 24 hours of being out. The last time we lost power the automatic transfer switch failed and we had to transfer power manually. Cummins has been contacted and should be out soon. We will continue to transfer power manually until the transfer switch is fixed.

Process Summary

EQ Tank

- Operating North Tank
- 5 broken gate valves

Influent Sampler

- Normal Operation

Headworks

- Normal Operation

FeCl₂ Chemical Room

- Normal Operation

Aeration Basin

- Normal Operations

Junction Chamber

- Normal Operation

RAS Building & Clarifier

- Poured Concrete Sidewalk

Sand Filters

- Normal Operation

Post Aeration

- Normal Operation

UV System

- Normal Operations

Recycle Pump Station

- Normal Operation

Howell Township Pump Stations

Summary

Pump Stations were checked weekly and lawn maintenance has been completed.

On 10/8, at 3:00 PM the PLC at Pump Station 70 failed. We contacted Kennedy, but they could not get a new PLC installed until the next morning. We verified the backup float system worked and watched it run for a cycle. Unfortunately, the next morning around 4 AM the backup float system failed causing Hatch Stamping to backup. We were notified at 6:00 AM and on site at 6:20 AM. When we arrived the station was running. The low-level float must have got hung up and would not allow the high-level float to run the pumps. Around 6:10 AM the low level float must have broken free and allowed the pumps to start. This is why the station was working properly when we arrived.

Kennedy was onsite at 9:00 AM and replaced the PLC. We had them install a new alarm that will rearm a float if it is tripped for more than 60 minutes. We also sent our crew to Hatch Stamping to clean up the mess. They arrived at Hatch around 8:30 AM and had it cleaned up by 11:00 AM that morning. Hatch was happy they did not have to shut down the break room for lunch.

Hatch has flooded out around 6 times in the last 10 years. The building grade is low in comparison to the invert level of the pump station and we would like to explore other options to prevent this from happening again in the future.

PS-70

- PLC Failed Along With Backup Float System

PS-71

- Normal Operations

PS-72

- Normal Operations

PS-73

- Normal Operations

PS-74

- Normal Operations

PS-75

- Normal Operations

PS-76

- Normal Operations

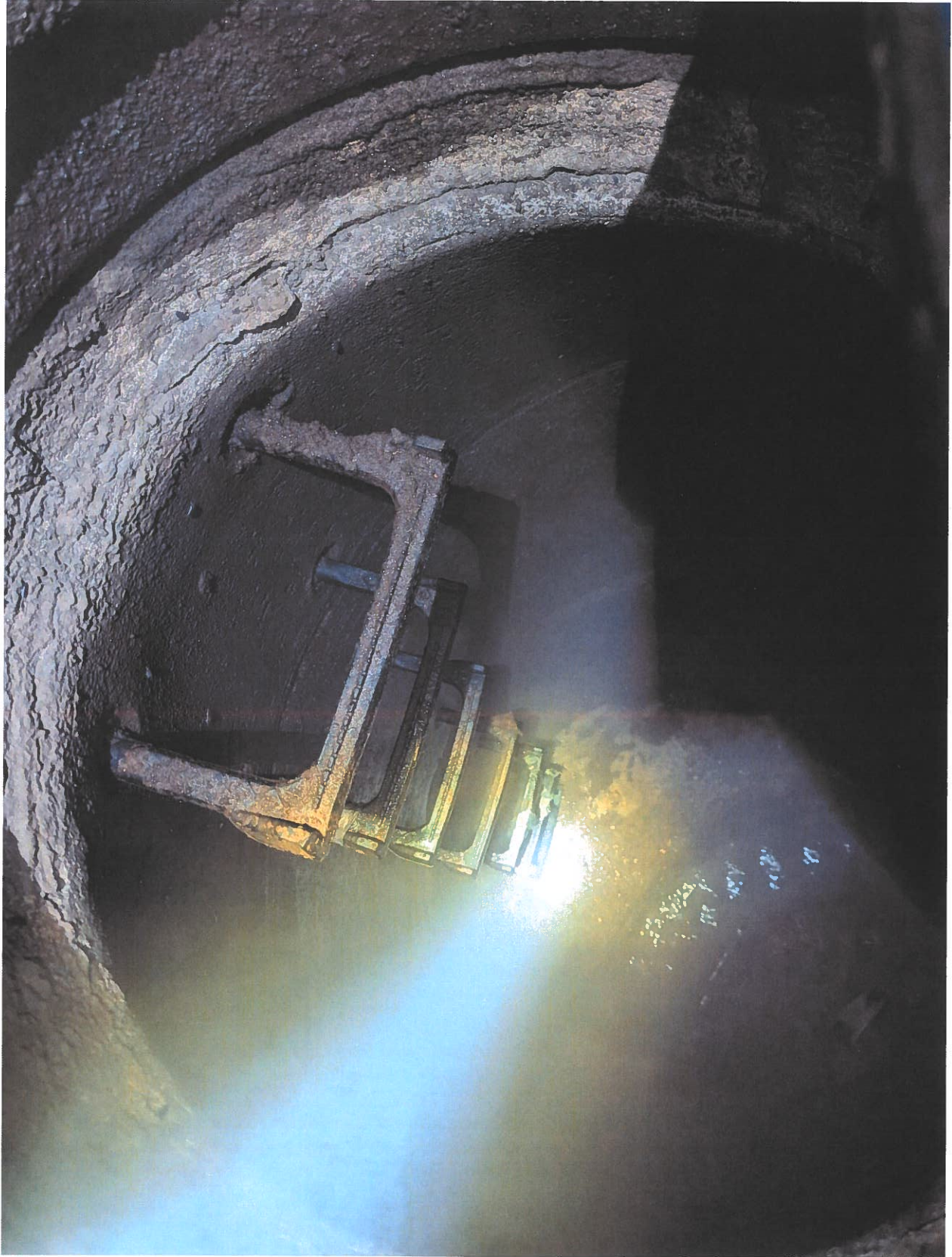
PS-77

- Normal Operation

PS-78

- Normal Operations

Hatch Stamping Backup
October 9, 2024



Hatch Stamping Backup
October 9, 2024



Hatch Stamping Backup
October 9, 2024



**Hatch Stamping Backup
October 9, 2024**





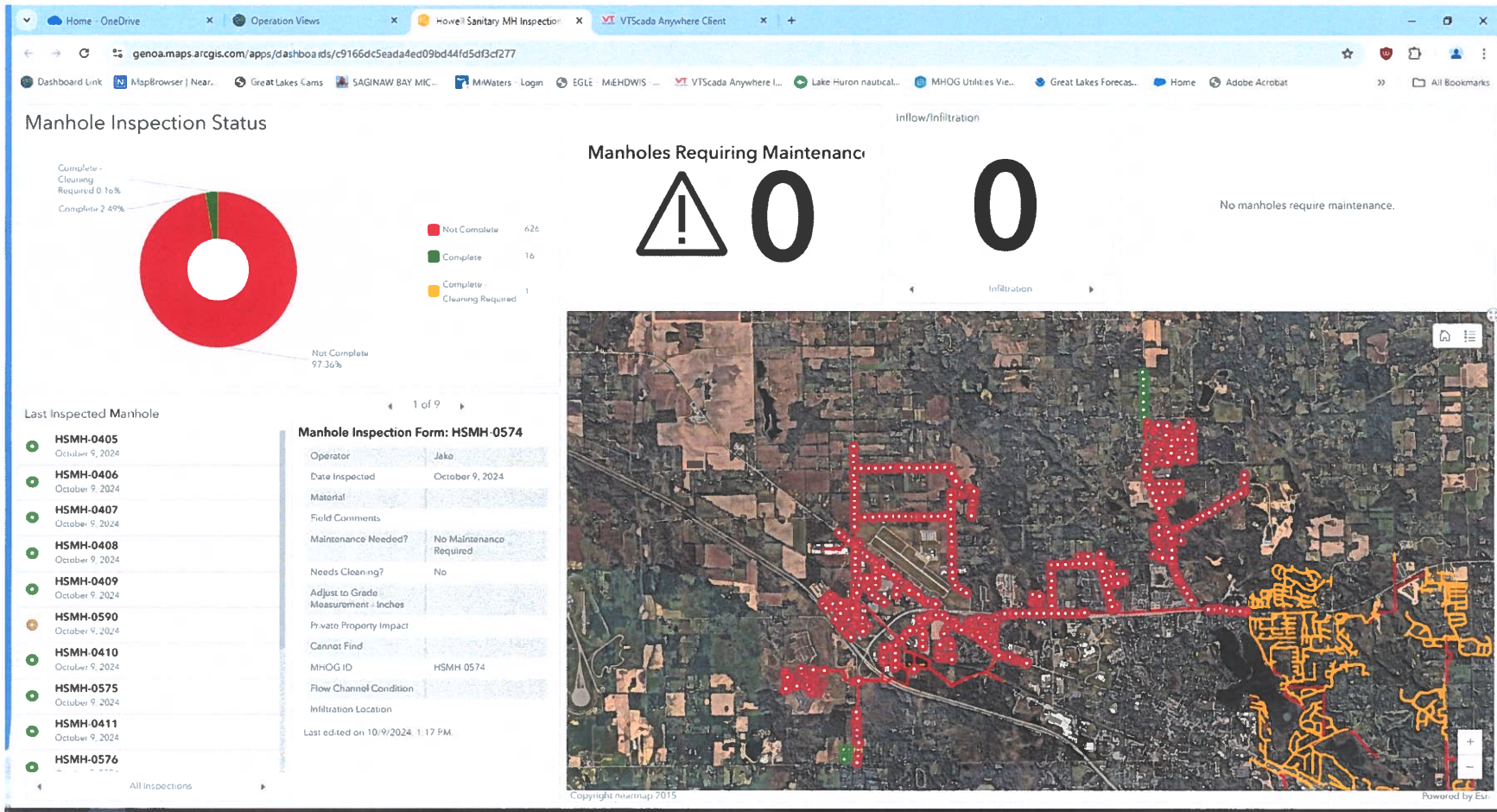
Hatch Survey

Location	Instrument Height	Elevation Benchmark	Level in Feet Below Pump Station Lid	Level Above High Level Float
Slab of Pump Station	6.00	903.08		
Invert to PS	16.64	892.44	10.64	
High Float	14.71	894.37	8.71	
Finish Floor Elevation Slab	7.32	901.76	1.32	7.39
Rim of MH 2 at 1st Instrument Location	5.57	903.51		
Rim of MH 2 at 2nd Instrument Location	4.66	903.51		
Pipe Invert at Check Valve	11.16	897.01	6.07	2.64
Rim of Check Valve MH	5.92	902.25		

Response Time Calculation

Benchmark Elevation - Slab of Wetwell: 903.08		Elevation Between Floor Hatch and High Level Float	7.37'
		Flow Average Per Day for PS 70	85,680 gal.
		Flow Rate of Pumps	357 gpm
		Average Fill Rate over 24 hours	60gpm
		Gallons Per Foot of Elevation inWetwell	376 gal
Average Water Usage / Day in Peak Quarter	3,277 gpd	Time to Respond From High Level Alarm to Floor Hatch	46 min at Average Fill Rate
Average GPM	2.2 gpm		

Manhole Inspection Status October 2024





Howell Township
Updated Capital Improvement Plan Summary
Updated 10/15/24

Active CIP and Significant Repairs In Progress					
No.	Project Description	Priority	Initial Estimate	Revised Estimate	Update
1	WesTech North Clarifier Upgrade and New RAS Pump	High	\$450,000	\$321,988	Completed Drain Lines. Submittal drawings from WesTech were modified and resent. February of 2025 likely delivery. Cost from FHC to repair north clarifier to emergency operation approved. New RAS Pump is in, need to install.
2	Second Septage / Return Pump Station Pump	Moderate	\$10,000	TBD	Still have plus 1 pump working, hold on this project.
3	Spare Pump for Station 70	High	\$26,255	\$19,825	Pump is in and stored.
Total			\$460,000	\$341,813	

Park and Recreation Committee
October 15, 2024
12-1 p.m.

Present: Martha Haglund, Teresa Murrish, Jonathan Hohenstein

Gazebo Benches:

Eagle Scout Ben Costello finished the three benches for the inside of the Township's gazebo. Theresa will prepare a resolution of gratitude for Ben's hard work and will be taken to the next Board meeting for consideration.

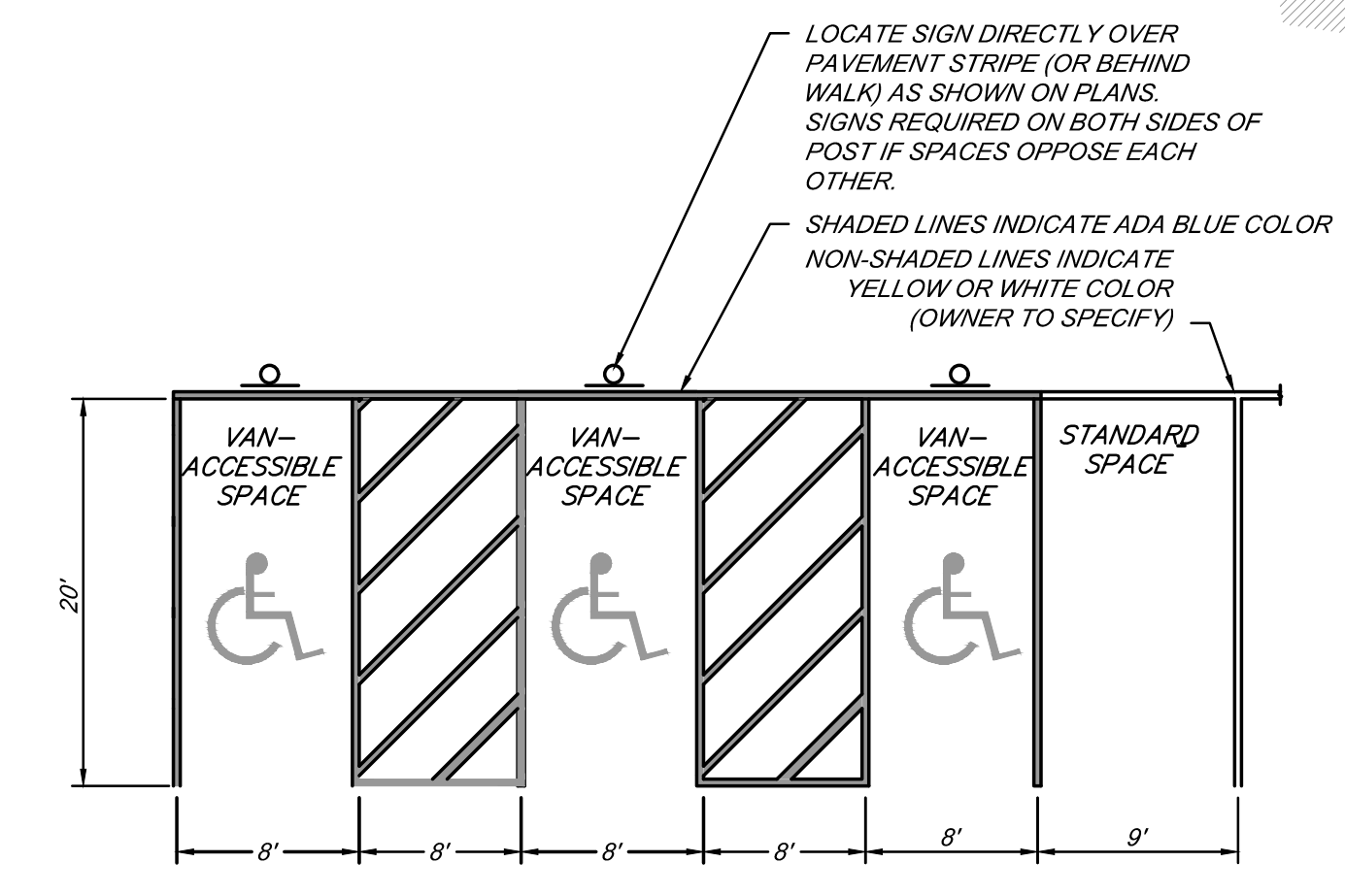
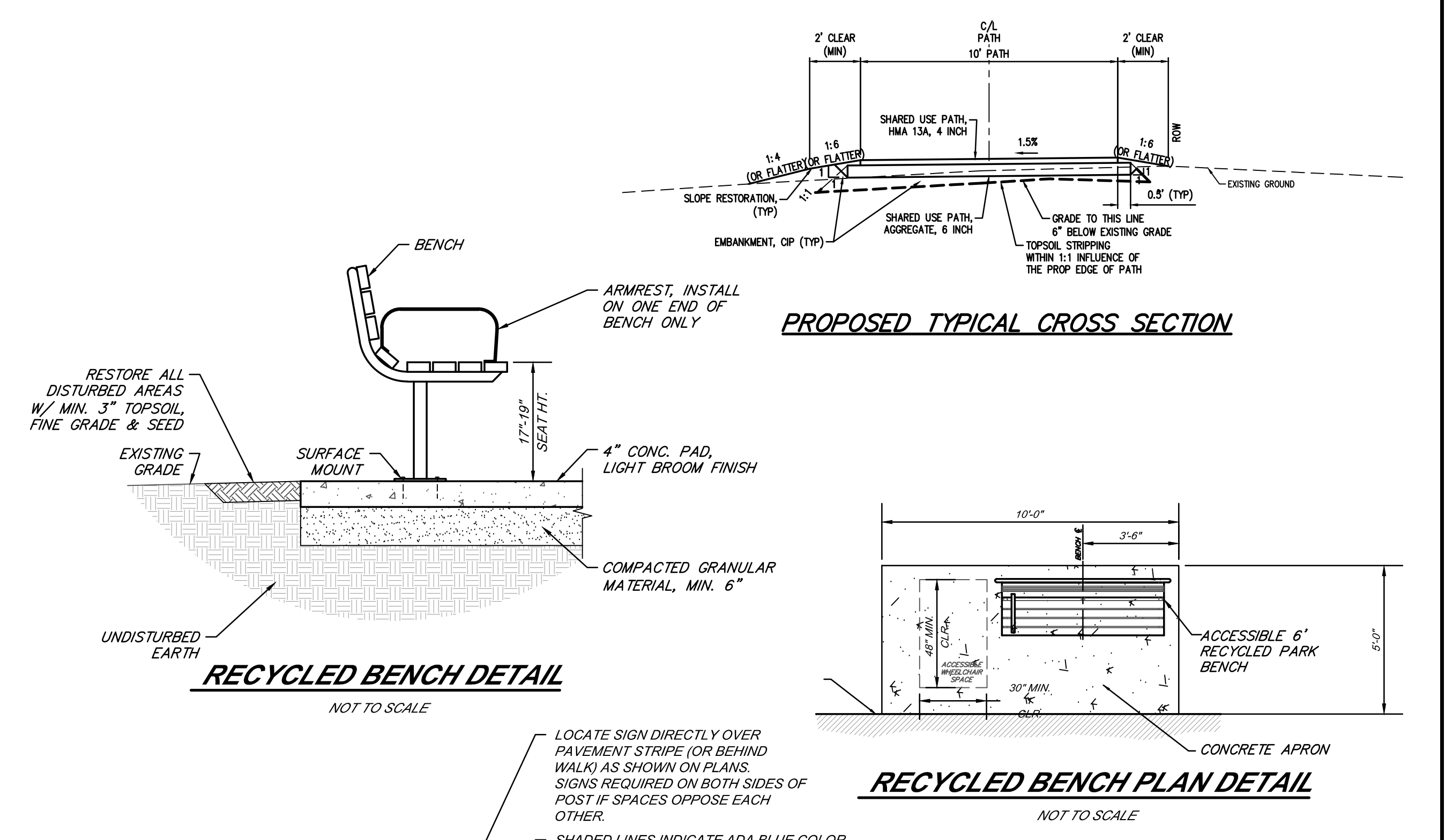
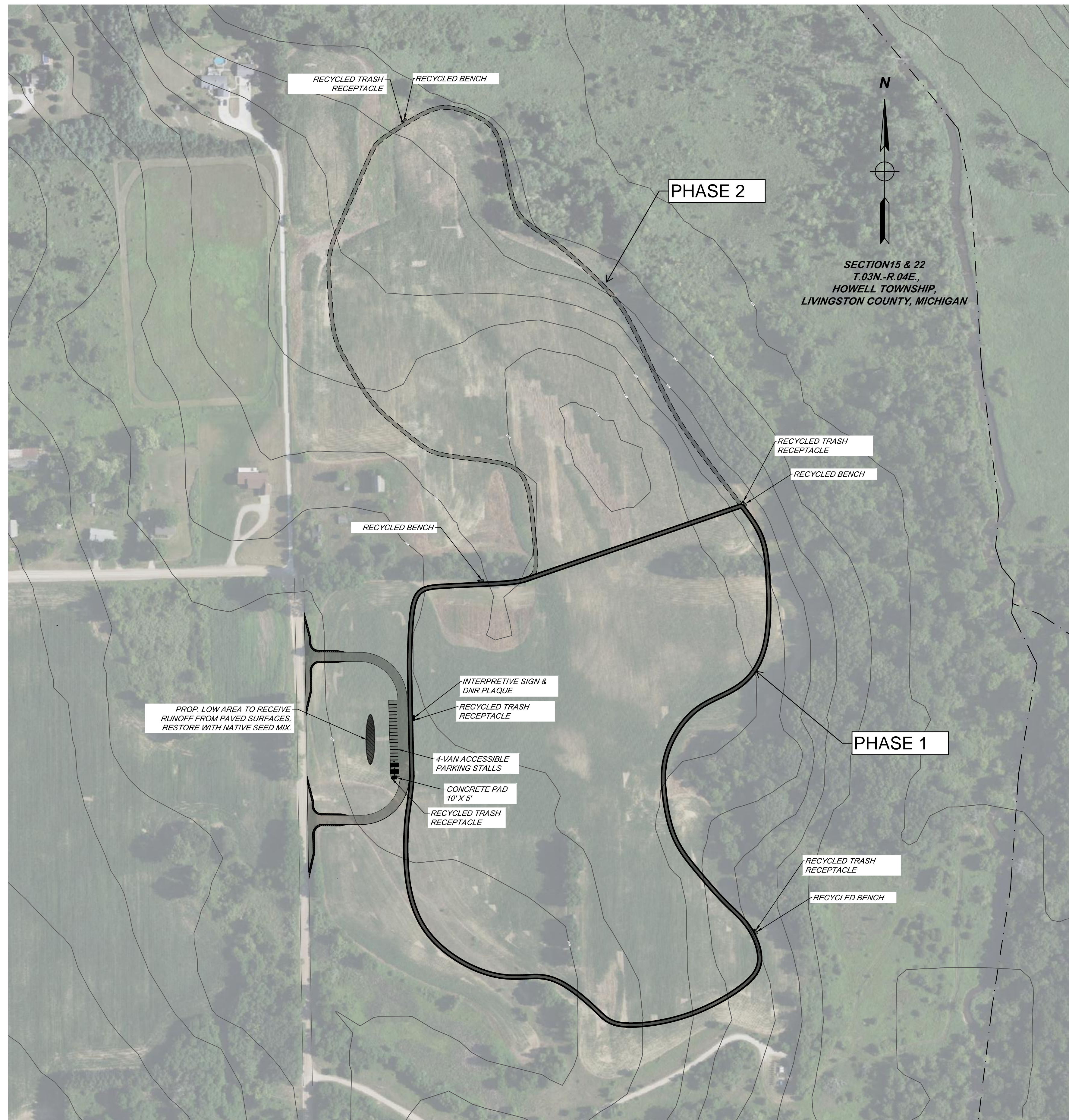
Tooley Road Park (Thumbs-Up Park):

The Committee discussed the changes to the design by Spicer, attached. The majority of the Committee preferred the two-driveway design for the parking area and believes it is best to build the parking area with concrete due to discussions of using this area for future Township clean-up days and the heavy equipment that will bring.

The Committee discussed the site plan process to develop a park on this property. The Committee discussed developing the park under the current zoning versus establishing a new zoning district and developing under the new zoning district. The majority of the Committee agreed with developing the park under the current zoning district.

The next step for development would be an environmental study of the property. This is what the Township would require of a developer, and we intend to hold the Township to the same standards. The Committee is obtaining quotes for an environmental study and once received will be brought to the Board.

Respectfully submitted,
Jonathan Hohenstein



VAN ACCESSIBLE SPACES SHALL BE ADJACENT TO 8' WIDE NO-PARKING AREAS AND SHALL INCLUDE AN ADDITIONAL SIGN READING "VAN ACCESSIBLE". SEE SIGN DETAILS.

LINES SHALL BE 4" WIDE, WATERBORNE-TYPE PAINTED STRIPES. MATERIALS SHALL BE AS APPROVED BY MDOOT.

BY	MARK	REVISIONS	DATE
<p>THE WORK REPRESENTED BY THIS DRAWING WAS DESIGNED BY THE ENGINEER FOR THIS SPECIFIC APPLICATION AND SPECIFIC LOCATION DESCRIBED HEREON IN ACCORDANCE WITH THE CONDITIONS PREVALENT AT THE TIME THE DESIGN WAS DONE. THE ENGINEER DOES NOT GUARANTEE AND WILL NOT BE LIABLE FOR ANY OTHER LOCATION, CONDITION, DESIGN OR PURPOSE.</p>			
<p>HOWELL TOWNSHIP LIVINGSTON COUNTY, MI</p>			
<p>THUMBS UP PARK MULTI PURPOSE PATH TWO APPROACH OPTION</p>			
<p>DE. BY: ACJ DR. BY: ACJ</p>		<p>CH. BY: JWB APP. BY: JWB</p>	
<p>STDS.</p>		<p>PROJECT NO. 133588SG2022</p>	
<p>DATE: OCTOBER 2024 SCALE: 1" = 150'</p>		<p>SHEET #### OF ### FILE NO. #####</p>	

Spicer Group
DUNDEE OFFICE
125 Helle Blvd, Suite 2
Dundee, MI 48131
Tel: 734-823-3308
www.SpicerGroup.com

**PRELIMINARY ESTIMATE OF COST
 PHASE I CONCRETE LOT
 HOWELL TOWNSHIP HALL
 HOWELL TOWNSHIP**



Item No.	Estimated Quantity	Unit	Description	Unit Price	Amount	
1.	1	LSUM	Mobilization, 5% Max	\$ 34,700.00	\$ 34,700.00	
3.	310	Cyd	Embankment, CIP	\$ 20.00	\$ 6,200.00	
4.	150	Cyd	Excavation, Earth	\$ 20.00	\$ 3,000.00	
5.	80.0	Cyd	Subgrade Undercutting	\$ 40.00	\$ 3,200.00	
6.	4,630	Syd	Grading	\$ 12.00	\$ 55,560.00	
8.	7,900	Syd	Aggregate Base, 6 inch	\$ 15.00	\$ 118,500.00	
11.	1,100	Ton	HMA, 13 A	\$ 130.00	\$ 143,000.00	
12.	3,280	Syd	Conc Pavt, Misc, Nonreinf, 6 inch	\$ 90.00	\$ 295,200.00	
13.	18	Ft	Post, Steel, 3 lb	\$ 9.00	\$ 162.00	
14.	3	Sft	Sign, Type IIIA	\$ 35.00	\$ 105.00	
15.	3	Each	Pavt Mrkg, Preformed Thermopl, Accessible Sym	\$ 400.00	\$ 1,200.00	
16.	340	Ft	Pavt Mrkg, Waterborne, 4 inch, Yellow	\$ 1.00	\$ 340.00	
17.	380	Ft	Pavt Mrkg, Waterborne, for Rest Areas, Parks & Lots, 4 inch, B	\$ 1.50	\$ 570.00	
19.	4,200	Syd	Slope Resoration, Non-Freeway	\$ 12.00	\$ 50,400.00	
21.	1	LSUM	Soil Erosion and Sedimentation Control	\$ 10,000.00	\$ 10,000.00	
22.	350	Syd	Shld, CL II, 6 inch	\$ 18.00	\$ 6,300.00	
SUB TOTAL CONSTRUCTION:					\$ 728,000.00	
					Engineering	\$ 37,000.00
					Staking, Inspection, & Construction Administration	\$ 73,000.00
					Contingency (10%)	\$ 73,000.00
TOTAL:					\$ 911,000.00	

**PRELIMINARY ESTIMATE OF COST
PHASE I HMA LOT
HOWELL TOWNSHIP HALL
HOWELL TOWNSHIP**

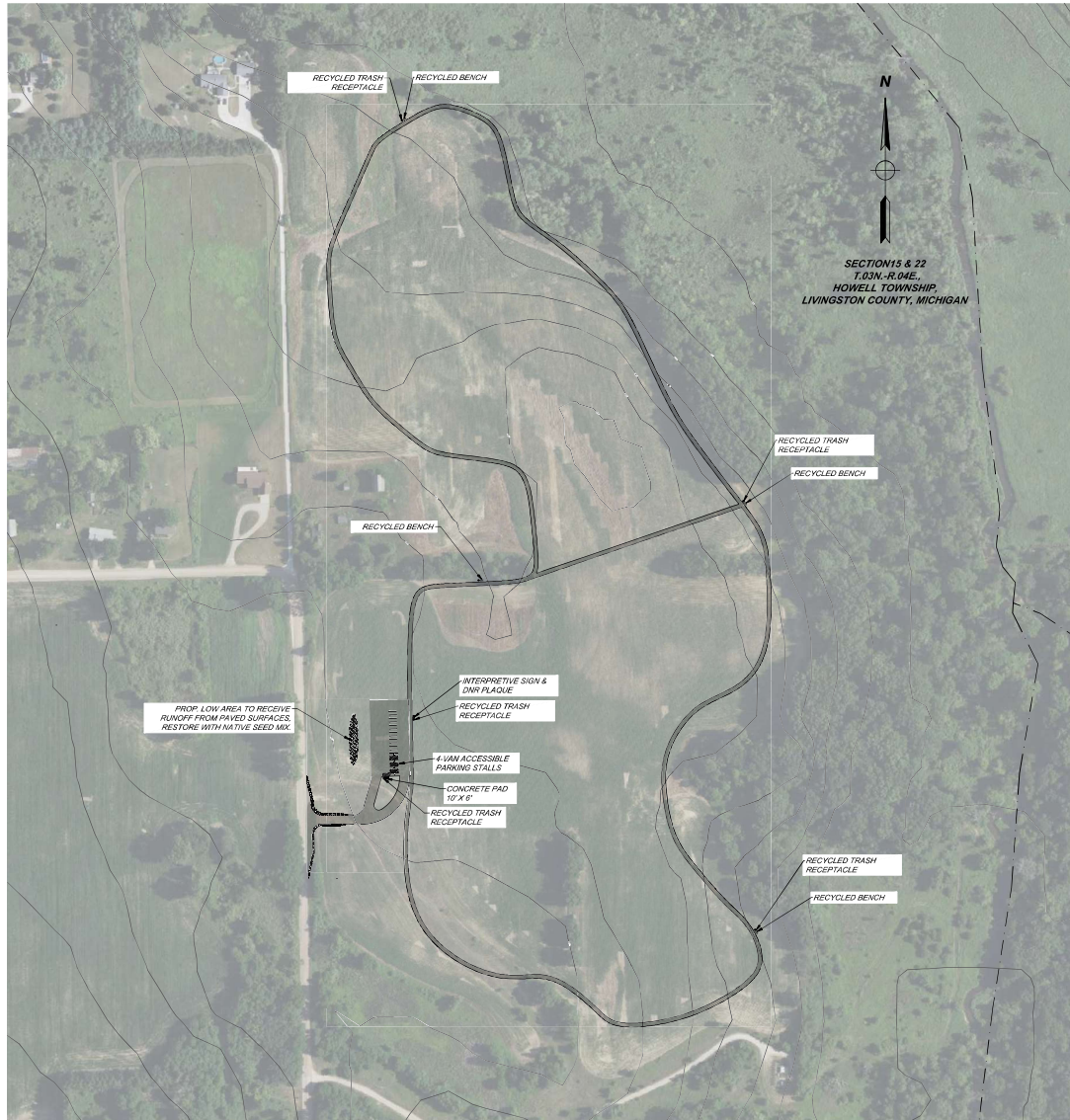


Item No.	Estimated Quantity	Unit	Description	Unit Price	Amount
1.	1	LSUM	Mobilization, 5% Max	\$ 29,800.00	\$ 29,800.00
3.	310	Cyd	Embankment, CIP	\$ 20.00	\$ 6,200.00
4.	150	Cyd	Excavation, Earth	\$ 20.00	\$ 3,000.00
5.	130.0	Cyd	Subgrade Undercutting	\$ 40.00	\$ 5,200.00
6.	7,900	Syd	Grading	\$ 12.00	\$ 94,800.00
8.	7,900	Syd	Aggregate Base, 6 inch	\$ 15.00	\$ 118,500.00
11.	2,100	Ton	HMA, 13 A	\$ 135.00	\$ 283,500.00
12.	10	Syd	Conc Pavt, Misc, Nonreinf, 6 inch	\$ 90.00	\$ 900.00
13.	18	Ft	Post, Steel, 3 lb	\$ 9.00	\$ 162.00
14.	3	Sft	Sign, Type IIIA	\$ 35.00	\$ 105.00
15.	3	Each	Pavt Mrkg, Preformed Thermopl, Accessible Sym	\$ 400.00	\$ 1,200.00
16.	340	Ft	Pavt Mrkg, Waterborne, 4 inch, Yellow	\$ 1.00	\$ 340.00
17.	380	Ft	Pavt Mrkg, Waterborne, for Rest Areas, Parks & Lots, 4 inch, B	\$ 1.50	\$ 570.00
19.	5,300	Syd	Slope Resoration, Non-Freeway	\$ 12.00	\$ 63,600.00
21.	1	LSUM	Soil Erosion and Sedimentation Control	\$ 10,000.00	\$ 10,000.00
22.	350	Syd	Shld, CL II, 6 inch	\$ 18.00	\$ 6,300.00
SUB TOTAL CONSTRUCTION:					\$ 624,000.00
Engineering					\$ 32,000.00
Staking, Inspection, & Construction Administration					\$ 63,000.00
Contingency (10%)					\$ 62,000.00
TOTAL:					\$ 781,000.00

**PRELIMINARY ESTIMATE OF COST
PHASE 2
HOWELL TOWNSHIP HALL
HOWELL TOWNSHIP**



Item No.	Estimated Quantity	Unit	Description	Unit Price	Amount
1.	1	LSUM	Mobilization, 5% Max	\$ 12,500.00	\$ 12,500.00
3.	220	Cyd	Embankment, CIP	\$ 20.00	\$ 4,400.00
4.	100	Cyd	Excavation, Earth	\$ 20.00	\$ 2,000.00
5.	60.0	Cyd	Subgrade Undercutting	\$ 40.00	\$ 2,400.00
6.	3,320	Syd	Grading	\$ 12.00	\$ 39,840.00
8.	3,320	Syd	Aggregate Base, 6 inch	\$ 15.00	\$ 49,800.00
11.	800	Ton	HMA, 13 A	\$ 140.00	\$ 112,000.00
19.	2,300	Syd	Slope Resoration, Non-Freeway	\$ 12.00	\$ 27,600.00
21.	1	LSUM	Soil Erosion and Sedimentation Control	\$ 10,000.00	\$ 10,000.00
SUB TOTAL CONSTRUCTION:					\$ 261,000.00
Engineering					\$ 14,000.00
Staking, Inspection, & Construction Administration					\$ 27,000.00
Contingency (10%)					\$ 26,000.00
TOTAL:					\$ 328,000.00



SECTION 15 & 22
T.03N-R.04E
HOWELL TOWNSHIP
LIVINGSTON COUNTY, MICHIGAN

PRELIMINARY ESTIMATE OF COST
ADDITIONAL PARKING OPTIONS
HOWELL TOWNSHIP HALL
HOWELL TOWNSHIP



Est. No.	Quantity	Unit	Description	Unit Price	Amount
1	1	L20TM	Multiblock, 7% Slope	\$ 42,800.00	\$ 42,800.00
3	1,200	CY	Subgrade, CIP	\$ 20.00	\$ 24,000.00
4	200	CY	Excavation, Earth	\$ 20.00	\$ 4,000.00
5	100.0	CY	Subgrade Underdrain	\$ 40.00	\$ 4,000.00
6	13,250	SqF	Gravel	\$ 12.00	\$ 159,000.00
8	13,250	SqF	Aggregate Base, 4 inch	\$ 15.00	\$ 198,750.00
11	3,800	Ton	BM-1, 1/2 A	\$ 100.00	\$ 380,000.00
12	10	SqF	Cast Pave, Misc, Normal, 6 inch	\$ 50.00	\$ 500.00
13	32	SqF	Cast Pave, 3' x 3'	\$ 7.00	\$ 224.00
14	4	SqF	Sign, Type IIIA	\$ 55.00	\$ 220.00
17	4	Each	Post Mtg, Professional Through, Adjustable Sign	\$ 400.00	\$ 1,600.00
18	800	SqF	Post Mtg, Whitestone, 6 inch, Yellow	\$ 1.00	\$ 800.00
19	428	SqF	Post Mtg, Whitestone, 6 inch, Park & Lot, 4 inch	\$ 1.50	\$ 642.00
19	7,700	SqF	Slope Restoration, Non-Oversew	\$ 12.00	\$ 92,400.00
21	1	L20TM	Soil Erosion and Sedimentation Control	\$ 10,000.00	\$ 10,000.00
22	175	SqF	BM-1, CL, 1/2 A	\$ 18.00	\$ 3,150.00
NEW TOTAL CONSTRUCTION				\$	\$ 1,322,848.00
Engineering				\$	\$ 45,000.00
Holding, Inspection, & Construction Administration				\$	\$ 90,000.00
Contingency (10%)				\$	\$ 90,000.00
TOTAL				\$	\$ 1,547,848.00

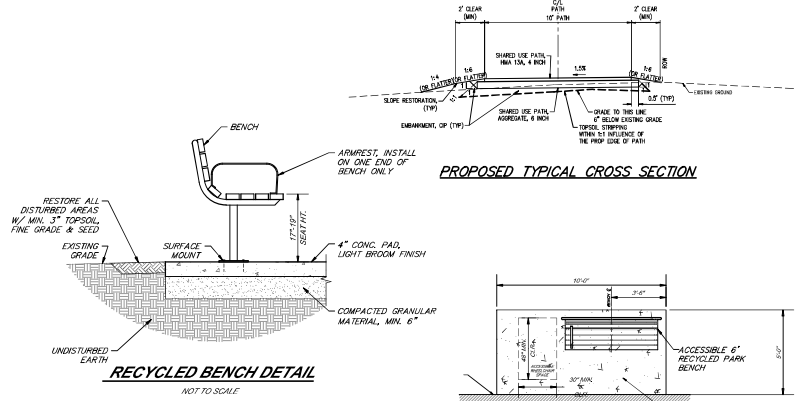
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PRELIMINARY ESTIMATE OF COST
ADDITIONAL PARKING OPTIONS
HOWELL TOWNSHIP HALL
HOWELL TOWNSHIP



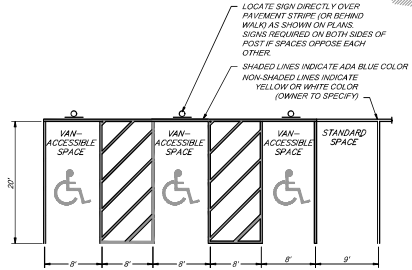
Est. No.	Quantity	Unit	Description	Unit Price	Amount
1	1	L20TM	Multiblock, 7% Slope	\$ 42,800.00	\$ 42,800.00
3	1,200	CY	Subgrade, CIP	\$ 20.00	\$ 24,000.00
4	200	CY	Excavation, Earth	\$ 20.00	\$ 4,000.00
5	100.0	CY	Subgrade Underdrain	\$ 40.00	\$ 4,000.00
6	13,250	SqF	Gravel	\$ 12.00	\$ 159,000.00
8	13,250	SqF	Aggregate Base, 4 inch	\$ 15.00	\$ 198,750.00
11	3,800	Ton	BM-1, 1/2 A	\$ 100.00	\$ 380,000.00
12	10	SqF	Cast Pave, Misc, Normal, 6 inch	\$ 50.00	\$ 500.00
13	32	SqF	Cast Pave, 3' x 3'	\$ 7.00	\$ 224.00
14	4	SqF	Sign, Type IIIA	\$ 55.00	\$ 220.00
17	4	Each	Post Mtg, Professional Through, Adjustable Sign	\$ 400.00	\$ 1,600.00
18	800	SqF	Post Mtg, Whitestone, 6 inch, Yellow	\$ 1.00	\$ 800.00
19	428	SqF	Post Mtg, Whitestone, 6 inch, Park & Lot, 4 inch	\$ 1.50	\$ 642.00
19	4,500	SqF	Slope Restoration, Stone/Gravel	\$ 2.00	\$ 9,000.00
21	1	L20TM	Soil Erosion and Sedimentation Control	\$ 10,000.00	\$ 10,000.00
22	175	SqF	BM-1, CL, 1/2 A	\$ 18.00	\$ 3,150.00
NEW TOTAL CONSTRUCTION				\$	\$ 1,602,848.00
Engineering				\$	\$ 45,000.00
Holding, Inspection, & Construction Administration				\$	\$ 90,000.00
Contingency (10%)				\$	\$ 90,000.00
TOTAL				\$	\$ 1,827,848.00

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RECYCLED BENCH DETAIL
NOT TO SCALE

RECYCLED BENCH PLAN DETAIL
NOT TO SCALE



PARKING SPACES DETAIL
NOT TO SCALE

BY	MARK	REVISIONS	DATE
<p>HOWELL TOWNSHIP LIVINGSTON COUNTY, MI</p> <p>THUMBS UP PARK MULTI PURPOSE PATH ADDITIONAL PARKING OPTION</p> <p>Spicer Group</p> <p>CLARENCE OFFICE 1221 Park Drive, Suite 2 Clarence, MI 48117 Tel: 734-625-3388 www.SpicerGroup.com</p>			
DR. BY:	ACJ	CH. BY:	JWB
APP. BY:	ACJ	APP. BY:	JWB
PROJECT NO.	133588SG2022		
STDS.	SHEET ### OF ###		
DATE:	OCTOBER 2024	FILE NO.	#####
SCALE:	1" = 100'		

MEMO

ASTI Environmental

April 22, 2024

To: Prospective Purchasers
From: Doug Brown
Subject: Michigan's Environmental Due Diligence Process

Following is information that has helped real estate developers, lenders, attorneys and others gain a better understanding of Michigan's Environmental Due Diligence process so perhaps it will be useful to you and your colleagues as well.

Protecting purchasers of potentially contaminated property is precisely (too many Ps there:) why the State of Michigan amended the law that governs environmental cleanup 27 years ago and introduced Baseline Environmental Assessments (BEAs), Due Care Plans and engineering controls that have minimized the need for costly No Further Action Letters (NFAs), Covenants Not to Sue, Deed Restrictions and Remediation that stalled projects historically. Although some of these are unique to Michigan, other states have followed Michigan's lead.

Step I: The Phase I Environmental Site Assessment (Phase I ESA) begins the innocent landowner's defense to federal CERCLA liability provided it is completed prior to purchase. Secondly, to obtain the State of Michigan liability protection under Part 201 on properties that are contaminated, a Baseline Environmental Assessment relying on a Phase II ESA must be completed within 45-days of purchase or becoming an operator of a "facility," and filed with the State within six months. A Phase I will daylight recognized environmental conditions (RECs) as well as to determine if a *Phase II ESA* (testing soil, groundwater, soil-gas, and/or indoor air) is needed. An ASTM E1527-21 *Phase I ESA* includes a review of prior reports (if available), FOIA requests to the State Environmental Quality department and the host Municipality, purchase of an environmental database to identify potential contamination on or migrating onto the subject property, questionnaires to the buyer and seller, Aerial and Sanborn Maps, and a site inspection. If RECs are not identified, then the Phase I report is published, and the process is complete.

Phase I reports are valid for six months, and can be updated between six months and one year before a new Phase I is required. Please note we cannot speak to anyone or share information about your project without your written permission.



10448 Citation Drive, #100
P.O. Box 2160
Brighton, Michigan 48116
Phone: 810.225.2800 Fax: 810.225.3800

Step 2 (if needed): If RECs are identified during the Phase I, then a *Phase II ESA* will be completed to address said RECs. A Phase II begins with review of analytical data in prior Phase II or BEA reports and sampling of soil, groundwater and/or soil-gas. The lab results from the sampling are then compared to EGLEs cleanup criteria (residential or non-residential) to determine if there are exceedances.

- If there are no chemical compounds that exceed the generic residential cleanup criteria, then no further investigation will be recommended, and the final Phase II report will be published to complete the process.
- If there are impacts above the generic residential cleanup criteria, the site would be deemed a *Facility*, and a Baseline Environmental Assessment (BEA) would be completed.
- If there are impacts above cleanup criteria for the future intended use, additional investigations to determine compatibility for that use, evaluate remedies, or determine options for soil management will be recommended.

Step 3 (if needed): The *BEA* is completed for a non-liable party to purchase contaminated property and obtain liability protection for any preexisting environmental impacts. In laymen's terms, the BEA is basically an Insurance Certificate that "memorializes" the Phase I/II work and must be completed within 45 days of purchase and submitted to EGLE within six months. While the BEA provides liability protection, an owner or operator of a contaminated property still has *due care obligations* to protect human health and the environment as presented below.

Step 4 (if needed): After a buyer purchases or operates on the property, due care obligations require the owner/operator to prevent unacceptable risk to users and the general public, notify third parties that may come in contact with the soil, groundwater or soil-gas, and to not exacerbate the contamination. To document the due care obligations and provide a plan for property management, a *Documentation of Due Care Compliance* (DDCC) report will be prepared.

The DDCC provides a roadmap for due care obligations associated with the future intended use and outlines administrative, institutional, and engineering controls that will be implemented. These can include, but are not limited to; soil management requirements, requirements for clean imported soil, maintaining hard surface barriers, capping contaminated soils and design/installation/operation/maintenance of sub-slab depressurization systems for vapor mitigation.

There are a lot of words here so feel free to CONTACT DOUG BROWN with any questions at 810/599-8131 dbrown@asti-env.com .

ASTI ENVIRONMENTAL
16,000 Environmental Investigation, Restoration, Remediation and
Compliance projects for 7,000 clients nationally since 1985

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10448 Citation Drive, #100
P.O. Box 2160
Brighton, Michigan 48116
Phone: 810.225.2800 Fax: 810.225.3800

Howell Township
Invoice and Check Registers
As of 10/31/2024

INVOICE REGISTER FOR HOWELL TOWNSHIP

Inv Ref #	Vendor	Invoice Date	Due Date	Invoice Amount	Amount Due	Status	Posted
00023771	CHLORIDE SOLUTIONS, LLC	08/29/2024	10/02/2024	1,368.65	0.00	Paid	Y
00023772	DTE ENERGY	09/13/2024	10/07/2024	40.45	0.00	Paid	Y
00023773	HOWELL TOWNSHIP	09/17/2024	10/15/2024	2,000.00	0.00	Paid	Y
00023774	KISM, LLC	09/17/2024	10/15/2024	982.00	0.00	Paid	Y
00023777	CONSUMERS ENERGY	09/18/2024	10/11/2024	133.09	0.00	Paid	Y
00023775	CONSUMERS ENERGY	09/18/2024	10/14/2024	148.39	0.00	Paid	Y
00023776	CONSUMERS ENERGY	09/18/2024	10/14/2024	23.93	0.00	Paid	Y
00023778	CONSUMERS ENERGY	09/17/2024	10/14/2024	25.87	0.00	Paid	Y
00023779	PERFECT MAINTENANCE	09/29/2024	10/14/2024	195.00	0.00	Paid	Y
00023784	MICRO WORKS COMPUTING, INC	09/24/2024	10/14/2024	80.00	0.00	Paid	Y
00023785	BS&A SOFTWARE	10/01/2024	10/31/2024	27,485.00	0.00	Paid	Y
00023786	MUTUAL OF OMAHA INSURANCE COMPANY	10/01/2024	10/31/2024	209.88	0.00	Paid	Y
00023787	AT&T	09/19/2024	10/12/2024	325.86	0.00	Paid	Y
00023788	JONATHAN HOHENSTEIN	09/30/2024	10/12/2024	668.53	0.00	Paid	Y
00023789	LIVINGSTON COUNTY TREASURER	10/01/2024	10/12/2024	47.00	0.00	Paid	Y
00023790	HOISINGTON MATTHEW AND DANA	10/02/2024	10/02/2024	3,000.00	0.00	Paid	Y
00023791	STATE OF MICHIGAN	10/01/2024	10/12/2024	50.00	0.00	Paid	Y
00023792	LIVINGSTON COUNTY TREASURER	10/01/2024	10/12/2024	805.00	0.00	Paid	Y
00023793	SPRUNGTOWN OUTDOOR SERVICES	10/01/2024	10/12/2024	750.00	0.00	Paid	Y
00023794	SMART BUSINESS SOURCE, LLC	10/01/2024	10/12/2024	260.44	0.00	Paid	Y
00023795	GENOA TOWNSHIP DPW	10/01/2024	10/12/2024	28,135.32	0.00	Paid	Y
00023796	STATE OF MICHIGAN	10/01/2024	10/12/2024	175.00	0.00	Paid	Y
00023797	STATE OF MICHIGAN	10/02/2024	10/02/2024	18,800.80	0.00	Paid	Y
00023798	STATE OF MICHIGAN	10/02/2024	10/02/2024	12,533.87	0.00	Paid	Y
00023799	FOWLERVILLE SCHOOLS	10/02/2024	10/02/2024	545.79	0.00	Paid	Y
00023800	HOWELL TOWNSHIP	10/02/2024	10/02/2024	18,525.97	0.00	Paid	Y
00023801	LIVINGSTON COUNTY TREASURER	10/02/2024	10/02/2024	219,258.94	0.00	Paid	Y
00023802	LIV EDUC SERVICE AGENCY	10/02/2024	10/02/2024	217,714.51	0.00	Paid	Y
00023803	HOWELL PUBLIC SCHOOLS	10/02/2024	10/02/2024	184,738.10	0.00	Paid	Y
00023804	HOWELL PUBLIC SCHOOLS	10/02/2024	10/02/2024	795,810.75	0.00	Paid	Y
00023805	LIVINGSTON COUNTY TREASURER	10/02/2024	10/02/2024	405,527.01	0.00	Paid	Y
00023806	COMCAST			435.49	0.00	Paid	Y
00023807	CINTAS CORPORATION	10/02/2024	10/12/2024	124.57	0.00	Paid	Y
00023808	FAHEY SCHULTZ BURZYCH RHODES PLC	10/01/2024	10/31/2024	114.00	0.00	Paid	Y
00023809	FAHEY SCHULTZ BURZYCH RHODES PLC	10/01/2024	10/31/2024	2,508.00	0.00	Paid	Y
00023810	FAHEY SCHULTZ BURZYCH RHODES PLC	10/01/2024	10/31/2024	11,458.00	0.00	Paid	Y
00023811	FAHEY SCHULTZ BURZYCH RHODES PLC	10/01/2024	10/31/2024	275.00	0.00	Paid	Y
00023812	FAHEY SCHULTZ BURZYCH RHODES PLC	10/01/2024	10/31/2024	784.00	0.00	Paid	Y
00023813	FAHEY SCHULTZ BURZYCH RHODES PLC	10/01/2024	10/31/2024	2,363.50	0.00	Paid	Y
00023814	FAHEY SCHULTZ BURZYCH RHODES PLC	10/01/2024	10/31/2024	171.00	0.00	Paid	Y
00023780	FIRST NATIONAL BANK	10/04/2024	10/04/2024	4,544.86	0.00	Paid	Y
00023781	HOWELL TOWNSHIP	10/04/2024	10/04/2024	118.52	0.00	Paid	Y
00023782	AMERICAN FUNDS	10/04/2024	10/04/2024	2,964.08	0.00	Paid	Y
00023783	EMPOWER	10/04/2024	10/04/2024	1,449.29	0.00	Paid	Y
00023815	GENOA-OCEOLA SWATH	10/07/2024	10/31/2024	3,549.15	0.00	Paid	Y
00023816	SMART BUSINESS SOURCE, LLC	10/03/2024	11/02/2024	259.48	0.00	Paid	Y
00023817	DTE ENERGY	09/30/2024	11/11/2024	663.24	0.00	Paid	Y
00023818	MICRO WORKS COMPUTING, INC	09/30/2024	11/11/2024	160.00	0.00	Paid	Y
00023819	ABSOPURE	09/30/2024	11/11/2024	12.00	0.00	Paid	Y
00023820	SPICER GROUP	10/08/2024	10/08/2024	1,769.00	0.00	Paid	Y
00023821	SPICER GROUP	10/08/2024	10/08/2024	1,585.00	0.00	Paid	Y
00023822	SPICER GROUP	10/08/2024	10/08/2024	26.25	0.00	Paid	Y
00023823	SPICER GROUP	10/08/2024	10/08/2024	2,102.50	0.00	Paid	Y
00023824	SPICER GROUP	10/08/2024	10/08/2024	834.25	0.00	Paid	Y

INVOICE REGISTER FOR HOWELL TOWNSHIP

Inv Ref #	Vendor	Invoice Date	Due Date	Invoice Amount	Amount Due	Status	Posted
00023825	CARLISLE WORTMAN ASSOC, INC.	10/08/2024	10/08/2024	172.50	0.00	Paid	Y
00023826	SPICER GROUP	10/08/2024	10/08/2024	4,054.25	0.00	Paid	Y
00023827	REPUBLIC SERVICES	09/30/2024	10/20/2024	117.62	0.00	Paid	Y
00023828	DTE ENERGY	10/02/2024	10/24/2024	523.92	0.00	Paid	Y
00023829	DTE ENERGY	10/02/2024	10/24/2024	208.18	0.00	Paid	Y
00023830	DTE ENERGY	10/02/2024	10/24/2024	114.35	0.00	Paid	Y
00023831	CARLISLE WORTMAN ASSOC, INC.	10/04/2024	11/03/2024	890.00	0.00	Paid	Y
00023832	CARLISLE WORTMAN ASSOC, INC.	10/04/2024	11/03/2024	297.50	0.00	Paid	Y
00023833	CARLISLE WORTMAN ASSOC, INC.	10/04/2024	11/03/2024	200.00	0.00	Paid	Y
00023834	SPICER GROUP	10/04/2024	11/03/2024	9,086.50	0.00	Paid	Y
00023835	HOWELL PARKS AND RECREATION	10/04/2024	11/03/2024	31,125.00	0.00	Paid	Y
00023836	APPLIED INNOVATION	10/04/2024	11/03/2024	411.07	0.00	Paid	Y
00023837	KENT COMMUNICATIONS INC	10/10/2024	11/27/2024	1,942.38	0.00	Paid	Y
00023838	IRON MOUNTAIN	09/30/2024	11/27/2024	208.22	0.00	Paid	Y
00023839	TANYA DAVIDSON	10/02/2024	11/27/2024	146.17	0.00	Paid	Y
00023846	LOREA TOPSOIL & AGGREGATE	10/11/2024	11/10/2024	338.00	0.00	Paid	Y
00023847	DTE ENERGY	10/08/2024	10/31/2024	532.35	0.00	Paid	Y
00023848	MICRO WORKS COMPUTING, INC	10/04/2024	10/24/2024	80.00	0.00	Paid	Y
00023849	MICRO WORKS COMPUTING, INC	10/08/2024	10/28/2024	180.00	0.00	Paid	Y
00023850	GANNETT MICHIGAN LOCALIQ	09/30/2024	10/20/2024	335.44	0.00	Paid	Y
00023851	SPICER GROUP	10/04/2024	10/20/2024	5,000.00	0.00	Paid	Y
00023852	DTE ENERGY	10/04/2024	10/20/2024	47.16	0.00	Paid	Y
00023853	DTE ENERGY	10/09/2024	10/31/2024	250.16	0.00	Paid	Y
00023854	DTE ENERGY	10/09/2024	10/31/2024	260.51	0.00	Paid	Y
00023855	DTE ENERGY	10/09/2024	10/31/2024	441.79	0.00	Paid	Y
00023856	DTE ENERGY	10/09/2024	10/31/2024	4,895.85	0.00	Paid	Y
00023857	DTE ENERGY	10/09/2024	10/31/2024	135.54	0.00	Paid	Y
00023858	DTE ENERGY	10/09/2024	10/31/2024	218.87	0.00	Paid	Y
00023859	LIVINGSTON COUNTY ROAD COMMISSION	10/15/2024	10/31/2024	189,404.28	0.00	Paid	Y
00023860	ELECTROCYCLE INC	10/15/2024	10/31/2024	1,650.00	0.00	Paid	Y
00023861	STATE OF MICHIGAN	10/16/2024	10/16/2024	49.23	0.00	Paid	Y
00023862	STATE OF MICHIGAN	10/16/2024	10/16/2024	32.82	0.00	Paid	Y
00023863	HOWELL TOWNSHIP	10/16/2024	10/16/2024	383.27	0.00	Paid	Y
00023864	LIVINGSTON COUNTY TREASURER	10/16/2024	10/16/2024	6,474.55	0.00	Paid	Y
00023865	LIV EDUC SERVICE AGENCY	10/16/2024	10/16/2024	6,429.01	0.00	Paid	Y
00023866	HOWELL PUBLIC SCHOOLS	10/16/2024	10/16/2024	5,405.31	0.00	Paid	Y
00023867	HOWELL PUBLIC SCHOOLS	10/16/2024	10/16/2024	8,578.06	0.00	Paid	Y
00023868	LIVINGSTON COUNTY TREASURER	10/16/2024	10/16/2024	12,143.70	0.00	Paid	Y
00023840	FIRST NATIONAL BANK	10/18/2024	10/18/2024	5,502.64	0.00	Paid	Y
00023841	HOWELL TOWNSHIP	10/18/2024	10/18/2024	118.52	0.00	Paid	Y
00023842	BLUE CARE NETWORK	10/18/2024	10/18/2024	4,004.93	0.00	Paid	Y
00023843	AMERICAN FUNDS	10/18/2024	10/18/2024	3,511.84	0.00	Paid	Y
00023844	TREASURY STATE OF MICHIGAN	10/18/2024	10/18/2024	1,573.19	0.00	Paid	Y
00023845	EMPOWER	10/18/2024	10/18/2024	1,489.29	0.00	Paid	Y
00023869	DTE ENERGY	10/11/2024	11/05/2024	39.25	0.00	Paid	Y
00023870	MHOG	10/17/2024	11/15/2024	231,036.00	0.00	Paid	Y
00023871	CONCRETE CONSTRUCTION INC	10/18/2024	11/18/2024	4,497.89	0.00	Paid	Y
00023872	SPICER GROUP	10/22/2024	10/22/2024	1,041.75	0.00	Paid	Y
00023873	SPICER GROUP	10/22/2024	10/22/2024	4,407.00	0.00	Paid	Y
00023874	SPICER GROUP	10/22/2024	10/22/2024	551.75	0.00	Paid	Y
00023875	SPICER GROUP	10/22/2024	10/22/2024	1,793.50	0.00	Paid	Y
00023876	CARLISLE WORTMAN ASSOC, INC.	10/22/2024	10/22/2024	255.00	0.00	Paid	Y
00023877	SPICER GROUP	10/22/2024	10/22/2024	102.50	0.00	Paid	Y
00023878	SPICER GROUP	10/22/2024	10/22/2024	470.75	0.00	Paid	Y

INVOICE REGISTER FOR HOWELL TOWNSHIP

Inv Ref #	Vendor	Invoice Date	Due Date	Invoice Amount	Amount Due	Status	Posted
00023879	CONSUMERS ENERGY	10/15/2024	11/12/2024	24.06	0.00	Paid	Y
00023880	CONSUMERS ENERGY	10/16/2024	11/12/2024	149.75	0.00	Paid	Y
00023881	CONSUMERS ENERGY	10/18/2024	11/12/2024	142.82	0.00	Paid	Y
00023882	CONSUMERS ENERGY	10/16/2024	11/12/2024	89.61	0.00	Paid	Y
00023883	SURF INTERNET	10/16/2024	11/12/2024	35,005.00	0.00	Paid	Y
00023888	BRENT KILPELA	10/28/2024	11/12/2024	661.12	0.00	Paid	Y

of Invoices: 114 # Due: 0
 # of Credit Memos: 0 # Due: 0
 Net of Invoices and Credit Memos:

Totals:
 Totals:

2,567,868.05
 0.00
 2,567,868.05

Agrees with Check Register BK

--- TOTALS BY FUND ---

101 GENERAL FUND	107,581.52	0.00
204 ROAD FUND	190,772.93	0.00
208 PARK/RECREATION FUND	31,125.00	0.00
285 AMERICAN RESCUE PLAN ACT (ARPA)	40,005.00	0.00
592 SWR/WTR	281,579.91	0.00
701 TRUST & AGENCY	3,852.00	0.00
703 TAX FUND	1,912,951.69	0.00

--- TOTALS BY DEPT/ACTIVITY ---

000 OTHER	2,223,149.78	0.00
101 TOWNSHIP BOARD	83.86	0.00
253 TREASURER	2,007.21	0.00
257 ASSESSING	886.12	0.00
262 ELECTIONS	218.05	0.00
265 TOWNSHIP HALL	29,919.98	0.00
268 TOWNSHIP AT LARGE	19,701.74	0.00
276 CEMETERY	750.00	0.00
447 ENGINEERING	7,286.50	0.00
536 SEWER/WATER	1,800.00	0.00
537 CHARGES FOR SERVICES	232,036.00	0.00
538 WWTP	47,743.91	0.00
701 PLANNING	1,681.20	0.00
702 ZONING	603.70	0.00

CHECK REGISTER FOR HOWELL TOWNSHIP

CHECK DATE 10/01/2024 - 10/31/2024

Check Date	Check	Vendor Name	Description	Amount
Bank GEN GENERAL FUND CHECKING				
10/09/2024	18883	ABSOPURE	OCTOBER COOLER RENTAL	12.00
10/09/2024	18884	BS&A SOFTWARE	CLOUD ANNUAL SUPPORT FOR ALL MODULES	27,485.00
10/09/2024	18885	CARLISLE WORTMAN ASSOC, INC.	Check Request For Bond: BSP21-0006	172.50
			GENERAL CONSULTATION	890.00
			BEDROCK VENTURES SLU	297.50
			CASTAWAY CAFE	200.00
				<u>1,560.00</u>
10/09/2024	18886	CINTAS CORPORATION	BLUE MATS	124.57
10/09/2024	18887	DTE ENERGY	STREETLIGHTS	663.24
10/09/2024	18888	FAHEY SCHULTZ BURZYCH RHODES	GENERAL	114.00
			ZONING - HERITAGE SQUARE PUD, AMERICAN	2,508.00
			OAKLAND TACTICAL SUPPLY LITIGATION	11,458.00
			BURKHART ROAD ASSOCIATES (22-292-AA)	275.00
			HOWELL-MASON LLC (24-350-AA)	784.00
			HOWELL-MASON LLC LITIGATION (24-32242-C	2,363.50
			PERSONNEL ISSUES - PAYROLL QUESTION	171.00
				<u>17,673.50</u>
10/09/2024	18889	JONATHAN HOHENSTEIN	TREASURER/ZONING EXPENSES	668.53
10/09/2024	18890	CHLORIDE SOLUTIONS, LLC	DUST CONTROL	1,368.65
10/09/2024	18891	MICRO WORKS COMPUTING, INC	REINSTALL OFFICE ON DEP CLERK COMPUTER	80.00
			CLERK DYMO LABEL PRINTER WILL NOT PRINT	160.00
				<u>240.00</u>
10/09/2024	18892	MUTUAL OF OMAHA INSURANCE COM	OCTOBER 2024	209.88
10/09/2024	18893	PERFECT MAINTENANCE	OCTOBER CLEANING SERVICES	195.00
10/09/2024	18894	SMART BUSINESS SOURCE, LLC	COPY PAPER, TONER, NOTE PAD	260.44
			4 TONER CARTRIDGES	259.48
				<u>519.92</u>
10/09/2024	18895	SPICER GROUP	Check Request For Bond: BSP23-0007	1,769.00
			Check Request For Bond: BSP23-0007	1,585.00
			Check Request For Bond: BSP23-0007	26.25
			Check Request For Bond: BSP20-0005	2,102.50
			Check Request For Bond: BSP20-0005	834.25
			Check Request For Bond: BSP21-0006	4,054.25
			2024 GENERAL ENGINEERING SERVICES	9,086.50
				<u>19,457.75</u>
10/09/2024	18896	SPRUNGTOWN OUTDOOR SERVICES	SEPTEMBER 2024 SERVICES	750.00
10/09/2024	18897	STATE OF MICHIGAN	CAROL MAKUSHIK MCAT RENEWAL	50.00
10/09/2024	18898	STATE OF MICHIGAN	BRENT KILPELA MAAO RENEWAL FEE	175.00
10/18/2024	18899	BLUE CARE NETWORK	Remittance Check	4,004.93
10/28/2024	18900	APPLIED INNOVATION	CONTRACTED COPIES JULY -SEPTEMBER 2024	411.07

CHECK REGISTER FOR HOWELL TOWNSHIP

CHECK DATE 10/01/2024 - 10/31/2024

Check Date	Check	Vendor Name	Description	Amount
Bank GEN GENERAL FUND CHECKING				
10/28/2024	18901	CARLISLE WORTMAN ASSOC, INC.	Check Request For Bond: BSP23-0006	255.00
10/28/2024	18902	TANYA DAVIDSON	DEPUTY CLERK MILEAGE & EXPENSES	146.17
10/28/2024	18903	ELECTROCYCLE INC	FALL EVENT 2024	1,650.00
10/28/2024	18904	HOWELL PARKS AND RECREATION	HAPRA 4TH QTR PART FEE	31,125.00
10/28/2024	18905	IRON MOUNTAIN	SHREDDING SERVICE	208.22
10/28/2024	18906	KENT COMMUNICATIONS INC	WINTER 2024 TAX BILL POSTAGE	1,942.38
10/28/2024	18907	BRENT KILPELA	BS&A CLOUD ASSESSING CLASS & TRAVEL EXP	661.12
10/28/2024	18908	LIVINGSTON COUNTY ROAD COMMIS	BOWEN ROAD PROJECT	189,404.28
10/28/2024	18909	GANNETT MICHIGAN LOCALIQ	SEPTEMBER PUBLICATIONS	335.44
10/28/2024	18910	MICRO WORKS COMPUTING, INC	SERVER UPDATES	80.00
			REMOTE LICENSES FOR UB AND SERVER	180.00
				<u>260.00</u>
10/28/2024	18911	SPICER GROUP	ARPA SIDEWALK PROJECT	5,000.00
			Check Request For Bond: BSP24-0008	1,041.75
			Check Request For Bond: BSP24-0007	4,407.00
			Check Request For Bond: BSP21-0005	551.75
			Check Request For Bond: BSP20-0005	1,793.50
			CHECK REQUEST FOR BOND: BSP24-0006	102.50
			Check Request For Bond: BSP24-0006	470.75
				<u>13,367.25</u>
10/04/2024	101001929(E)	EMPOWER	Remittance Check	1,449.29
10/04/2024	101001930(E)	FIRST NATIONAL BANK	Remittance Check	4,544.86
10/04/2024	101001931(E)	HOWELL TOWNSHIP	Remittance Check	118.52
10/04/2024	101001932(E)	AMERICAN FUNDS	Remittance Check	2,964.08
10/03/2024	101001933(E)	COMCAST	INTERNET	435.49
10/09/2024	101001934(E)	CONSUMERS ENERGY	TWP HALL OCT 2024	25.87
10/18/2024	101001935(E)	EMPOWER	Remittance check	1,489.29
10/18/2024	101001936(E)	FIRST NATIONAL BANK	Remittance Check	5,502.64
10/18/2024	101001937(E)	HOWELL TOWNSHIP	Remittance Check	118.52
10/18/2024	101001938(E)	AMERICAN FUNDS	Remittance Check	3,511.84
10/18/2024	101001939(E)	TREASURY STATE OF MICHIGAN	Remittance Check	1,573.19
10/28/2024	101001944(E)	CONSUMERS ENERGY	TWP HALL OCT 2024	89.61
10/28/2024	101001945(E)	DTE ENERGY	TWP HALL OCT 2024	532.35
GEN TOTALS:				
Total of 42 Checks:				337,279.45
Less 0 Void Checks:				0.00
Total of 42 Disbursements:				<u>337,279.45</u>
Bank T&A TRUST & AGENCY CHECKING				
10/02/2024	3652	HOISINGTON MATTHEW AND DANA	Check Request For Bond: BD24-0001	3,000.00
10/02/2024	3653	LIVINGSTON COUNTY TREASURER	DOG LICENSES	47.00
10/02/2024	3654	LIVINGSTON COUNTY TREASURER	MOBILE HOME FEES	805.00
T&A TOTALS:				
Total of 3 Checks:				3,852.00
Less 0 void Checks:				0.00
Total of 3 Disbursements:				<u>3,852.00</u>

CHECK REGISTER FOR HOWELL TOWNSHIP

CHECK DATE 10/01/2024 - 10/31/2024

Check Date	Check	Vendor Name	Description	Amount
Bank TAX TAX CHECKING				
10/02/2024	6003	FOWLERVILLE SCHOOLS	Tax Disbursement	545.79
10/02/2024	6004	HOWELL TOWNSHIP	Tax Disbursement	18,525.97
10/02/2024	6005	HOWELL PUBLIC SCHOOLS	Tax Disbursement	795,810.75
10/02/2024	6006	HOWELL PUBLIC SCHOOLS	Tax Disbursement	184,738.10
10/02/2024	6007	LIV EDUC SERVICE AGENCY	Tax Disbursement	217,714.51
10/02/2024	6008	STATE OF MICHIGAN	Tax Disbursement	18,800.80
10/02/2024	6009	STATE OF MICHIGAN	Tax Disbursement	12,533.87
10/02/2024	6010	LIVINGSTON COUNTY TREASURER	Tax Disbursement	219,258.94
10/02/2024	6011	LIVINGSTON COUNTY TREASURER	Tax Disbursement	405,527.01
10/16/2024	6012	HOWELL TOWNSHIP	Tax Disbursement	383.27
10/16/2024	6013	HOWELL PUBLIC SCHOOLS	Tax Disbursement	8,578.06
10/16/2024	6014	HOWELL PUBLIC SCHOOLS	Tax Disbursement	5,405.31
10/16/2024	6015	LIV EDUC SERVICE AGENCY	Tax Disbursement	6,429.01
10/16/2024	6016	STATE OF MICHIGAN	Tax Disbursement	49.23
10/16/2024	6017	STATE OF MICHIGAN	Tax Disbursement	32.82
10/16/2024	6018	LIVINGSTON COUNTY TREASURER	Tax Disbursement	6,474.55
10/16/2024	6019	LIVINGSTON COUNTY TREASURER	Tax Disbursement	12,143.70
TAX TOTALS:				
Total of 17 Checks:				1,912,951.69
Less 0 Void Checks:				0.00
Total of 17 Disbursements:				<u>1,912,951.69</u>
Bank UTYCK UTILITY CHECKING				
10/08/2024	3240	GENOA TOWNSHIP DPW	OCTOBER 2024 PLANT MAINTENANCE	28,135.32
10/08/2024	3241	GENOA-OCEOLA SWATH	LAB COSTS JULY 1 - SEPTEMBER 30TH 2024	3,549.15
10/08/2024	3242	HOWELL TOWNSHIP	WWTP WATER USAGE	2,000.00
10/08/2024	3243	KISM, LLC	PUMP STATION #3 SCADA MONITORING FOR 20	982.00
10/08/2024	3244	REPUBLIC SERVICES	2 YD WASTE CONTAINER OCTOBER 2024	117.62
10/28/2024	3245	CONCRETE CONSTRUCTION INC	SIDEWALK REPAIR AT WWTP	4,497.89
10/28/2024	3246	LOREA TOPSOIL & AGGREGATE	SCREENED TOPSOIL FOR RESTORATION	338.00
10/28/2024	3247	MHOG	JULY-SEPTEMBER 2024 CONSUMPTION	231,036.00
10/28/2024	3248	SURF INTERNET	REMAINING BALANCE OWED FOR INTERNET PRO	35,005.00
10/08/2024	59004039(E)	AT&T	WWTP OCTOBER 2024	325.86
10/08/2024	59004040(E)	CONSUMERS ENERGY	2571 OAKGROVE OCT 2024	148.39
10/08/2024	59004041(E)	CONSUMERS ENERGY	391 N BURKHART OCT 2024	23.93
10/08/2024	59004042(E)	CONSUMERS ENERGY	1222 PACKARD DR OCT 2024	133.09
10/08/2024	59004043(E)	DTE ENERGY	271 E HIGHLAND RD SEPT 2024	40.45
10/08/2024	59004044(E)	DTE ENERGY	2571 OAKGROVE RD OCT 2024	523.92
10/08/2024	59004045(E)	DTE ENERGY	1009 N BURKHART OCTOBER 2024	208.18
10/08/2024	59004046(E)	DTE ENERGY	391 N BURKHART OCT 2024	114.35
10/28/2024	59004047(E)	CONSUMERS ENERGY	391 N BURKHART OCT 2024	24.06
10/28/2024	59004048(E)	CONSUMERS ENERGY	1222 PACKARD DR OCT 2024	149.75
10/28/2024	59004049(E)	CONSUMERS ENERGY	2571 OAK GROVE OCT 2024	142.82
10/28/2024	59004050(E)	DTE ENERGY	1216 PACKARD DR OCT 2024	47.16
10/28/2024	59004051(E)	DTE ENERGY	2559 W GRAND RIVER AVE OCT 2024	250.16
10/28/2024	59004052(E)	DTE ENERGY	1034 AUSTIN CT OCT 2024	260.51
10/28/2024	59004053(E)	DTE ENERGY	1575 N BURKHART RD OCT 2024	441.79
10/28/2024	59004054(E)	DTE ENERGY	1222 PACKARD DR OCT 2024	4,895.85
10/28/2024	59004055(E)	DTE ENERGY	3888 OAKGROVE OCT 2024	135.54
10/28/2024	59004056(E)	DTE ENERGY	2700 TOOLEY RD OCT 2024	218.87
10/28/2024	59004057(E)	DTE ENERGY	271 E HIGHLAND OCT 2024	39.25

CHECK REGISTER FOR HOWELL TOWNSHIP
CHECK DATE 10/01/2024 - 10/31/2024

Check Date	Check	Vendor Name	Description	Amount
Bank UTYCK UTILITY CHECKING				
UTYCK TOTALS:				
Total of 28 Checks:				313,784.91
Less 0 Void Checks:				0.00
Total of 28 Disbursements:				<u>313,784.91</u>
REPORT TOTALS:				
Total of 90 Checks:				2,567,868.05
Less 0 Void Checks:				0.00
Total of 90 Disbursements:				<u>2,567,868.05</u>
				<i>(Agrees with Invoice Register</i>
				<i>BK</i>

CHECK REGISTER FOR HOWELL TOWNSHIP
For Check Dates 10/01/2024 to 10/31/2024

Check Date	Bank	Check Number	Name	Check Gross	Physical Check Amount	Direct Deposit	Status
10/04/2024	GEN	DD5953	BRENT J. KILPELA	5,689.59	0.00	4,278.38	Open
10/04/2024	GEN	DD5954	CAROL A. MAKUSHIK	2,734.98	0.00	1,800.07	Open
10/04/2024	GEN	DD5955	SUSAN K. DAUS	1,409.33	0.00	1,109.12	Open
10/04/2024	GEN	DD5956	TANYA L. DAVIDSON	2,084.56	0.00	1,534.80	Open
10/04/2024	GEN	DD5957	MICHAEL CODDINGTON	1,409.33	0.00	932.07	Open
10/04/2024	GEN	DD5958	JONATHAN C. HOHENSTEIN	4,178.93	0.00	2,691.26	Open
10/04/2024	GEN	DD5959	TERESA M. MURRISH	397.50	0.00	338.53	Open
10/04/2024	GEN	DD5960	MARNIE E. HEBERT	1,856.25	0.00	1,562.03	Open
10/18/2024	GEN	DD5961	BRENT J. KILPELA	5,689.59	0.00	4,278.37	Open
10/18/2024	GEN	DD5962	CAROL A. MAKUSHIK	2,734.99	0.00	1,800.08	Open
10/18/2024	GEN	DD5963	MATTHEW E. COUNTS	588.92	0.00	518.84	Open
10/18/2024	GEN	DD5964	HAROLD D. MELTON	508.92	0.00	428.19	Open
10/18/2024	GEN	DD5965	JEFFREY A. SMITH	588.92	0.00	518.84	Open
10/18/2024	GEN	DD5966	ROBERT K. WILSON	508.92	0.00	448.36	Open
10/18/2024	GEN	DD5967	SUSAN K. DAUS	1,409.33	0.00	1,109.11	Open
10/18/2024	GEN	DD5968	TANYA L. DAVIDSON	2,208.81	0.00	1,616.93	Open
10/18/2024	GEN	DD5969	TIMOTHY C. BOAL	80.00	0.00	70.48	Open
10/18/2024	GEN	DD5970	CHARLES J. FRANTJESKOS JR	80.00	0.00	70.48	Open
10/18/2024	GEN	DD5971	MICHAEL W. NEWSTEAD	80.00	0.00	70.48	Open
10/18/2024	GEN	DD5972	ROBERT A. SPAULDING	80.00	0.00	70.48	Open

CHECK REGISTER FOR HOWELL TOWNSHIP
For Check Dates 10/01/2024 to 10/31/2024

Check Date	Bank	Check Number	Name	Check Gross	Physical Check Amount	Direct Deposit	Status
10/18/2024	GEN	DD5973	WAYNE R. WILLIAMS JR	80.00	0.00	73.88	Open
10/18/2024	GEN	DD5974	MICHAEL CODDINGTON	1,409.33	0.00	932.06	Open
10/18/2024	GEN	DD5975	JONATHAN C. HOHENSTEIN	4,178.93	0.00	2,691.25	Open
10/18/2024	GEN	DD5976	TERESA M. MURRISH	1,908.00	0.00	1,418.09	Open
10/18/2024	GEN	DD5977	MARNIE E. HEBERT	1,837.50	0.00	1,547.41	Open
10/18/2024	GEN	DD5978	KENNETH A. FRENGER	80.00	0.00	70.48	Open
10/18/2024	GEN	DD5979	JAMES T. MCEVOY	80.00	0.00	70.48	Open
10/18/2024	GEN	DD5980	CAROL M. WEAVER	80.00	0.00	70.48	Open
Report Total:				43,972.63	0.00	32,121.03	
Number of Checks				28			
Total Physical Checks				0			
Total Check Stubs				28			