

CHARTER TOWNSHIP OF ORONOKO

COUNTY OF BERRIEN, MICHIGAN

**RESOLUTION OF INTENT RE: PROPOSED PHASE 1 AND
PHASE 2 PUBLIC WATER AND SANITARY SEWER SYSTEMS
IMPROVEMENT PROJECT, TO SUBMIT SEPARATE BALLOT
PROPOSALS FOR EACH PHASE OF THE PROJECT TO TOWNSHIP
ELECTORS AT THE AUGUST 3, 2010 PRIMARY ELECTION AND
TO CERTIFY THE FORM OF BALLOT PROPOSALS**

Minutes of a special meeting of the Township Board of the Charter Township of Oronoko, held in the Oronoko Township Hall, 4583 E. Snow Rd., Berrien Springs, Michigan, on Friday, the 21st day of May, 2010, at 9:00 a.m.

PRESENT: Members: Supervisor Ernest Hildebrand, Clerk Suzanne Renton, Trustee Dorothy Hildebrand, Trustee Marc Kerlikowske, Trustee August Zielke.

ABSENT: Members: Treasurer Kendall Hill, Trustee Philipp Riess.

The following preamble and resolution were offered by Member August Zielke and seconded by Member Marc Kerlikowske:

WHEREAS, portions of the Charter Township of Oronoko (the "Township") are currently served by a public water distribution system and a public sanitary sewer collection system (the "Existing Water and Sewer Systems") in accordance with that certain Interlocal Water Supply Agreement dated November 16, 2009 and that certain Wastewater Service Agreement dated September 29, 2009, in each case by and between the Township and the Village of Berrien Springs (the "Village"); and

WHEREAS, it is in the best interest of the Township to acquire and construct extensions and improvements to the Existing Water and Sewer Systems in two phases ("Phase 1" and "Phase 2") to serve portions of the M-139 Corridor in the Township northwesterly from the Village limits generally in accordance with preliminary plans, specifications and service district maps on file, or to be filed, with the Township Clerk (together, said public water and sanitary sewer improvements shall be referred to as the "Project"); and

WHEREAS, Phase 1 of the Project generally, but without limitation, consists of public water system improvements and extensions in the M-139 Corridor from George Street to the east side of the US-31 Bypass and a loop through the fairgrounds from Shawnee Road to M-139, excluding side streets and Lemon Creek Road, and related upgrades in capacity and public sanitary sewer system improvements and extensions in the M-139 Corridor from George Street to US-31 Bypass, Lemon Creek Road from M-139 to the west side of US-31, north along US-31 to Highview Court, west on Highview Court to Red Bud Trail, north on Red Bud Trail to M-139, Edgewood Court and M-139 approximately 1,200' northwest of Edgewood Court, excluding side streets, and related upgrades in capacity; and

WHEREAS, Phase 2 of the Project generally, but without limitation, consists of public water system improvements and extensions in the M-139 Corridor crossing US-31 to the west side, including Lemon Creek Road from M-139 to Red Bud Trail, Red Bud Trail from 2,100' south of Lemon Creek Road to M-139, Edgewood Court and M-139 approximately 1,200' northwest of Edgewood Court, excluding side streets, and related upgrades in capacity; and

WHEREAS, the Project is intended to:

- Encourage development for job creation and increased tax base;
- Preserve farmland and natural features in the Township;
- Implement the goals identified in the Township's recently completed Master Plan;
- Improve and extend fire protection service; and
- Respond to requests from land owners for public water and sanitary sewer service.

WHEREAS, based on the Project Cost Estimate dated May 20, 2010 (the "Project Engineer's Cost Estimate"), prepared by Wightman & Associates, Inc., the Project Engineer, a copy of which is on file with the Township Clerk, the estimated cost of Phase 1 of the Project, including legal and financing costs is \$5,960,000 and the estimated cost of Phase 2 of the Project, including legal and financing costs is \$3,830,000; and

WHEREAS, a portion of the cost of Phase 1 of the Project in the amount of \$300,000 is proposed to be paid from available Township funds on hand and the balance of the cost of Phase 1 of the Project in the amount of \$5,660,000 is proposed to be paid from proceeds of a Township bond issue; and

WHEREAS, the cost of Phase 2 of the Project in the amount of \$3,830,000 is proposed to be paid from proceeds of a Township bond issue; and

WHEREAS, pursuant to Act 359 of the Public Acts of Michigan of 1947, as amended, (“Act 359”) and other provisions of state law, the Township is authorized to acquire and construct the Project; and

WHEREAS, pursuant to Act 359, the Township Board may, with approval of the Township electors, borrow money and issue general obligation bonds secured by the full faith and credit of the Township to fund all or a portion of the cost of the Project; and

WHEREAS, pursuant to Act 359; Article IX, Section 6 of the Michigan Constitution of 1963; the Unlimited Tax Election Act, which is Act 189 of the Public Acts of Michigan of 1979, as amended; and the Revised Municipal Finance Act, which is Act 34 of the Public Acts of Michigan of 2001, as amended (“Act 34”), the Township may secure the proposed general obligation bonds with an unlimited tax pledge, if approved by Township electors; and

WHEREAS, an unlimited tax pledge will enable the Township to secure and pay all or part of the principal of and interest on the proposed general obligation bonds from ad valorem taxes to be levied on all taxable property within the boundaries of the Township without limitation as to rate or amount (but not in excess of the rate or amount necessary to pay the principal of and interest on the bonds), in addition to other taxes which the Township may be authorized to levy; and

WHEREAS, based on the Project Engineer’s Cost Estimate, approximately \$2,530,000 of the proposed bond issue for Phase 1 of the Project is currently intended to be repaid by the

proceeds of additional ad valorem taxes levied by the Township, in accordance with the Township's unlimited tax pledge, and the remainder of the proposed bond issue for Phase 1 of the Project, in the approximate amount of \$3,130,000, is currently intended to be repaid from revenues derived from special assessments, connection fees and user fees proposed to be levied or imposed by the Township on lands benefited by and/or connected to Phase 1 of the Project; and

WHEREAS, based on the Project Engineer's Cost Estimate, approximately \$3,315,000 of the proposed bond issue for Phase 2 of the Project is currently intended to be repaid by the proceeds of additional ad valorem taxes levied by the Township, in accordance with the Township's unlimited tax pledge, and the remainder of the proposed bond issue for Phase 2 of the Project, in the approximate amount of \$515,000, is currently intended to be repaid from revenues derived from special assessments, connection fees and user fees proposed to be levied or imposed by the Township on lands benefited by and/or connected to Phase 2 of the Project; and

WHEREAS, Section 701(4) of Act 34 states, with respect to the annual levy of ad valorem taxes for the payment of principal and interest on bonds secured by an unlimited tax pledge, that:

If there is surplus money on hand for the payment of principal and interest at the time of making an annual tax levy, and provision has not been made in the authorizing resolution for the disposition of that money, the annual levy for principal or interest shall be adjusted to reflect available funds.

; and

WHEREAS, Section 358a of the Michigan Election Law, which is Act 116 of the Public Acts of Michigan of 1954, as amended (the "Michigan Election Law"), authorizes the Township Board to call a special election to be held in the Township for the purpose of submitting one or more ballot proposals to the electors of the Township at the regular August 3, 2010 primary election; and

WHEREAS, it is appropriate for this Township Board to state its intent with regard to the Project, to authorize the submission of separate ballot proposals for Phase 1 of the Project and Phase 2 of the Project to township electors and to certify the forms of the ballot proposals.

NOW, THEREFORE, BE IT HEREBY RESOLVED AS FOLLOWS:

1. It is the intent of this Township Board to:
 - a. proceed with Phase 1 of the Project, subject to the approval by township electors of the ballot proposal necessary to authorize the issuance of Township bonds for Phase 1 of the Project;
 - b. pay a portion of the cost of Phase 1 of the Project in the amount of \$300,000 from available Township funds on hand and pay the remaining cost of the Project by borrowing money and issuing Township general obligation bonds in the maximum amount of \$5,660,000, secured by the full faith and credit and unlimited tax pledge of the Township, and to provide for repayment of the bonds by the levy, in addition to other taxes which the Township may be authorized to levy, of ad valorem taxes on all taxable property within the boundaries of the Township without limitation as to rate or amount but not in excess of the rate or amount necessary to pay the principal of and interest on said Township bonds, consistent with the intent of the Township set forth in subparagraph (e);
 - c. proceed with Phase 2 of the Project, subject to the approval by township electors of the ballot proposal necessary to authorize the issuance of Township bonds for both Phase 1 and Phase 2 of the Project, it being understood that the public water system extension proposed as part of Phase 1 of the Project is necessary to connect the public water system extension proposed as part of Phase 2 of the Project with the Township's existing public water system;
 - d. pay the cost of Phase 2 of the Project by borrowing money and issuing Township general obligation bonds in the maximum amount of \$3,830,000, secured by the full

faith and credit and unlimited tax pledge of the Township, and to provide for repayment of the bonds by the levy, in addition to other taxes which the Township may be authorized to levy, of ad valorem taxes on all taxable property within the boundaries of the Township without limitation as to rate or amount but not in excess of the rate or amount necessary to pay the principal of and interest on the bonds, consistent with the intent of the Township set forth in subparagraph (e);

e. treat the revenues collected by the Township from the levy of special assessments, connection fees and user fees imposed on lands benefited by and/or connected to Phase 1 of the Project or Phase 2 of the Project, as the case may be, as “available funds,” consistent with Section 701(4) of Act 34, to reduce the annual levy of ad valorem taxes levied by the Township in accordance with the Township’s unlimited tax pledge, if approved by Township electors and to apply such “available funds” to the payment of principal and interest on the proposed Township bond issues for Phase 1 of the Project and Phase 2 of the Project;

f. apply, as previously authorized by Township Board resolution, to the USDA Rural Development for a long-term loan or loans for the Project to be evidenced by the proposed Township bond issues with the understanding by the Township that the current interest rate applicable to the Township under the USDA loan program is 3.25%;

g. designate, authorize and issue the proposed Township bonds as Build America Bonds provided that the USDA Rural Development loan can be closed, and the Township bonds issued, before January 1, 2011 or such later date as may be provided by applicable federal law; and

h. set forth the final terms and conditions of the proposed Township bonds, including the credit for the “available funds” referenced in subparagraph (e), in one or more bond authorizing resolutions to be adopted by the Township Board following the approval by township electors of one or more of the ballot proposals authorized by this resolution.

2. The Project Engineer's Cost Estimate is hereby approved in the aggregate amounts of \$5,960,000 for Phase 1 of the Project and \$3,830,000 for Phase 2 of the Project, it being understood and acknowledged that the amount and proportion of the separate sources of funding (e.g. Township General Fund, special assessments, connection fees, user fees and millage levy) to the total cost of each phase of the Project are preliminary and subject to change as a result of future decisions by this Township Board in connection with the final scope of each phase of the Project, the design, bidding and construction of each phase of the Project, the levy or imposition of special assessments, connection fees and user fees imposed on lands benefited by and/or connected to the Phase 1 of the Project or Phase 2 of the Project, as the case may be, and other factors which may or may not be within the control of this Township Board.

3. Based upon the foregoing, the Township Board hereby determines that it is necessary, advisable and in the best interest of the Township and its residents to proceed with Phase 1 of the Project and Phase 2 of the Project to achieve the benefits summarized in the fifth recital paragraph of this Resolution, to pay all or a portion of the cost of each phase of the Project by borrowing money and issuing Township general obligation bonds, secured by the full faith and credit and unlimited tax pledge of the Township, and to provide for repayment of the bonds by the levy, in addition to other taxes which the Township may be authorized to levy, of ad valorem taxes on all taxable property within the boundaries of the Township without limitation as to rate or amount but not in excess of the rate or amount necessary to pay the principal of and interest on the Township bonds, consistent with the intent of the Township set forth in the Paragraph 1e of this resolution to reduce the annual levy of such ad valorem taxes by "available funds."

4. Separate ballot proposals to authorize the Township to borrow money and issue Township bonds in an amount not to exceed \$5,660,000 for Phase 1 of the Project and in an amount not to exceed \$3,830,000 for Phase 2 of the Project shall be submitted to the qualified

electors of the Township at a special Township election to be held on the regular election date of Tuesday, August 3, 2010, pursuant to the provisions of the Michigan Election Law.

5. The separate ballot proposals to be submitted to the electors for Phase 1 of the Project and Phase 2 of the Project shall be in the forms set forth on Exhibit A attached hereto, and in such forms are hereby certified to the County Clerk.

6. The Township Clerk is hereby authorized and directed to follow all procedures and provide all notices required by the Michigan Election Law for the August 3, 2010 election.

7. The Township Clerk is hereby authorized and directed to make the necessary arrangements to deliver a certified copy of this Resolution to the Berrien County Clerk as soon as possible, but in no event later than May 25, 2010, and to take other steps which are necessary and useful in scheduling the election.

8. The Township Clerk is hereby authorized and directed to file, within five days after the election, a certified copy of the official declaration of the election results with the County Treasurer.

9. All resolutions or parts of resolutions in conflict herewith shall be and the same are hereby rescinded.

AYES: Members: Clerk Suzanne Renton, Trustee August Zielke, Trustee Marc Kerlikowske, Trustee Dorothy Hildebrand, Supervisor Ernest Hildebrand.

NAYS: Members: None.

ABSTAIN: Members: None.

RESOLUTION DECLARED ADOPTED.

Suzanne Renton, Township Clerk

