

## Minutes Approved – November 16, 2022

# Irving Township Board Meeting

3425 Wing Rd, Hastings, Michigan 49058

October 18, 2022, 6:30 pm

The meeting opened with the Pledge of Allegiance. Board members present: Mike Buehler, Jamie Knight, Doug Sokolowski, Dean Bass, Sharon Olson.

**Knight**, I would like to thank everybody for coming to our meeting tonight. There's one item on the agenda that I would like to amend, Unfinished Business, the last item, retitle it to the Ickes et al v. Whitmer case.

Motion to approve Agenda with correction made by Knight and seconded by Buehler. "Ayes", all, "No" none. Motion passed.

**Knight**, reviewed fire reports, attached. Thornapple Township – (15) runs, (132) year to date, response time - 15.21 minutes, attached. Hastings, (79) runs, 10.17 minutes response time. Freeport (12) total runs and (7) in Irving Township, response time – 12 minutes, report attached.

**Sokolowski**, moving to electronic format for board meeting using PowerPoint. All materials from the meeting will be placed on the website within 10 days of the meeting at [www.irvingtownship.org](http://www.irvingtownship.org).

**Lani Forbes**, (*Explanation of new cameras and passed around for audience*), I did talk last week or last month about thermal imaging cameras. This one is not the decision-making camera, but these are the ones that are on all our firefighters. We will all carry these on our jackets. When you're in the fire mode, it will enable you to see up to 1000 degrees. These help us to make decisions on structure prior to going in. As you can imagine, these also help us easily find people and cutting down on the amount of damage that we need to do. Example, ceiling used to be we'd have to tear down the entire ceiling. Now we can look at where that heat is and determine exactly where we're going to be able to do that. These will be helpful in car accidents too. There are sometimes where there are situations that you don't know really what happened, maybe the person is unconscious, and you don't know whether there's a second person that was in that vehicle. We can use our thermal imaging cameras to look to see if we can find that person. It also cuts down on the damage or on the seeking of where the fire is for us when fire is unseen. We purchased eight of them and two cameras are decision-making cameras, cost about \$15,000. All monies raised through the pancake breakfast.

**John Smelker**, Commissioner report. Not much to report. going through budget season, and the public hearing is next week, Tuesday, October 25. If you have anything to say, attend the meeting.

**Lorraine Bush**, Cemetery report. No activity.

Knight, Assessor report not received.

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## Public Input

**David Olson**, you saw me before and I saw you before. And I thank you. Just in the past year, my sister-in-law dragged me into the business of attending our own township meetings in Hastings Township. And since then, I've been dragged by my supervisor into tax assessing and involved with elections. I want to say thank you for what you do, because it's no small task, especially if you have another job as well. I feel bad that I haven't involved myself better in the decisions in my community. Politically, or in that way before. But I guess in part, we know why we're here. And that is to, to hear the discussion on this, this very important thing. And I guess just keeping in mind that none of us wants to be in the radar these days. There's so much that you can easily walk into someone's hate screen. And I don't want that for my fellow Barry County citizens, my state, my country. But I guess the thing, just to name a couple, when I see footage, it's not too hard to go on YouTube and find footage of people over stuffing in the boxes. We are looking at a proposal where we're going to force everybody to have these boxes everywhere and the extra work on the township with this proposal. When East Lansing has hundreds of people registered as having voted, living in the dorms during a year when nobody was in the dorms, and most of these people are listed between 40 and 50 years old, including women at the address of an all-male fraternity, there's something wrong. If the Supreme Court of Michigan has to tell our Secretary of State, no, you cannot retain these 40,000 plus voters who are confirmed deceased or moved out of state ... the list goes on. I can't just let that go. From my standpoint, we have societal norms that say if I see someone hurt in the ditch, I don't just walk by. I guess from that standpoint, if someone's in the position of taking care of elections, you see red flags, it's natural in this society that we look at it. It's important regardless of what public opinion or big media says. Thanks.

**Bethany Matthews**, Carlton Township, I'm here also on behalf of support for Sharon Olson as a clerk. I'm a citizen. I'm a voter. We know that there are anomalies in Barry County, and we know throughout Michigan. We know our Secretary of State has caused a lot of havoc between the voters and different groups, and the clerk's all over the state of Michigan. And I just think Sharon acted in the best interest of the people that she was over; it was not a malicious intent. It is simply to get to the bottom, find truth. And you know what, we're still on that journey. I mean, you have not, the state has not proved that there was not fraud, and we're finding more and more evidence. I just think, if clerks are reprimanded for doing what their citizens want them to, then it's going to set the precedents for other clerks across Michigan across the United States, that the job is too risky, and nobody will want to fill that position. So, on behalf of citizens, I just hope that you'll be wise and not eliminate a person because she acted on behalf of others.

**John Lake**, Irving Township, resident since 2007. I spent 21 years in the military. I am a combat veteran; seven deployments and that flag right there means everything to me. Sharon also spent time in the military, her daughter is in the military right now. She's fighting for our election integrity; I would hope that the people of our township, of our county, would get behind her because she's one of the few clerks that are doing their jobs. Thank you.

**Regina Young**. I'm a resident of Irving township for almost 35 years. First, I want to say, I really didn't want to come here tonight. There are beautiful colors out in the woods. Don't we all want to be enjoying those after our work. And the rain is not so much fun. But in the colorful trees and leaves that we see everybody sees them a little bit differently, there's different shades of colors. And for some people, they see things in black and white, and the world was full of a lot of gray areas. I've appreciated and watched for years, the work that's done at this township. I've appreciated the dedication, the sense of duty. I've appreciated the deliberation that has given for the smallest of matters. I've sometimes sat in the audience a little bit frustrated when the decision making about the smallest amount of expenditure was made. That decision making, that fully vetting and the getting of estimates, and being financially aware of what you are spending money on and spending resources on was something that you always deliberated on, and you always had consensus. I have not observed individual actions. Sharing this has nothing to do with you, Sharon, personally. I think

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you all have a sense of duty and want to fulfill your obligations. And those just simply are sometimes very gray. And I recognize there's a lot of people here who are very impassioned about their beliefs, and I am too. What I'm asking you to consider is to keep it local; to think about what's happening in Irving Township. What are your responsibilities to Irving Township ... respect and value the concerns are not for statewide or nationwide things, but make your decisions based off what we as residents, the voting participants, and the residents of this township are asking you to do and take careful thought for these things. Please know that there are people in the minority of voice that don't always speak up. They are out there. There are different views and different perspectives. But overall, I'm asking you to think about the resource of time and money that you spend, and the benefit of this township is what I would hope that you would focus on. I don't personally believe that it is a federal or state lawsuit. This is me, as a resident, who did not believe for a minute that an elected official would represent me in a lawsuit attempting to decertify my vote that I legally gave and was certified and was counted. Now, I've been advised that coming here tonight to speak that truth may not be in my best interest. I feel a sense of duty too, and that's why I've spoken today. Thank you.

**Shelly Lake**, Irving Township I like to hear your opinions, so thank you. I do. You all know how I feel about election integrity. And this is about Irving Township. Sharon would not be in this mess if she was not acting in her official capacity as clerk. When your tabulator jams at 10 in the morning on election day, and it's taken out ... there's a van outside with antennas, there's enough to make her concerned. There's something not right. It is her duty, in her official capacity as clerk; and not as resident, Sharon Olson to do what she needs to do. I don't know if she's cost this township any money. I don't think so. I don't think she has if that is one of the concerns. I feel like she is doing exactly what we voted her in for. Whether you think there was fraud or not, she does. She saw stuff. So that's why she's doing this. I don't feel like she's representing me in this lawsuit. I think she's representing herself in the job she was doing, standing up for what she saw, thanks.

**Vickie Betit**, also a resident of Irving Township. And my husband and I, in January of this year, went out door to door canvassing voters to see if the voter rolls were accurate. We found 50% anomalies in that time that we were out doing that. We know Sharon is standing up questioning these very things. She's doing her job. She's required protect the integrity of our votes in our township, and we need to stand behind her at all costs.

**John Smelker**, Irving township resident, not Commissioner. As far as I know, Sharon Olson is a duly elected official of Irving Township, and she can sign that if she wants to. I believe if anything goes wrong or anything happens, Irving Township could be held responsible. I don't foresee anything going wrong. What I would like to see, what the rest of the board thinks. I think there should be a motion brought up, whether it's voted up or down, with whatever you decide to do. I guess I got to ask Sharon ... Did you sign that Irving Township Clerk? Sharon replied, "I agreed to sign on in my official capacity." Smelker, that's done. I think I would like to hear from the board. I think it should be voted on.

**Scott Augheny**, I was here last month. I'm an independent investigator from Jackson County investigating the general election of 2020. A lot has come to light since I last saw you. As a matter of fact, it is now out and it will be in the news probably today or tomorrow, unless they're going to withhold the information which seems to be a common thread with the media, that the ES&S machines, which are number three tabulator in the state of Michigan, the ballots are on recall. The tabulators are not properly reading the ballot as they go through the scanning process. It started out in Ogemaw and Gladwin County, but there are several other counties that have been alerted that this has got to be the case. We have uncovered dirty money tied to public election officials and to fraudulent voter rolls. It all has to do specifically with addresses. I'm not going to disclose where the dirty money is located. To be honest, I know there's some Marxists here, and I don't want them alerting the Attorney General because it goes into her office as well. But I can tell you the supervisor of Irving Township is being investigated. I don't know whether we're going to uncover a thing, but her name was submitted to be investigated for any money that potentially could be tied to this. I can tell you I am submitting a FOIA to Madam Clerk. I just want to read it briefly per the Freedom of Information Act 442 1976. Michigan compiled law,

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I am requesting an electronic or printed copy of email communications from the Irving Township Supervisor, Jamie Knight, to the township legal counsel regarding election fraud, election investigations, township support of legal action against the state of Michigan or recommendations by the supervisor or legal counsel against another member of the Irving township board. Please include email communications dated March 1, 2022, to the current FOIA submission date, and a few other things. I've included my contact information. This is a corrupt process. And if this board does not support this clerk, I guarantee you individuals here will be placed in a database as those who oppose the US Constitution.

**Knight, additional Public Comment read aloud**, submitted in writing by citizens, Julie Jones and Rhonda VanPolen, attached.

**Knight**, Clerk's Minutes – September 20, 2022. Knight, I just wanted to thank, Lorraine Bush for getting the 6 pages of minutes down to a few paragraphs. Knight, motion to approve the September 20, 2022 as presented, Buehler seconds, "Ayes", all, "No" none.

**Treasurer report, Sokolowski. (A detailed summary of Treasurer report attached.) Sokolowski**, At the top of the Treasury report, we reorganized the top part to Investment/Savings. The next part is Checking. We no longer have The 5th Third Money Market exchanged that for the Consumer Credit Union Municipality Money Market. We went from .001% interest to 1.75. We will get a better return now. The checking accounts are listed, and everything has been reconciled. Siegfried/Crandall provided final audit report. The copies are placed in each of the boxes of the members of the board and public copy has been placed on the table in the lobby area. There were no significant findings. The land swap has been signed. The contract has been signed. The resolutions are signed. All we're doing now is title work, and the attorneys are working on that right now. The next step is the update on the technology study. Tony Clark is here to present and answer questions later. I will withdraw the community advisory council to be revisited in the future if there is public interest. As of September 30th, we have paid a total of 1.5 million in taxes and approximately 98% of what we were expecting. We are still receiving taxes even though; September 14, was the close date. I just want to spend a minute and talk about the statistics of what we processed. We had received from July 1, until now, over 361 emails regarding the taxes. We fielded 88 documented phone calls. We have sent 20 official letters. We issued five disbursements to the County totaling over \$1,400,000. We processed over 1680 payments. One part that really surprised me, we had to process 800 receipts, which we had to print, fold and mail at a cost to the township for \$680. Sign up for email newsletter. So, if you haven't signed up for it yet, encourage you to do so.

**Knight, Bill Payment List**, Knight motion to pay bills in amount of \$20,283.54, seconded by Bass. Clerk, roll call, "Yes" Sokoloski, Bass, Buehler, Olson, Knight, "No" none. Motion carried.

**Board Member Comments**, Sokoloski, I'd like to make a motion to adopt a resolution to reconcile our budget. In working with our Clerk and Treasurer office, we did an internal audit of our budget versus actual. We realized that we are going to be over budget. We need an additional \$14,000 given to the budget. The line items to receive money are listed on the motion. Knight seconded motion. Clerk, roll call, "Yes" Buehler, Bass, Sokoloski, Knight, Olson.

Second motion is mostly administrative. We did a quick audit of our Resolutions to date for this year, and we realized that some of the numbering had gotten out of whack. In addition, we also suggest that there is a sunset date on some of these. Attached to the memoranda to the motion is a table. The first column is the current numbers and number that was assigned in the meeting that was held for those and then a brief description of what that is. The third column is a new number that we need to give it, and if applicable, a sunshine date. Sokoloski, I'd like to make a motion, for the

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record, that we adopt this new numbering for these resolutions. Knight seconded. All in favor, “Ayes”, all, “No” none. Motion passed.

Sokolowski, I was trying to reconcile legal bills to figure out how much we've spent on the land swap because we had \$1,000 budgeted. In doing so, I realized that on our legal bills it's hard for us to determine what board member asked for the item. Going forward, I have asked Bloom & Slugett to provide an added detail to their invoice and include the board member that requested the consult.

Olson, my concern, about this whole incident that happened out here in October of 2020 and then the day after our accuracy test. The investigation picked up almost one year after I had reported my findings. I did report it that same day, like within an hour and for everything that happened here to every enforcement agency, including Homeland Security, the FBI, State Police, and the Sheriff's Department. And there appears to be a lot of this kind of brushed aside and realized later maybe it was a big deal. This has to do with the new age that we're in as a society. We have surveillance everywhere we go. It is discerning to me to hear that even our Board of Commissioners and our economic development people are talking about, a company that collects data from everybody's phone that comes through Hastings for the purpose of improving business statistics and it's unbeknownst to people. It's already happening, and not just PCs, but it's already happening other places. There's a private company collecting signal on your phone. It's giving them data about where your money's been spent, where you came from, where you're going to spend money before you got here, and if you spent money here. They are pitching it to be about money, but it's privacy. I feel violated by that. I feel like, like, it's a peeping Tom into my phone. You would never go pick up somebody else's phone and help yourself to the information in that. So why is it okay to tell somebody else? Okay, this is the whole surveillance state that we're in right now, and it's getting terrifying. The implications that have already been seen around the world, and how people who presume themselves to have power over other people use it. In China, now you have digital currency. If they don't like what you say, you don't get to buy food, you don't get to ride the train. It's all tied to your phone. The phones have a color for now. If you wake up that day, you have a color book on your phone that tells you that you don't need to spend any money or anything. That's it. There's no appeal. I think people need to be aware of the place that we're in history, and surveillance and technology capabilities and how it can be used.

**Unfinished business – Internet Update**, Nicole, Barry County Economic Development Director, (presentation attached.)

**Technology update - Tony Clark**, Clark Technology Services, (proposals attached) regarding technology upgrade. Our company is a small information technology company. Most of our clients are townships, villages, cities, and libraries. For example, we manage the IT for the Hastings Public Library, the cable access committee for the station at City Hall and so on. Doug asked me to look at the technology here in the township and make some recommendations, two quotes. We have tried to do a phased in approach here, so that the budget wasn't shocked too much. I recommended two servers for fault tolerance and backup. This is all to modernize the township. The BS&A utility billing assessing tax and these kinds of things, right now they're running on shared workstations. This is the first of two parts, both a little over \$5,000 each. This is to consolidate how the township does business and to modernize it. In addition, and more importantly, to provide network and system security, improve the wireless, improve the security of the building, make sure that these assets are protected and backed up.

Sokolowski, Tony has provided references from Village Manager, Lawfton and Mike Vandenberg, Superintendent, both have engaged in cyber activity, and both have very favorable feedback.

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Tony, we're currently doing similar work over at Carleton Township who received a grant that came through during COVID. We're doing similar projects there as well. Bass, are we sharing our technology with other communities. Tony, no sir. Everything would be on computers in this township. You would be the owner of the systems and your data would be stored here in this building. It's my job to lock that down. No one else can see that or get it unless you want them to have it. Some townships publish their utility billing and their tax directly to BSNA online. That might be the extent of sharing. But that's a board decision. Bass, we want to centralize it all? Better we do things locally. Tony, this is a local solution. I'm something of a bug for security, it's what I do for a living. These servers will be in this building and locked down as tight as my company can do. This is a local solution. What we're doing is providing a very secure, very encrypted way for only staff and board members to have access. So remote access is eventually part of the idea here, but it's not part of the initial server installs.

Sokolowski, the big advantage to us right now is the sharing of data. Currently, we share files between devices only. In the Treasury Department, we share one computer because we do not have a file server and we have only one subscription to the BS&A software. This would not help QVF Election Systems because they operate separately; however, it would help to provide a faster resource for internet when a fiber optic solution becomes available. This can easily connect.

Sokolowski, we have ARPA funds that have a limited life. We can use them, or we can lose them. Knight, can you guarantee the pricing. Tony, I can guarantee the labor, but I cannot guarantee parts. When the board approves it, I will do my best to work within those confines. Tony, regardless, you will need this electrical work done when you get high speed internet.

Sokolowski, I make a motion to approve the electrical portion of the proposal, #22-S104T, \$\$4206.00, second by Knight. Clerk, roll call, "Yes", Sokolowski, Bass, Knight, Buehler, Olson. "No", none. Motion approved.

Sokolowski, proposal 30 and 31, will be put out for bid, request made by Smelker and supported by Bass.

Knight, last item of business, Dave Eberle, Bloom & Slugett, Township Attorney. Evening everyone, I am David Eberle with Bloom & Slugett here to address the agenda item, Ickes vs Whitmer.

There are two issues for the board to consider and potentially act on tonight, issue one: does the Township Board want to be a party to that lawsuit? Issue two: does the board not want the township to be a party to that lawsuit? Separate and completely distinct from that is the board's opinion regarding election integrity ... whether the board supports what the clerk is trying to accomplish or not, these are two separate issues. One issue are we going to spend township money? Or the lawsuit can go ahead without the township as a party. Do we feel the township has to be a party to the lawsuit? And again, the other is like, a more general statement of support, non-support, in difference. I think there's a potential disagreement on the legal ramifications of the clerk signing onto the lawsuit in her official capacity. But I'm not sure that there is really any debate as to what the intended consequences are ... Madam Clerk, correct me if I'm wrong, But it is my understanding that your intention was not to make the township a party to the lawsuit. Is that correct?

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Olson, I was asked to join the lawsuit to get a judgment on whether these records should be retained or not. I am representing voters. Eberle, so maybe there is a little bit of a debate on that issue, too. Olson, I am not going to keep the records for myself. The only purpose for them is the township. There is a conflict in the law as to what I'm supposed to do. Do I keep them or not? I am asking the judge, to do what judges do, and that's the judiciary, interpret the law.

Eberle, right. As to issue one, the board has a confidential memo. I don't want to get into the details of the Confidential Memo, but I will give you the highlights. This is not a commentary on the merits of the lawsuit or the substantive nature of the lawsuit, it is analyzing what the legal status quo is, and then pitching to the board, what does the Board want the status to be?

Eberle, With the clerk signing on to the lawsuit in her official capacity ... when an officer is part of a lawsuit in their official capacity that means it is making the township as a corporate entity a party to that lawsuit. The only body that can authorize the township as a corporate entity to join a lawsuit is the township board. The question is does the township board want to, and the memo lays this out, **Option One**, do nothing, and we can argue the legal issues later. **Option Two**, the board adopts what the board has in front of it as **Resolution #2**, the first resolution in your packets, which is basically saying, yes, we acknowledge the fact that for the township to be a party to this lawsuit, the township board must vote on it. We as the board are saying, we want to be part of the lawsuit; and therefore, we're going to vote to join the lawsuit, affirm the actions that the clerk has taken, and move forward with actions pertaining to retaining attorney Hartmann, who's currently the attorney on the lawsuit.

Eberle, **Option Two**, we just want to clarify that the township is **NOT** a party to this lawsuit. Again, it's not a commentary on the merits or the substantive questions posed in the lawsuit, it is, do we want to spend taxpayer dollars being party to the lawsuit.

**Resolution #2** is saying no, we don't want to do that we want to clarify our position. The township, as a corporate body wants nothing to do with this lawsuit, that's issue one. Separate and distinct from that, again, is if the board wants to make a statement of indifferent support, non-support for the objectives of the lawsuit. In theory, the board could say, we recognize that there's no need for the township to be a member of the party to the lawsuit, we're going to adopt **Resolution #2**, which clarifies that the township is not a party to the lawsuit, however, we support what the clerk is doing, and we want to have a separate motion of support. So those options can be combined in anyway. Again, this is clarifying the difference between the question of do we want the township to be a part of the lawsuit versus the board's position on support of the objectives of the lawsuit.

Olson, do I need to get Dan Hartmann on the phone to be a part of this conversation?

Eberle, that would be a question for the board.

Sokolowski, to Eberle – Do we have to adopt either resolution? Can the Board decide to not take any action?

Eberle, the board could decide not to take any action? It just leaves unanswered to the question of, is the township a member of a party to the lawsuit? Because as I said before, when an official files and acts in their official capacity, that's treated as an action against the corporate body, right? So, if you don't take any action, you haven't formally approved it,

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which is required, but you've also acknowledged that it happened, and you've talked about it. One could argue that you've passively condoned it.

Sokoloski, truly you are only looking at this from the legal side. There is a political and moral side to this, and that is not considered in any of these resolutions.

Eberle, I think the question is addressed, and that is issue two, which is, what is the board's feelings regarding the substantive merits of the lawsuit? On issue one, in terms of join, don't join ... as a matter of law, it's our offices position that having the clerk on the pleadings in her official capacity is an indication to the clerk to the court, that the township as a corporate entity is a member of that lawsuit. And the board should clarify that because the board is the only body authorized to say, "yes", the township wants to be a party of the lawsuit.

Sokoloski, this all started, because Sharon shared with us, as an FYI, the information that she is a party to the lawsuit.

Eberly, my understanding is that the only action that's been taken has been taken by the clerk. Sokolowski, that is not true. Eberly, as general counsel and we've been general counsel for a long time, we are available to be utilized by the township in whatever manner it deems appropriate. Sokoloski, we did engage you by asking your opinion. Eberly, yes you did.

Eberly, what does the Board want the township's relationship formally to this lawsuit to be? And then issue two is does the Board want to adopt the moral political questions that you were speaking about, sir, in terms of support, and you can have a mismatch of options. It's just up to the board. There's ambiguity regarding the legal status of the township as it pertains to its participation in the lawsuit. And we would recommend that the Board act in one way or other to provide clarity.

Charles Bettit, I see it as being clouded judgment, that she's acting in the parameters of her job. I stand behind her.

Eberle, as I said, there's the question number one, and then question number two, can you get to what the board's position on the lawsuit is or what you know, support, non-support, those options can be mixed and matched. You could say, we support we don't want to be a part of the lawsuit that we support what Sharon's doing, and you could have reasons for doing that. You could say, we want to be a party to the lawsuit, and we support what Sharon's doing, you could say, we don't want to be a party to the lawsuit. So, if they voted to join the lawsuit, implicit in that would be that the township would then have to enter into a limited agreement with Attorney Hartmann. The township incurs whatever financial or legal liabilities are associated with being a party to a lawsuit. Again, I'm not commenting on the merits, or the substantive questions being posed in the lawsuit. It's recommended that you clarify the township position as to the loss in terms of being a party on a non-party.

Olson, you are not invited to be a party to the lawsuit. You do not have standing. I do as an election official. That was the statement just made via phone with my Attorney Harmann. I will send these documents to him. Eberle, you can not send the confidential memo. Olson, I intend to send the resolutions.

Sokolowski, in one of the prior conversations, that this could be deemed a frivolous lawsuit. Eberle, again, I have not reviewed the lawsuit to be able to comment on the substance or the merits of the lawsuit. Sokolowski, so that is one of the comments you were using to drive us to make a decision. So you are saying that that's not a possibility? Or it is a possibility? The low probability?



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Eberle, I don't want to give you the attorney answer, which is, you know, the typical non answer, but what I'm saying is, I haven't reviewed it to be able to provide you legal analysis, in my opinion, of the chances of success of the lawsuit. I haven't done that. I can do that if the board would like me to but again, you know, what we've done for tonight is to say look, an action in a township officials' official capacity is inherently an action of the township as a corporate entity, or the township board can authorize such a lawsuit. There's been a case filed with an officer saying she's in her official capacity, which to the court and everyone else appears that the township as a corporate entity is now a party to this lawsuit. Right? Asking the township, we're recommending that the township board provide a clarification on that issue, separate and distinct from the township board's feelings regarding, the merits of the lawsuit or support, non- support the difference as to the objectives of the lawsuit.

Sokolowski, your scope is very narrow. You're looking not at whether we should get involved in a lawsuit because you don't have any knowledge of the actual lawsuit. You're just saying, in general, if an officer of the board signs on to a lawsuit, then the board itself must take some action?

Eberle, correct. In this case because the clerk in her official capacity is listed as a party on the lawsuit and the board never authorized that, there is a question of what the Township's is, as a corporate entity, its position as a party or non-party. As legal counsel, we recommend that the Board take action to clarify that.

Sokolowski, let's say Sharon came to us prior to signing on and asked us to vote, and then we voted against it. She has a statute, right, by Michigan law to make sure our elections are fair and honest. Right?

Eberle, if the clerk and her individual capacity wanted to file a lawsuit, she could. When an official files a lawsuit in their official capacity it is treated as a lawsuit by or against the corporate entity itself and the only body that is authorized to enter the township into a lawsuit is the township board. If Sharon approached the board, the board could have said, yes, we will take steps and the board will authorize the filing of a lawsuit in the township's name. Which is what the first resolution your packet is saying is essentially, we acknowledge that board approval is needed. And we're going to go ahead and ratify the actions taken by the clerk.

What I'm saying is, if based off our office's interpretation, that Sharon Olson, her official capacity equals Township, and Mr. Hartman is representing Sharon Olson, in her official capacity, you're in a situation where Mr. Hartman is holding himself out to be representing the township in this matter, and the township has not yet retained Mr. Hartman. So for resolution two to have the township wants to enter into the to the lawsuit, ratify the act of the turbo tip clerk has taken and then enter into an engagement with Mr. Hartman for the purpose of representing the township in the lawsuit.

Sokolowski, I have done a little research and I am not finding anything on this, but I don't think that this governing body has any authority to overrule the constitutional responsibilities, of its officials. It would be no different than if I chose to move bank accounts around, which I have, and the board says I can't do that. The board can't stop me from doing my constitutional responsibilities. I can move money around at my leisure. Right. I don't have to present that to the board, because that's part of my constitutional responsibility. This is where I'm struggling with. I don't know why we think we can override the constitutional responsibility mandate.

Eberle, this is not overriding a constitutional mandate. The way the Michigan Constitution is written, it says these are the clerk's duties and they will be done pursuant to the statute. Right now the statute can't get rid of the Office of the Clerk or anything like that. Then the statute goes on to say, hey, clerk, here's your responsibilities. The statute also says, for a township for the filing of a lawsuit by a township and must be approved by the township board. And the law, the case law supports the position, and is very clear that when an official is in a lawsuit in their official capacity that is

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treated as a lawsuit by or against the entity itself. It is not saying it's not trumping the clerk's constitutional role. It's saying clerk, yes, you have this obligation, and the Constitution establishes your office, the statute says, here's all the things you have to do, which lays out the elections and all the other hard work the clerk does.

Sokolowski, let's say that Sharon chose not to participate in a lawsuit. That means that the township participated in an illegal election, and therefore, we will be held responsible also. Let's just say Sharon never mentioned anything with the problem of voting, she just let it go by. And it comes out with this lawsuit proceeding that it turns out that that election was fraudulent, like they do with our voting machines were fraudulent, then the board is who was also accountable for

Eberle, well, I think there's a lot of ways that can be analyzed, and from what the clerk has said, it sounds like she did notify a whole bunch of people. If the question is ... will the board going forward be in hot water for not joining on to the lawsuit, I would need to do more research into the facts of what happened. I haven't done that.

Sokolowski, so without having looked at it, you feel that you have enough base knowledge to make even this recommendation.

Eberle, yes, because I'm saying on this recommendation is ... Board, I recommend you clarify if you want to be a party or a non-party to Ickes vs Whitmer. Do you want the township as a corporate entity. Olson, you don't know the content of that. Eberle, right. And that's why I'm not commenting on the content of it. All I'm saying is ... Board, we recommend you clarify, party or non-party. So now if the board would like us to do an analysis and provide you with a legal opinion that says ... Board, here's our review and our comments regarding the merits of the lawsuit, we can do that.

Buehler, this lawsuit was going forward before Sharon even signed on to it.

Eberle, I don't know, sir. But there's a lawsuit. It's my understanding the lawsuit could continue without Sharon signed on to it or that the township signed on to it. I understand why the board might say, we want to know what your opinion is on the merits of the lawsuit before we decide. I'd be happy to oblige the board and we can dive into it.

Olson, the people on the lawsuit are asking for access to the judiciary branch of government to make a ruling on a disagreement that is being put before us. We have right to have access to the judiciary.

Eberle, only the corporate body of a township, the Board, can authorize the filing of that lawsuit.

Olson, Is that true?

Eberle, yes, ma'am. To bring the township into a lawsuit properly, the township board has to authorize that action.

Olson, and that's an opinion, correct?

Eberle, that is my legal opinion. Yes.

Olson, and there is disagreement on that. I called your office for legal representation.

I have an action against me, as the clerk, and your firm did not want to represent me, as the clerk. So now as the clerk, I'm asking for clarification on the law, on a point that was brought against me, as the clerk. I have a right to the judiciary, to appeal to them to clarify the law that has been brought against me.

Bass, when did that take place. Olson, several months ago.

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Eberle, I wasn't on that phone call, sir. I don't know. But what I know, our office is General Counsel. We represent the township, and we work for the board. If the clerk wants to file a lawsuit, we don't do anything until the board says, file a lawsuit on behalf of the township, because that's who we take our direction from.

Olson, right. But I've been told that if I don't follow these certain steps, I will be removed from doing elections. I have a problem with steps they are asking me to take. I'm having to report to them every few weeks in documentation saying that I am complying with their requirements.

Eberle, I'm not here to comment on any of that.

Olson, I am saying that the people who came here have the right to know that this is deeper than what is being stated here.

Eberle, I'm not trying to hide the ball. All I'm saying is that there are two separate questions.

Olson, your firm said, no, you don't represent people who are being threatened with a criminal charge. I'm asking the judiciary to clarify what is criminal and what is not moving forward. I want all clerks that are faced with this that this is a settled question by a judge, the judiciary.

Eberle, what I'm saying is if you want to do that, in your individual capacity, that's up to you. But the minute you do it in your official capacity, you are making the township a party to a lawsuit, and only the township board can authorize that. Olson, but that is your opinion. Eberle, if attorney Hartmann amended the pleadings to say, Sharon Olson, in her individual capacity as clerk of Irving Township, the township is not involved.

Sokolowski to Knight, we clearly have a difference of opinion. Do we have enough basis to move this forward or should we table this?

Olson, we don't have to take any action, right? Buehler, take no action. Sokoloski, I recommend we take no action.

Buehler, I support the clerk and trying to make these elections fair. As it pertains to the township being involved liability wise, I don't know the answer for that because there's so much going on and we've received tidbits of information.

Olson, because there is an ongoing investigation. They're not telling me a lot because they want it to come out in court.

Buehler, I don't know this lawyer, Hartmann. He could be the worst lawyer there is. If I had the information, had a chance to read, decipher and conclude, then I could make a decision. We don't have that. How can we sign on to something we have zero information on.

Knight, I do want to say that Bloom & Slugett has represented the township for many years as a municipal lawyer. And Daniel Hartman is not a municipal lawyer, he is a criminal family attorney.

Bass, I have made my position very clear, I do not support Sharon and this lawsuit. I don't think that I want to get involved in it. I don't think the township wants to get involved in it. Sharon received a call from a lawyer in Petosky asking her to get involved in this federal lawsuit. They sent people down from Gaylord to pick up a machine ... I don't know why we're going so far out of our way to present this to the public. Sharon does what she always does when she gets in a tight position, and that is get on the phone and call her support to come in here to the meeting. They threaten

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and intimidate this board. I don't appreciate it. YOU people can do with that comment, whatever you want. The people I've heard from in Irving Township that have called me on the phone support my position on this, and I'm going to go with that.

Knight, the board's decision needs to be what's in the best interest of all Irving Township residents. Having the township as a party on a lawsuit is not in the best interest of all the residents in Irving Township. One of the options presented was to adopt a resolution clarifying the Township's position as a non-party of the lawsuit. So I am going to make a motion that we approve **resolution** or choice **option three**, which would be **resolution 2022 Dash 13**. Bass, seconded motion. (Resolution read aloud, attached.)

Sokolowski, discussion on this? So why number five? If it requires the board to do all this, why is the township supervisor given total authority to be the board?

Eberle, respectfully, sir, this is not what that's saying. Sokolowski, it is what it's saying. Eberly, no it is saying the board has approved this resolution and the township supervisor is authorized to take any action to effectuate the board's position.

Sokolowski, okay, so that's a little bit legal difference. To me this says that the township supervisor takes action and not the entire board.

Eberle, the board is making the decision. You can remove that part but what the intent there is and if you read the other resolution you will see it, when you join the one saying we joined a lawsuit, the same language is in there saying the supervisor's authorized to take action to effectuate the fact that the whole board had the support chair.

Sokolowski, I'm just saying, if this resolution needs to be enforced, the whole board should agree on any enforcement action. David, at this point, I appreciate your comments, but this is about the board and what this says, how we interpret the record. I'm asking, can we change that language to say the board has to be involved. Or can we strike it from the resolution as read? Bass, I think we accept it as it was read.

Knight, there is a motion and a second on the table.

Olson, I see a statement in here, Board approval is required for the filing of lawsuit on behalf of the township. Why do you even need to put that in there? I mean, you're saying it's a fact. Right? Eberly, yes. Olson, or are you using the resolution to make a difference?

Eberle, I'm not saying anything, what the resolution is saying, if it were adopted is to, for the board to say the board acknowledges the fact that the board is the only entity that is able to bring the township, as a corporate body, into a lawsuit. Olson, you are saying an action brought by the township clerk and in her official capacity amounts to an action brought by the township, which again, was the debatable opinion.

Eberle, and again, I'm not saying anything, that would be the township board saying we believe this to be the case.

Buehler, so this resolution is saying, that we will not participate in the lawsuit.

Eberle, yes, sir. Buehler, as a township this does not say anything about our support for Sharon?

Eberle, again, that's not a comment on the substantive nature of the lawsuit. It's saying the township is making very clear we are not part of the lawsuit. We never were part of the lawsuit. If the board wanted to change it after adopting

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that resolution, the board could take a vote and say, we vote to be a part of the lawsuit, applaud Sharon for the work she's doing and support the goals of the lawsuit.

Knight, so I have a motion and a second. Sharon please do roll call, discussion over. Roll call, Sokolowski – Nay. Buehler – Yes, Bass – Yes, Knight – Yes, Olson – Nay. Motion carried.

### **New business**

Sokolowski. Records Room. As a board, we are responsible for the maintaining of the records, both electronic and printed, proposal attached. We need to move forward and finish the work in the records rooms downstairs that has not been completed but was started in 2021. Sokolowski, I make a motion, that we dissolve the original bid, and we get quotes to finish both rooms, records and server. We will put together a list, source vendors and get quotes. Bass seconded. “Ayes”, all, “No” none. Motion approved.

Sokolowski, flooring main area, we need to keep it separate and secure a separate bid.

Sokolowski, update, we are finalizing the title work with the property. Does the board have any ideas as to what we want to do with property? Item tabled.

### **Public discussion**

Dave Olson – Just a last comment of encouragement ... thank you for the adult, mature conversation that is what our business is about. We are not taxation without representation, and that is why we left the UK. In our state we are very affected by what is going on in our southern border. We can't say that it doesn't have an affect on us. It does affect us and will affect us even more depending on our decisions. If you want reinforcement on that read JR Tolkin and what the dwarves thought or CS Lewis, and what they thought of helping other entities. We are a body. We are a nation, and we must consider the larger picture along with the local. Thanks.

Nic Reigler, Irving Township, I have been following along on the minutes for many years. I commemorate you guys for putting this information online. I don't see too many of my generation here, but I do know we appreciate following along online, and I do appreciate that. I asked the board to continue to look toward the future. I plan spending quite a bit of time here in Irving Township and would like to see some improvements made for the next 30 – 40 years. Thank you.

John Lake and I'm still from Irving Township. Just want to expound on what Commissioner, Smelker said with regards to the public hearing next week on the Budget Committee on the 25th. Election Integrity is at the forefront. OK? I don't care what side you are on ... If you don't believe that something didn't happen, get with anyone of these folks that are part of the Election Integrity force. Sheriff Leaf, my wife, Detective Noteboom. Anyway, last week at the Commissioners meeting, on a three to two vote, there was a motion to pull the funding from Dar's Detective with regards to Election Integrity. One of the commissioner stated that it was not our job to tell the Sheriff what to do with his people. I recommend that you we show up to that meeting and show our support for the Election Integrity Force in this county.

Shelly Lake, Madam Supervisor, you said that you had to do what was best for ALL the residents in Irving Township, and you didn't. You did what was for some and the rest of us, NOT. Sharon is a constitutionally elected official. She does not need your okay. I would like to know where, in the election law, “that it has to be approved by the board, 168 point what? She doesn't report to you.

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Sokolowski, I would appreciate that you don't threaten us. Scott Aughney, what threat did I make? I made no threat to life. I want to make you aware that new information has come to light ... Dominion tabulators, which you use in Barry County, the software is no owned by a Chinese firm, HSBC, Hong Chong & Shanghai Banking in China. To me, this is deeply unacceptable. Someone made a comment early about certifying election data is a fraudulent action. The attorney and this board need to understand the law. Fraudulent data – I explained the last time about multiple voter id's, date timestamps are not consistent, in addition to fraudulent jurisdiction data in the history files. databases. We have identified a company that that oversees the voter rolls and it is tied to the mortgage industry. There are other things, but I won't go into it. Ask yourself this ... Why does the Secretary of State refuse to get rid of dead voters rolls. I got news for you, the dead voter rolls are being used to manipulate financial markets. I can tell you that there is little oversight in terms of many things that are done on a federal level including elections. They will manipulate what they want and both party are involved. A list was requested of the Secretary of State of the election voter roll and we are matching it up. Guess what, it is not even close to matching. What is most disturbing about this night is that this board has passed something that this lawyer has concocted that will give your supervisor power to manipulate the clerk's position. That is the exact thing that this clerk has continued to fight against. I am not done. I am going to investigate you.

Smelker, you are all welcome to the public hearing next week. I am the one who made the motion to take the detective off. In November, when I made the motion to put the detective on, it was never filled. I made the motion to take the detective back off. Nobody is going to be laid off. No one is going to be fired. I have talked to Dar. As soon as he gets enough people to fill the positions, I will put it back on. There is too much stuff being read into it.

Sandy Williams, resident of Irving Township, I don't think I have ever gotten up to speak. I do not like public speaking. I am here to support Sharon. I don't know her very much personally. She did not call me to show up here tonight in support of her. I do not understand that comment from you. I feel that it even calls for an apology from you for saying that. I know how to read. I know how to listen. I know how to read a lawsuit. She did not call me to show up here. Her questions as part of the lawsuit about our election machinery are the community's questions too, and we would like those questions answered. We, the people, elected Sharon. I find that odd that the Board would vote on whether or not to support Sharon in the lawsuit without asking for input from the residents. Just saying that it is in our best interest without ... without even asking us. I would like to point out that Sharon has never acted with violence. She has never done anything to bring shame to the township, that I am aware. She has not neglected her duties as clerk. She has gone above and beyond making our elections fair. I publicly wanted to say thank you Sharon.

Sokolowski, I wanted to thank especially thank – Lorraine Bush and Wanda Shuford for their contributions in getting the PowerPoint and meeting set up along with all the other work. You do great work, and we appreciate you.

Olson, there is an Election Commission Meeting right after this meeting.

Upcoming dates:

Freeport Fire Meetings, 3<sup>rd</sup> Wednesday of the month, Freeport Fire Station at 7:30 pm.

Election Equipment – Accuracy Test, October 26, 2022 at 10:00 am.

Absentee Ballot Day, Saturday, November 5, 9:00 – 4:00 pm.

General Election – November 8 – Polls open at 7:00 am.

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Next board meeting, WEDNESDAY, November 16, at 6:30 pm. *(Was a change after the fact due to opening day of firearm season.*

Knight, motion to adjourn meeting at 8:29 pm seconded by Olson.

Respectfully prepared for the Clerk,

Lorraine Bush, Deputy Clerk

October 31, 2022