

REGULAR/COMMITTEE OF THE WHOLE MEETING
April 24, 2018

PERE MARQUETTE CHARTER TOWNSHIP BOARD
held at 1699 S. Pere Marquette Highway, Ludington MI 49431

Board members present: Supervisor Paul Keson; Clerk Rachele Enbody; Treasurer Jacalyn Sroka; Trustees: Paul Piper, Andrew Kmetz, and James Nordlund Sr.

Board member absent: Trustee Henry Rasmussen.

Also present: Township Attorney(s) Crystal Bultje (Dickinson Wright) and Edward L. White III (American Center for Law and Justice), Rob Alway (Mason County Press), Andy Hamilton (Ludington Daily News), Brett Kast (7 & 4 News), Taylor Jones (9 & 10 News), Carlos Alvarado (representing the Pere Marquette Memorial Association), Andrea Large (Community Foundation of Mason County), Parks Manager Kelly Smith, and twelve guests.

The meeting was called to order at 6:30 p.m. by the Supervisor. Invocation was given by Smith; Pledge of Allegiance was recited by all. The minutes of the April 10, 2018 regular meeting were approved by consent.

APPROVAL OF AGENDA: **Moved** by Enbody, seconded by Kmetz to amend Item B. on the agenda to read “Consider Letters of Intent”, as the board received a second letter of intent this afternoon, and to approve the agenda as amended. Motion carried.

NEW BUSINESS: A. **Review Property Appraisal** – Keson stated that an appraisal was requested by the board at the February 13, 2018 board meeting after receiving a letter of intent from the Pere Marquette Memorial Association to purchase the memorial property. An appraisal was necessary to determine the fair market value of the parcel. The appraisal was conducted by Andrew Sill, MAI, on the parcel known as the Father (aka Pere) Marquette Memorial Site. Board members reviewed the appraisal which concluded that the fair market value of the property was determined to be \$800.00. Keson noted that the value reflects the deed restrictions which limit the use of the property to be preserved and maintained as a memorial to Father Marquette.

B. **Consider Letter(s) of Intent** – Board members reviewed the letter of intent from Carlos Alvarado representing the Pere Marquette Memorial Association dated February 9, 2018. Alvarado, who was present, confirmed that the Pere Marquette Memorial Association is still interested in purchasing the property. Members then reviewed a letter of intent from the Freedom From Religion Foundation dated April 24, 2018. The Freedom From Religion Foundation did not have a representative in attendance. Keson stated he had received a memorandum from the Township’s legal representatives from Dickinson Wright regarding the separate offers to purchase and asked if the board members wished to enter into closed session to review the memorandum. No motion was made to enter into closed session and discussion continued.

Piper stated that the letter from the Pere Marquette Memorial Association is very detailed and it states that the Pere Marquette Memorial Association will show proof of a fund established at the Community Foundation of Mason County with a minimum of \$20,000.00 allocated for annual maintenance of the Site. The letter from the Freedom From Religion Foundation makes no indication of any funding allocated for the continued maintenance. Keson added that the Township has concerns with the Freedom From Religion Foundation being aware of or having the ability to meet the deed restrictions that require ongoing upkeep and maintenance of the property.

Alvarado stated that the Pere Marquette Memorial Association has also offered to fund an additional \$80,000.00 for repairs to the memorial in order to meet the deed restrictions of the property. Alvarado added that at the time of closing, the Pere Marquette Memorial Association will be able to show that they have deposited the \$100,000.00 into the Community Foundation of Mason County for the maintenance of the property in addition to the \$800.00 offered to purchase the property.

Keson reiterated that the Pere Marquette Memorial Association is a community-based organization. Their offer is to maintain and ensure the historic preservation of the site. The Pere Marquette Memorial Association is offering to take on all responsibilities, repairs, and maintenance of the site, will establish a fund to take care of ongoing costs such as mowing, electrical, future maintenance, tree trimming, etc. The Pere Marquette Memorial Association is aware of the deed restrictions, as they state in their letter, and are willing to assume and fulfill all of those responsibilities to maintain those deed restrictions. The offer appears to be sound and based on the objective outside appraisal of the property’s market value in light of all of the deed restrictions. The offer allows the Township to fulfill its legal obligations while avoiding potentially costly, time consuming, and divisive litigation.

Keson continued, adding that even with free services offered from a firm specializing in constitutional law, there would be costs to the township and its taxpayers. The Township is aware that any loss through the court system at any level could be costly to the residents of the community, not to mention the time, energy and resources that would be dedicated to a lawsuit. He added that he cannot see with this property going back to the private sector where it originated from, to a group like the Pere Marquette Memorial Association, having the means and ability, could be a bad thing for the Township or the memorial.

Piper added that notwithstanding anything they would do with the property, just looking at the offers at face value, \$800.00 from the Pere Marquette Memorial Association vs. \$2,000.00 from the Freedom From Religion Foundation, the \$2,000.00 offer does not have anything in the letter of intent for the maintenance or anything that's going to take care of the property.

Nordlund stated that the offer of \$2,000.00 from the Freedom from Religion Foundation does not indicate that it is aware of or if it will maintain the deed restrictions.

Keson stated that it is his belief that it is in the best financial interest of the Township to enter into a purchase agreement with the Pere Marquette Memorial Association. The Township Attorney drafted a resolution in the event the board wanted to move forward with the sale of the property.

The following **Resolution** was moved for adoption by Board Member Kmetz and was supported by Board Member Nordlund:

RESOLUTION TO APPROVE THE SALE OF THE FATHER MARQUETTE MEMORIAL PROPERTY

WHEREAS, the Township owns certain real property, parcel 53-010-022-100-014-00, a part of which is legally described as:

Commencing at a point 2745 feet south of, and 1059 feet west of the quarter post common to Sections 15 and 22 of Town 18 north, Range 18 west, as now staked, running thence N. 13°, 31' west a distance of 156.4 feet, thence north 76° 29' east a distance of 50.0 feet to the southwest corner of a parcel of land to be conveyed, said point shall hereafter be known as the point of beginning; thence north 45° 01' east a distance of 176.8 feet; thence north 18° 41' west a distance of 339.6 feet; thence south 76° 23' west a distance of 121.5 feet; thence south 13° 31' east a distance of 427.2 feet to the point of beginning; said parcel containing 1.22 acres of land.

; and

WHEREAS, a portion of the above-described property, containing a Memorial to the explorer, Father Jacques Marquette, which was erected in or about 1955, has become the object of demands for removal and threats of litigation from two groups alleging that the said Memorial violates the Establishment Clause of the First Amendment to the United States Constitution; and

WHEREAS, the Township Board believes it is in the best interests of the Township to avoid potentially divisive and costly litigation; and

WHEREAS, the Pere Marquette Memorial Association (the "Association") has expressed an interest in purchasing the above-described property, excluding the parking lot area, which shall be determined by survey (the "Property"); and

WHEREAS, the Association acknowledges and is willing to keep the Property open to the public and comply with all existing restrictions of record, which shall be memorialized in the deed; and

WHEREAS, the Association has offered to purchase the Property for \$800, the price at which the Property was appraised by Andrew E. Sill of Northern Michigan Real Estate Consultants in an appraisal report dated April 6, 2018; and

WHEREAS, the Township received another offer from the Freedom from Religion Foundation ("FFRF") to purchase the Property for \$2,000.00; and

WHEREAS, the Township has a significant interest in ensuring property within its jurisdiction is properly maintained in accordance with all applicable laws and regulations; and

WHEREAS, the Township has historically had difficulty obtaining code compliance with out-of-state property owners; and

WHEREAS, FFRF is an out-of-state organization and its offer fails to indicate any motivation or ability to maintain the Property from another state; and

WHEREAS, the Township Board believes it is in the best interests of the public health, safety, and welfare to convey the Property by quitclaim deed to the Association.

NOW THEREFORE, BE IT RESOLVED THAT:

1. The Board authorizes and directs the Township Supervisor and the Township Clerk to enter into a purchase agreement in a form acceptable to them and the Township Attorney with the Association for the sale of the Property, consistent with the terms of this Resolution. The Township Supervisor and Township Clerk are further authorized and directed to sign and deliver any other documents necessary to memorialize the terms of the transaction and otherwise close the sale of the Property to the Association.

2. All resolutions in conflict in whole or in part with this Resolution are revoked to the extent of such conflict.

Roll call vote: Yes: Kmetz, Sroka, Keson, Enbody, Piper, and Nordlund.
No: None.
Absent: Rasmussen.

The Township Supervisor declared the Resolution adopted and ordered to take immediate effect.

Keson thanked everyone for coming and for their patience while the board took the time to go through this process and review every option presented. The process has been lengthy but there was a lot to be considered.

ADJOURNMENT: The meeting was adjourned by the Supervisor at 6:49 p.m.

Rachelle D. Enbody, CMC, Township Clerk

Paul Keson, Township Supervisor