

**CHARTER TOWNSHIP OF YPSILANTI
MINUTES OF THE JULY 25, 2011 SPECIAL MEETING**

The meeting was called to order, by Supervisor Brenda L. Stumbo, at approximately 9:00 A.m. in the Ypsilanti Township Civic Center Board Room, 7200 S. Huron River Drive, Ypsilanti Township.

Members Present: Supervisor Brenda L. Stumbo, Clerk Karen Lovejoy Roe, Treasurer Larry Doe, Trustees Stan Eldridge, Jean Hall Currie, Mike Martin and Scott Martin

Members Absent: None

Legal Counsel: Dennis McLain and Wm. Douglas Winters

1. HEARING TO CONSIDER ADOPTION OF A RESOLUTION RECOMMENDING THAT THE MICHIGAN LIQUOR CONTROL COMMISSION REVOKE OFF-PREMISES LIQUOR LICENSE FOR VIOLATION OF MCL 436.180 (2) ON THREE (3) SEPARATE OCCASIONS IN ONE (1) CALENDAR YEAR

Verbatim minutes transcribed by the court recorder are attached.

2. AUTHORIZATION FOR TOWNSHIP TREASURER AND TOWNSHIP ATTORNEY TO BID ON TAX FORECLOSED PROPERTIES IN YPSILANTI TOWNSHIP FOR THE PURPOSE OF NEIGHBORHOOD STABILIZATION AND ECONOMIC DEVELOPMENT, BUDGETED IN LINE ITEM #101.950.000.969.011, LAND BANK – COMMUNITY STABILIZATION FUND

A motion was made by Trustee Eldridge, supported by Clerk Lovejoy Roe to authorize the Township Treasurer and Township Attorney to bid on tax-foreclosed properties in Ypsilanti Township for the purpose of Neighborhood Stabilization and Economic Development.

Clerk Lovejoy Roe explained that the Township received notification of tax-foreclosed properties late this year and the Board attempted to work with Catherine McClary, Washtenaw County Treasurer to allow the Township to purchase additional properties for the minimum bid without going to auction. She said County Treasurer McClary felt that only the Rue Deauville property would be for a public purpose.

Clerk Lovejoy Roe gave an overview of what had transpired in the Township with the growth in single-family rental properties. She explained that with the help of Habitat for Humanity, there was a possibility of stabilizing Township neighborhoods and increasing homeownership.

Joe Lawson, Planning Director pointed out the properties available from photos.

Mike Radzik, OCS Director provided a brief description of the following properties:

- 2403 E. Michigan (former apartment building - demolished)
- 2421 E. Michigan (former Garner's Pawn Shop - demolished)
- 2485 E. Michigan (former Velvet Touch – vacant – tax-foreclosed)
- E. Michigan – 2 lots between Todd and Lakewood Streets (formerly owned by Wayne Perry)

Trustee Scott Martin expressed his excitement at the opportunity to rid the East Michigan Avenue area of blight and give it a positive outlook.

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Supervisor Stumbo explained there was a disagreement between County Treasurer McClary and the Township regarding the purchase of tax-foreclosed properties for a public purpose and the ability to purchase those properties without going to auction. She said there had been a court decision stating the governing body determined "a public purpose". Supervisor Stumbo said the purpose of purchasing these properties was to stabilize the neighborhood and to stimulate home ownership. She stressed that the Township had invested time and money, as well as federal dollars in three of the properties for economic development and if the Township purchased those properties, the Board would determine what would develop there.

Clerk Lovejoy Roe listed some of the bid prices and discussed the possibility that some of the properties might not be feasible because of their location. She asked if the Board wanted to get as many of the properties as possible, within the budgeted line item.

Supervisor Stumbo asked if the Trustees had reviewed the list and if there were any comments or questions.

Trustee Eldridge said he did not have any problem with the commercial properties but he questioned if it was the purpose of the Board to become landlords.

Trustee Scott Martin stated he was concerned about the Township's ability to turn over some of the properties because of the cost to refurbish.

Clerk Lovejoy Roe explained that Habitat would not purchase some of the properties because they did not have a lower cost model at this time. She said many of the homes that Habitat renovated now have a \$100,000 mortgage and the current Habitat model could not be done in neighborhoods where property values were lower. Clerk Lovejoy Roe stated these were the areas where landlords were picking up the lower-cost foreclosures to turn into rentals. She further explained that the Board's purpose was to pick these up at a lesser cost and to follow the same procedure as Habitat to promote homeownership and neighborhood stabilization.

A Friendly Amendment was made by Clerk Lovejoy Roe to only allow bidding on the A and B residential properties as rated by Habitat. The friendly amendment was accepted.

Treasurer Doe questioned if the County had a house listed for \$10,000, would the Township have the first right to buy it. He further stated that if the Township bought one of the homes knowing it needed a new \$6,000 roof, then the Township would look for someone to purchase it for \$16,000.

Clerk Lovejoy Roe explained that Habitat did not finance these properties but helped the homeowners find financing and they had several restrictions that had to be met. She shared Habitat would work with the Township to get any of the tax-foreclosed properties we bought into homeownership and not rental housing.

Trustees Scott Martin and Stan Eldridge, along with Treasurer Doe indicated that they supported purchasing tax-foreclosed homes for neighborhood stabilization but wanted the details of how the purchase and work with Habitat would work out before the purchase.

Clerk Lovejoy Roe withdrew her friendly amendment.

The Board agreed, at this time, to authorize bidding on the East Michigan Avenue commercial properties only.

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The motion carried unanimously.

The sound system crashed at approximately 10:36 a.m. and the last 10 minutes of the meeting did not record.

3. BUDGET AMENDMENT # 8

A motion was made by Trustee Hall Currie and supported by Trustee Eldridge to approve Budget Amendment # 8 (see attached). The motion carried unanimously.

ADJOURNMENT

The meeting adjourned at approximately 10:46 a.m.

Respectfully submitted,

Brenda L. Stumbo, Supervisor
Charter Township of Ypsilanti

Karen Lovejoy Roe, Clerk
Charter Township of Ypsilanti

STATE OF MICHIGAN

IN THE TOWNSHIP OF YPSILANTI

IN RE:

MAC'S FRANCHISE MANAGEMENT, LLC
MNL HAMATI INC., d/b/a DAIRY MART
_____./

YPSILANTI TOWNSHIP BOARD MEETING

Consideration of adoption of resolution recommending that the MLCC revoke off premises liquor license

Monday, July 25, 2011 - 9:00 a.m.
Held at the Ypsilanti Township Civic Center, 7200 South Huron River Drive, Ypsilanti, Michigan 48197.

APPEARANCES:

FOR THE TOWNSHIP:

DENNIS O. MCLAIN (P25676)
WILLIAM DOUGLAS WINTERS (P28965)
McLain & Winters
61 North Huron Street
Ypsilanti, Michigan 48197
(734) 481-1120

FOR MAC'S FRANCHISE MANAGEMENT:

PATRICK C. HALL (P29122)
Law Offices of Patrick C. Hall, P.L.L.C
344 North Old Woodward Avenue
Birmingham, Michigan 48009
(248) 792-6063

FOR MNL HAMATI INC.:

ROBERT L. AKOURI (P43788)
Akouri & Associates, P.L.L.C.
6528 Schaefer Road
Dearborn, Michigan 48126
(313) 584-1404

(appearances continued)

BOARD MEMBERS PRESENT:

Brenda Stumbo, Supervisor
Karen Lovejoy Roe, Clerk
Larry J. Doe, Treasurer
Stan Eldridge, Trustee
Mike Martin, Trustee
Jean Hall Currie, Trustee
Scott Martin, Trustee

TRANSCRIPTION PROVIDED BY:

KRISTEN SHANKLETON (CER 6785)
Modern Court Reporting & Video, L.L.C.
SCAO Firm No. 08228
101 North Lewis Street
Saline, Michigan 48176
(734) 429-9143/krs

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*Court reporter's note: all exhibits were marked prior to the hearing

(1) Ypsilanti, Michigan

(2) Monday, July 25, 2011 - 9:02 a.m.

(3) SUPERVISOR STUMBO: I'd like to call the
(4) special meeting, the Township of Ypsilanti Board of
(5) Trustees to order.

(6) The first item on the agenda is a hearing to
(7) consider adoption of a resolution recommending that the
(8) Michigan Liquor Control Commission revoke off premises
(9) liquor license for a violation of MCL 436.1802 on three
(10) separate occasions in one calendar year.

(11) Mr. McLain?

(12) MR. MCLAIN: Yes, Madam Supervisor and members
(13) of the Board, I've provided everyone here, including the
(14) Licensee's attorneys, with a binder that lists Exhibits A
(15) through Q, pardon me, that the Office of Community
(16) Standards has requested that we present to the Board for
(17) the consideration this morning with respect to the
(18) license, off premises license at 2375 South Grove Road
(19) that is owned by MNL Hamati, Inc. and Mac'S Franchise
(20) Management, LLC. The purpose of the hearing is to
(21) establish that there have been three liquor license
(22) violations for sales to a minor within a 12 calendar month
(23) period contrary to statute, and I have included in my last
(24) couple of exhibits the actual statute in question. It is
(25) illegal to sell, furnish, or give alcohol to a minor; in

(1) the event three violations are documented within one 12
(2) calendar month period, a local legislative body, such as
(3) yourselves, can resolve to request the Liquor Control
(4) Commission revoke the off premises license, and that is
(5) what we're here for today, and we can proceed right with
(6) the hearing, or I can go further with my openings.

(7) The three violations occurred on December 22nd
(8) and December 30th, 2009, and June 10th, 2010.

(9) SUPERVISOR STUMBO: Sir?

(10) MR. AKOURI: Good day. Robert Akouri
(11) appearing on behalf of MNL Hamati, Inc.

(12) MR. HALL: And Patrick Hall appearing on
(13) behalf of Mac's Franchise Management.

(14) MR. AKOURI: We've had the opportunity,
(15) brother counsel has been kind enough to give us a list of
(16) exhibits, and I believe he has laid out on the record the
(17) basis for moving forward with a hearing for revocation by
(18) this body.

(19) We believe that this body perfunctorily has a
(20) defective or foundational component which it cannot
(21) overcome. I believe that MCL, the code which controls all
(22) of this, the right to revoke, is MCL 436.1501 subsection
(23) (3), and I believe that the Charter Township of Ypsilanti
(24) mirrors and adopts the Michigan Liquor Control
(25) Commission's statutes in moving forward in this sort of

(1) adoption, in this sort of hearing.

(2) Our problem is, and I believe brother counsel
(3) will concur, I would read right onto the record that, that
(4) portion which empowers your position, subsection (3)
(5) reads:

(6) "A local legislative body, by resolution, may
(7) request that the commission revoke the license of a
(8) licensee granted a license to sell alcoholic liquor
(9) for consumption off the premises whose place of
(10) business is located within the local legislative
(11) body's jurisdiction and who has been determined
(12) pursuant to commission violation hearings to have
(13) sold or furnished alcoholic liquor, on at least 3
(14) separate occasions in a single calendar year, to a
(15) minor if those violations did not involve the use of
(16) falsified or fraudulent identification by the
(17) minor."

(18) What is specific is what I emphasized when I
(19) read, "...on at least 3 separate occasions in a single
(20) calendar year." We do not have a single calendar year.
(21) What we have is three violations within one year's time.
(22) This is not within one single calendar year. In order for
(23) this body to be empowered, you must have three violations
(24) all within 2009, and brother counsel has laid out on the
(25) record and has provided a written verification pursuant to

(1) July 11, 2011 certified letter to all parties involved,
(2) sale to a minor on December 22nd, 2009; sale to a minor on
(3) December 30th, 2009; then sale to a minor on June 10th,
(4) 2010. Being 2010, there is no single calendar year
(5) compliance, therefore we believe that this body does not
(6) have the power to move forward with this revocation. That
(7) is our position, and at this point in time we would ask
(8) for a ruling.

(9) MR. MCLAIN: If I can respond?

(10) Exhibit Q in your documents is a response from
(11) the Liquor Control Commission regarding that very issue.

(12) SUPERVISOR STUMBO: All right.

(13) MR. MCLAIN: Because we anticipated that that
(14) was going to be a potential argument, so rather than waste
(15) everybody's time here we contacted the Liquor Control
(16) Commission, or I should say Office of Community Standards
(17) Director Radzik did, and made a specific request, what is
(18) your determination of what constitutes a single calendar
(19) year for this proceeding, and as you can see from Exhibit
(20) Q, which Mr. Radzik will identify as obviously a business
(21) record of the Township and he personally is familiar with
(22) it, that, "Your understanding is correct, any consecutive
(23) 12 month period. Please let me know if I can offer any
(24) further assistance." That was something, like I say, that
(25) we anticipated was going to be raised. It may have to be

(1) something that is resolved at another level, but for our
(2) purposes, you know, we're operating with the understanding
(3) from the LCC that this is proper to proceed.

(4) MR. HALL: Patrick Hall appearing on behalf
(5) Mac's Franchise Management.

(6) I would also cite MCL 8.3(a), and this is
(7) deals with rules of construction for Michigan Statutes,
(8) and this would be obviously the Michigan Statute that Mr.
(9) Akouri cited to you. It says:

(10) "All words and phrases shall be construed and
(11) understood according to the common and approved
(12) usage of the language; but technical words and
(13) phrases, and such as may have acquired a peculiar
(14) and appropriate meaning in the law, shall be
(15) construed and understood according to such peculiar
(16) and appropriate meaning."

(17) So basically what that provides for, or our
(18) Michigan Legislature says --

(19) SUPERVISOR STUMBO: Do you have copies of
(20) those?

(21) MR. HALL: Yes. In fact, I can circulate, and
(22) I apologize. If I can approach, I have six copies of
(23) 436.1501; that would be the statute that Mr. Akouri cited.

(24) And I also have six copies of the statute that I just
(25) cited regarding rules of construction. So again, I

(1) apologize. I'm two short. If you could circulate that.
(2) And so that, again, I'm citing on the record MCL 8.3(a),
(3) and I'd also cite, and this is Black's Law Dictionary that
(4) defines what calendar year means, and it says, "For the
(5) period from January 1 to December 31 inclusive." And it
(6) cites an old case, Burn vs. Bareden (ph), and that 27 --

(7) SUPERVISOR STUMBO: Excuse me, sir, for just a
(8) moment. You said there were two cases? We only have one.

(9) MR. HALL: No, there's two statutes, and I
(10) circulated -- you'll be getting them.

(11) MR. MCLAIN: Just so as not to confuse them,
(12) the two statutes that we're operating under are Exhibits O
(13) and, let me see here, Exhibits N and O.

(14) SUPERVISOR STUMBO: Which one is --

(15) MR. MCLAIN: Exhibit N is 436.1501(3); Exhibit
(16) O is 436.1801 paragraph two, which is the prohibited sale
(17) of alcohol to minors.

(18) MR. AKOURI: And then there's the common law
(19) interpretation which is now being cited to you, which is a
(20) third statute.

(21) MR. HALL: Right. The third statute that
(22) provides for rules of construction, general rules of
(23) construction for statutes in Michigan.

(24) And if I could continue, Black's Law
(25) Dictionary defines calendar year as the period from

(1) January 1 to December 31st inclusive. And I also cite for
(2) the Board's consideration, a Wikipedia that defines
(3) calendar year, it says, "The Gregorian year begins on
(4) January 1 and ends December 31st with at least the length
(5) of 365 days in an ordinary year and 366 days in a leap
(6) year." So that's the definition of calendar year. We've
(7) got a clear, unambiguous statute that provides that you
(8) have the authority to seek revocation of this liquor
(9) license. It's an off premises liquor license, and you
(10) have the authority only under a limited set of
(11) circumstances to seek revocation of an off premises liquor
(12) license, and this is one of them, and the statute makes it
(13) crystal clear that there have to be three sales to minors
(14) within a single calendar year. It says single calendar
(15) year. So obviously our position is that there's two
(16) violations in 2009, one in 2010; that doesn't comprise a
(17) single calendar year.

(18) Now, I'd also, if I could approach, remember
(19) if you will recall, these violations were the subject of a
(20) penalty hearing before the MLCC. The MLCC has already
(21) suspended the license of Mac's and MNL for 60 days, and
(22) that was based upon MCL 436.1903, and that provides, and
(23) I'm citing (1), it says, and this is the last sentence,
(24) and I'm going to approach after I read this so that the
(25) Board has an opportunity to review what I've just read, it

(1) says:

(2) "The commission shall hold a hearing and order
(3) the suspension or revocation of a licensee if the licensee
(4) has been found liable for three or more separate
(5) violations of section 801(2) which violations occurred on
(6) different occasions within a 24-month period..."

(7) Now, you can see that the legislature, if it
(8) wants to, it can make it crystal clear that if you get
(9) three or more violations within a 24 month period, then
(10) you're subject to a revocation or suspension hearing by
(11) the MLCC. In other words, if it wanted to construe the
(12) statute in the way Mr. McLain says it should be construed,
(13) it could have said 12 month period. It didn't. It said
(14) single calendar year. So I think it's crystal clear.
(15) It's indisputable, members of the Board, that you don't
(16) have the authority to seek revocation under these
(17) circumstances. These aren't violations within a single
(18) calendar year.

(19) MR. AKOURI: I would also point out that
(20) brother counsel has us refer to Exhibit Q to rule out that
(21) question because he clearly made a request to the Liquor
(22) Control Commission. The fact that he made a request to
(23) the Liquor Control Commission on this very issue leads
(24) this panel to question, leads this panel to one of
(25) presumption that even brother counsel must wonder about

(1) what it meant, and when you look to the simple
(2) understanding of the statute, and not only the simple
(3) understanding of the statute but also by definition, we
(4) come back to the same interpretation, one thing, single
(5) calendar year, January 1 to the end of December; nothing
(6) more, nothing less. And under that in its entirety, all
(7) of these arguments, of course we concur with brother
(8) counsel who is representing co-licensee, in the end we
(9) believe that there is no legal standing for this panel.
(10) Thank you.

(11) SUPERVISOR STUMBO: Mr. McLain?

(12) MR. MCLAIN: That's an issue that may have to
(13) be resolved, I said at the beginning, at a higher level
(14) because the Liquor Control Commission is the body that
(15) will review this Board's actions, or if the Board takes
(16) any actions, and if they determine that whoever this
(17) individual was that responded is not correct, I'm assuming
(18) that they will say so, but we did anticipate this exact
(19) question, and it's a fair question, but we also have to go
(20) by what the Liquor Control Commission says their procedure
(21) is, and that's why we went forward with the hearing today.

(22) MR. HALL: If I could respectfully disagree
(23) with brother counsel's statements to you, there is no
(24) definitive opinion by the Michigan Liquor Control
(25) Commission as to what their opinion is. There's an email.

(1) I don't know the circumstances under which that email was
(2) written. I don't know who generated that email. You
(3) don't have the Liquor Control Commission telling you that
(4) that's how they construe the statute, so that's just flat
(5) out wrong.

(6) I think it's incumbent upon you as Board
(7) members to read the statutes at your leisure, and I think
(8) that you'll conclude it's indisputable. There's no other
(9) way to conclude it. Construing a single calendar year is
(10) January 1 to December 31, and again, I'm repeating myself,
(11) but if the legislature wanted to say 12 months, it could
(12) have said that; just like it said 24 months within the
(13) other statute that the Liquor Control Commission has
(14) already acted upon.

(15) MR. AKOURI: And I would point out brother
(16) counsel's email to the Liquor Control Commission reads as
(17) follows:

(18) "To confirm our discussion, it is my
(19) understanding that MLCC's interpretation of a,
(20) 'single calendar year' in this context is any
(21) consecutive 12 month period, not necessarily a fixed
(22) calendar year being January 1 through December
(23) 31st."

(24) So what he's trying to say is let's ignore the
(25) statute because the state's statute specifically says

(1) those exact words that brother counsel wants to overcome,
(2) overlook, ignore in moving forward with this hearing.

(3) This panel, before it can move forward with
(4) making some sort of determination has to determine if it
(5) is qualified. We cannot move forward in a fashion that
(6) these are issues whether your qualifications exist or not
(7) for the Liquor Control Commission; you must first
(8) determine if you are properly empowered with this power,
(9) and I think that has to be addressed first. It cannot
(10) move forward until that is addressed. We are welcomed to
(11) allow an adjournment for legal counsel to review this too
(12) on your behalf.

(13) SUPERVISOR STUMBO: I'm not sure if we need
(14) that.

(15) MR. AKOURI: Okay.

(16) SUPERVISOR STUMBO: I was clerk for 16 years
(17) and supervisor for three, and when a state department
(18) sends an email like the person from the LCC has, I would
(19) depend on that, and that issue of legality could be worked
(20) out at a different time, but I'm comfortable with
(21) proceeding based on the fact that the state Liquor Control
(22) Commission sent an email regarding the calendar year.

(23) MR. AKOURI: Is that everybody's position on
(24) the panel?

(25) SUPERVISOR STUMBO: We can ask.

(1) Is everyone comfortable with proceeding? And
(2) then we can proceed and have the hearing and then that
(3) issue can be dealt with at another date like Mr. McLain
(4) said. Is everyone comfortable with proceeding based on
(5) the email from the Liquor Control Commission?

(6) THE BOARD IN UNISON: Yes.

(7) MR. AKOURI: If I can have everybody, person
(8) place their name and then their concurring, they're
(9) moving, their willingness to move forward, then we will
(10) take the next step forward.

(11) SUPERVISOR STUMBO: All those in favor of
(12) moving -- what do you want, a motion on it? Is that what
(13) you're talking about?

(14) MR. AKOURI: Just everyone acknowledging that
(15) they all feel comfortable. I want everybody on.

(16) CLERK ROE: I feel totally comfortable. I
(17) think that --

(18) UNIDENTIFIED: And our names are right here.

(19) CLERK ROE: Yeah, and I think that, I'm not
(20) sure who Mike talked to, but it's obvious that he had a
(21) conversation, and this email is a reflection that he put
(22) in writing probably to confirm what the person had told
(23) them in terms of their interpretation. Now whether they
(24) have a written policy or something that, or other laws,
(25) but that's something I think has to be worked out later.

(1) MR. AKOURI: Fair. Mr. Martin, do you --

(2) SUPERVISOR STUMBO: Sir? Excuse me.

(3) MR. AKOURI: I'd just like it placed on the

(4) record.

(5) SUPERVISOR STUMBO: I know. I chair the

(6) meeting, not you.

(7) MR. AKOURI: Thank you.

(8) SUPERVISOR STUMBO: Okay.

(9) Is everyone in agreement, just acknowledge by

(10) saying yes?

(11) THE BOARD IN UNISON: Yes.

(12) SUPERVISOR STUMBO: Are there any opposed to

(13) proceeding?

(14) (No response.)

(15) SUPERVISOR STUMBO: There was no opposition to

(16) proceeding.

(17) MR. AKOURI: Thank you.

(18) SUPERVISOR STUMBO: Mr. McLain, would you like

(19) to start?

(20) MR. MCLAIN: Yes. I just have the Office of

(21) Community Standards Director Radzik come up and sit next

(22) to me if that's okay with fellow counsel because we don't

(23) have --

(24) MR. AKOURI: We'll concede all of the

(25) documentations you are willing to place on the records,

(1) counsel. This is a legal issue at this point in time.

(2) MR. MCLAIN: Okay.

(3) MR. AKOURI: So if you're moving forward, you
(4) just want to petition to move forward, you're welcome to.

(5) MR. HALL: And incidentally, we're willing to
(6) concede, I think this will truncate the proceedings, make
(7) it easier for everyone, we're willing to concede that
(8) there were two violations as alleged in our notice in 2009
(9) and one violation in 2010, all right, so I think that will
(10) kind of short circuit these proceedings. This is a legal
(11) issue. I -- this is a legal issue.

(12) SUPERVISOR STUMBO: Thank you.

(13) MR. MCLAIN: So if I understand it, counsels
(14) are agreeing to the admission of Exhibits A through Q? Is
(15) that correct?

(16) MR. AKOURI: Well, as to Q --

(17) MR. MCLAIN: For this hearing?

(18) MR. AKOURI: -- that's a hearsay issue and
(19) this is the first time we've seen Exhibit Q. We do not
(20) agree with Exhibit Q.

(21) MR. MCLAIN: Then I'll ask Mr. Radzik to be
(22) sworn.

(23) SUPERVISOR STUMBO: Okay.

(24) THE COURT REPORTER: Would you raise
(25) your right hand? You do solemnly swear or affirm to tell

(1) the truth, the whole truth, and nothing but the truth, so
(2) help you God?

(3) MR. RADZIK: I do.

(4) MICHAEL RADZIK

(5) (At 9:20 a.m., called, sworn, testified:)

(6) THE COURT REPORTER: Would you please state
(7) and spell your first and last name and your position?

(8) THE WITNESS: Michael Radzik, M-i-c-h-a-e-l
(9) R-a-d-z-i-k. Director of the Office of Community
(10) Standards for the Charter Township of Ypsilanti.

(11) DIRECT EXAMINATION

(12) BY MR. MCLAIN:

(13) Q And Director Radzik, given what counsel has argued with
(14) respect to Exhibit Q, could you indicate or elaborate on
(15) how that particular process came about?

(16) A In April of this year when we were reviewing the available
(17) information on this issue, we realized that there had been
(18) findings of responsibility at various levels, both at 14B
(19) District Court in the criminal cases against the actual
(20) clerks that were cited as well as administratively by the
(21) Liquor Control Commission against the licensees, and I
(22) also realized that there had been three convictions in
(23) less than a six month period, but two had occurred in late
(24) December of '09, and one had occurred in mid-June of 2010,
(25) two different calendar years. So I contacted the Liquor

(1) Control Commission, enforcement division, and I spoke with
(2) Kelly Straka, who is an analyst for the Michigan Liquor
(3) Control Commission, and I explained to her the history of
(4) this issue, where it currently stood, as well as the
(5) potential for the Township Board of Trustees to consider
(6) moving forward to hold a hearing for the purpose of
(7) considering requesting revocation, and I was looking for
(8) some indication from the Liquor Control Commission on
(9) whether we had standing to move forward. During the
(10) conversation she --

(11) MR. HALL: I'd like to interpose an objection,
(12) hearsay. Brother counsel indicated that the email itself
(13) was hearsay, and now anything that the witness testifies
(14) to as to conversations outside the presence of this court,
(15) clearly hearsay, inadmissible.

(16) SUPERVISOR STUMBO: And you have a right to
(17) ask questions after Mr. McLain has concluded his
(18) questioning.

(19) MR. HALL: All right, well --

(20) SUPERVISOR STUMBO: This isn't a court of law.
(21) This is a public hearing.

(22) MR. HALL: All right, and I don't know to what
(23) extent you follow the rules of evidence, but clearly this
(24) is inadmissible hearsay.

(25) SUPERVISOR STUMBO: You'll have a right to

(1) question Mr. Radzik after this.

(2) MR. AKOURI: We would concur with brother
(3) counsel.

(4) MR. WINTERS: That's correct. This is a
(5) different kind of proceeding than a court of law, and I
(6) think even at the penalty hearing that I attended, there
(7) was numerous hearsay that people sometimes object to, but
(8) again, everything is going to be out before this body, and
(9) this counsel will be able to cross-examine Mr. Radzik for
(10) as long and as thoroughly as they desire.

(11) MR. HALL: Well, and I, just to respond to
(12) that, with respect, we don't have an opportunity to
(13) cross-examine whomever he purports -- witnesses purports
(14) to have spoken to at the LCC. I mean, rudimentary due
(15) process would dictate that we have an opportunity to
(16) confront and cross-examine witnesses against us. He's
(17) talking about a witness allegedly from the LCC that's not
(18) here today.

(19) SUPERVISOR STUMBO: Did you bring any
(20) witnesses here today?

(21) MR. HALL: No.

(22) SUPERVISOR STUMBO: Okay. Let's proceed.

(23) THE WITNESS: I spoke with Ms. Straka on the
(24) telephone and explained the totality of circumstances and
(25) I asked for some information regarding this particular

(1) issue. She said she would need to consult with higher-ups
(2) and call me back. She called me back and she informed me
(3) of what's essentially confirmed in this email that the
(4) Liquor Control Commission considers the phrase on at least
(5) three separate occasions in a single calendar year to mean
(6) three separate occasions within any consecutive 12 month
(7) period. After having this phone conversation I sent her
(8) an email on April 5th, which I believe was the same day I
(9) spoke with her, summarizing our conversation and asking
(10) for her to reply so that I had some written verification
(11) of the phone conversation, and she replied a couple of
(12) hours, well actually within a half an hour or so, within
(13) an hour of the same day and said that my understanding as
(14) I have just testified was correct.

(15) BY MR. MCLAIN:

(16) Q Mr. Radzik, do you maintain the records in your
(17) department?

(18) A Yes, I do.

(19) Q And did you place these records from the LCC, this email,
(20) did you place the record in your departmental records at
(21) the time you received it?

(22) A Yes.

(23) MR. MCLAIN: I have no further questions of
(24) Mr. Radzik on that issue.

(25) BY MR. MCLAIN:

(1) Q You also today, Mr. Radzik, provided us with copies of the
(2) proofs of service by registered mail to the license
(3) holders in this matter, is that correct?

(4) A Yes, I did.

(5) Q And it's also my understanding that Ordinance Officer
(6) Eling (ph) provided a proof of service with respect to
(7) MNL Hamati, Inc., is that correct?

(8) A Yes.

(9) MR. MCLAIN: Counsel, is it my understanding
(10) that there, at this point at least there's no opposition
(11) or objection to the service?

(12) MR. AKOURI: We know it's clear Hamati
(13) received the July 11, 2011 letter at her address, her
(14) residential address where she is the resident agent for
(15) MNL Hamati, Inc.

(16) MR. MCLAIN: Then I have no further questions
(17) of Director Radzik.

(18) SUPERVISOR STUMBO: Would you like to
(19) question?

(20) MR. HALL: No questions for Mac's.

(21) MR. AKOURI: No questions for MNL Hamati.

(22) SUPERVISOR STUMBO: Okay.

(23) (Witness excused.)

(24) SUPERVISOR STUMBO: Do you have other
(25) witnesses, Mr. McLain?

(1) MR. MCLAIN: I have Detective Robbins present
(2) if he could come in for a moment.

(3) THE COURT REPORTER: Shall I swear the
(4) witness?

(5) MR. MCLAIN: Yes.

(6) THE COURT REPORTER: Raise your right hand,
(7) please. You do solemnly swear or affirm to tell the
(8) truth, the whole truth, and nothing but the truth, so help
(9) you God?

(10) MR. ROBBINS: I do.

(11) EVERETTE ROBBINS

(12) (At 9:25 a.m., called, sworn, testified:)

(13) THE COURT REPORTER: Would you state your
(14) full name, spelling your first and last name, and your
(15) position, please?

(16) THE WITNESS: Everette Robbins,
(17) E-v-e-r-e-t-t-e R-o-b-b-i-n-s. I'm a detective in the law
(18) enforcement division of the Washtenaw County Sheriff
(19) Department.

(20) DIRECT EXAMINATION

(21) BY MR. MCLAIN:

(22) Q Detective Robbins, do you have occasion to enforce the
(23) liquor control laws in Ypsilanti Township?

(24) MR. HALL: You know, excuse me. With all due
(25) respect, we've already said we're willing to acknowledge

(1) on the record, on the record, that the licensee sold to a
(2) minor on December 22nd, 2009; sold to a minor on December
(3) 30th, 2009; sold to a minor on June 10th of 2010. We're
(4) willing to acknowledge that. I don't know what Mr. McLain
(5) wants to accomplish by going through an evidentiary
(6) hearing where we've already said this occurred. We're
(7) willing to acknowledge it. This is a legal issue.

(8) SUPERVISOR STUMBO: Well, I think you're
(9) familiar with what occurred, and for us to hear it as a
(10) Board it helps us to deliberate towards a decision.

(11) BY MR. MCLAIN:

(12) Q You can answer the question.

(13) A Yes, sir. I have since 1998.

(14) Q And are you familiar with the location at 2375 South Grove
(15) Road, the Dairy Mart?

(16) A I am.

(17) Q And did you have occasion in 2009/2010 to enforce the
(18) liquor laws at that location?

(19) A I did.

(20) Q And could you relate to the Board on what dates you did
(21) so?

(22) A On December the 22nd of 2009 we did a proactive liquor
(23) enforcement detail throughout the Township. On that date
(24) we did have an underage sale to a minor at that location.
(25) No ID was asked for, and it was a 17 year old male.

(1) Q So there wasn't any use of any false ID or falsified or
(2) fraudulent ID?

(3) A There was not.

(4) Q And did you again have occasion to interact for purposes
(5) of enforcing the liquor control laws at that location?

(6) A Yeah, again on December 30th we took a 17 year old female
(7) inside the location, again, no identification was asked
(8) for from her, and she was sold an alcoholic beverage.

(9) Q Okay. And again, no fraudulent, falsified ID was used at
(10) that time?

(11) A That is correct.

(12) Q Did you have any conversations with anyone associated with
(13) the store at that time?

(14) A At the end of that conversation the male that's always
(15) represented himself as the owner to me in several years
(16) approached me outside of the store and told me that he had
(17) in the past donated \$500 to the sheriff department and if
(18) I did not write up a report he would donate another \$500.
(19) I requested the video, obviously told him that wasn't
(20) acceptable, and completed a report.

(21) Q Could you direct your attention to Exhibit I?

(22) A Yes, sir.

(23) Q And tell us what that Exhibit consists of?

(24) A I believe it is a letter and transcripts from a hearing in
(25) regards to one of the violations; I believe the initial

(1) violation.

(2) Q Okay, and did you testify at that hearing?

(3) A I did.

(4) Q And is the testimony you gave at that hearing the same
(5) that you gave this morning with respect to what occurred
(6) on that December 30th, 2009 incident?

(7) A Yes, sir.

(8) Q And did you have occasion yet again to enforce the liquor
(9) laws at 2375 South Grove either in 2009 or later?

(10) A June 10th of 2010 we sent two 18 year old males inside the
(11) location. Both were only asked if they were 21. They
(12) responded that they were, and both were sold alcoholic
(13) beverages.

(14) Q And as a result of that particular hearing there was a
(15) negotiated settlement I believe?

(16) A I believe there was.

(17) Q And as the transcripts indicate, the store pled
(18) responsible to one of the two violations and the other one
(19) was dismissed, is that correct?

(20) A Correct.

(21) MR. MCLAIN: I guess I have no further
(22) questions of Detective Robbins.

(23) MR. AKOURI: No questions by MNL Hamati, Inc.

(24) MR. HALL: No questions by Mac's.

(25) SUPERVISOR STUMBO: I just have one question.

(1) Detective Robbins, what did you do prior to being a
(2) detective?

(3) THE WITNESS: I was the juvenile youth
(4) enforcement officer for Ypsilanti Township which was
(5) responsible for liquor enforcement. As I, after being
(6) promoted in 2001 it was one of the responsibilities that I
(7) kept.

(8) SUPERVISOR STUMBO: And you briefly glossed
(9) over about a donation of \$500?

(10) THE WITNESS: Yes, ma'am.

(11) SUPERVISOR STUMBO: That was offered to you?

(12) THE WITNESS: That is correct.

(13) SUPERVISOR STUMBO: And you tried to pull the
(14) videotape? I couldn't --

(15) THE WITNESS: I requested the videotape, and
(16) they would not give it to me. They told me that it didn't
(17) burn, that it didn't -- we found out later that we could
(18) have gotten it, but I was not able to get it.

(19) SUPERVISOR STUMBO: How did you accept that,
(20) or when they said that to you, what was your feelings or
(21) reaction to --

(22) THE WITNESS: I told them it wasn't
(23) acceptable, that I wasn't going to continue that
(24) conversation with him. I left. We later had a report, we
(25) put it in the LCC report, reported it to the LCC and later

(1) actually sent a report to the Washtenaw County Prosecuting
(2) Attorney.

(3) SUPERVISOR STUMBO: Okay, thank you.

(4) MR. MCLAIN: That leads me to one more.

(5) BY MR. MCLAIN:

(6) Q Has the individual that you've described that did this, is
(7) that individual still at that location?

(8) A I don't know if he is currently, but for -- we were told
(9) that he was going to be, that he was going to leave and
(10) that they were going to get rid of him. It was actually
(11) something that was told to the LCC, and after that time
(12) I've seen him. I haven't seen him in the last couple of
(13) months. I don't know if he's there or not.

(14) MR. MCLAIN: Nothing further.

(15) SUPERVISOR STUMBO: Thank you.

(16) (Witness excused.)

(17) SUPERVISOR STUMBO: Any other witnesses?

(18) MR. MCLAIN: We have no other witnesses at
(19) this time. I would, in fact I'll hand the copy to
(20) counsel.

(21) I would ask Mr. Winters to pass down what I
(22) have submitted to you for consideration. It's up to you
(23) what you do. It's a motion to adopt the following
(24) findings of fact and authorize Township legal counsel to
(25) prepare a resolution to recommend revocation of the off

(1) premises liquor license at 2375 South Grove Road,
(2) Ypsilanti Township, Michigan 48197. And I can read the
(3) whole thing or you can review it, and if somebody wants to
(4) consider it or change it, that's fine. It's just a
(5) proposed motion for your consideration.

(6) MR. HALL: And we would object to the motion
(7) for the reasons already stated. We don't think that these
(8) violations occurred within a single calendar year within
(9) the meaning of the Michigan statute. Clearly they
(10) occurred within two calendar years, two in 2009 and one in
(11) 2010.

(12) MR. AKOURI: I would concur with brother
(13) counsel.

(14) SUPERVISOR STUMBO: I'm going to take a moment
(15) just to read this, Mr. McLain.

(16) MR. WINTERS: While the Board is reading the
(17) motion, I just wanted, a question to myself, and just make
(18) sure there's no misunderstanding on the record, Exhibits A
(19) through P, evidence stipulated to as being admitted the
(20) Respondent, and so I understand?

(21) MR. AKOURI: We've not had the opportunity to
(22) review all of the exhibits. We were provided the exhibits
(23) all of 15 minutes before this hearing started, so we will
(24) acknowledge that there were three violations that have
(25) occurred, two in 2010 --

(1) MR. HALL: Two in 2009.

(2) MR. AKOURI: And one in 2010. That's what we
(3) will concede to.

(4) MR. MCLAIN: I thought --

(5) MR. WINTERS: I guess my question was, Exhibit
(6) P is the actual certification of conviction of sale to the
(7) minors. Are you stipulating that that is a true and
(8) accurate certification of conviction on those three
(9) occasions in questions? I think there should be clarity
(10) as to what actually you're stipulating to before the
(11) record is closed. If not, then I think you're --

(12) MR. MCLAIN: I have the originals with the
(13) court seal on it.

(14) MR. WINTERS: The question is, is there a
(15) stipulation to those being authentic representing the
(16) certifications of convictions of sale to the minors on
(17) those three occasions. If that's not stipulated to then I
(18) think there should be some further testimony on those
(19) three exhibits. So if it's stipulated to, then so be it.
(20) I'm just asking that question.

(21) MR. HALL: Well, we don't stipulate to it. I
(22) think what you're driving at, and you are the city
(23) attorney, and we all know that.

(24) SUPERVISOR STUMBO: Township.

(25) MR. WINTERS: Township attorney. Ypsilanti

(1) Township.

(2) MR. HALL: I think what, you're trying to draw
(3) a distinction between being convicted and sales to a minor
(4) within the meaning of the Act. There's a clear
(5) distinction. So we're not prepared to stipulate to
(6) anything other than the license holder sold to a minor on
(7) December 22nd, 2009; sold to a minor on December 30th,
(8) 2009; sold to a minor on June 10th, 2010. Now, and I
(9) might also add this: it's required that we be provided
(10) with notice, under your statute and under state statute.

(11) SUPERVISOR STUMBO: Okay.

(12) MR. HALL: And there are certain specific
(13) things that need to be included in the notice, and you
(14) have to state a reason why the hearing is being conducted,
(15) and the reason, it says:

(16) "The reason for the proposed action is that
(17) Michigan Liquor Control Commission has determined
(18) that the licensee has violated the Liquor Control
(19) Code by selling or furnishing alcohol to persons
(20) under 21 years of age on at least three separate
(21) occasions within a calendar year."

(22) And then you go down, you say sales to minor,
(23) December 22nd, 2009; sale to minor, December 30th, 2009;
(24) sale to minor, June 10th, 2010; that's what your notice
(25) provides. That's what we're here to deal with today.

(1) We're not prepared, and we don't have to deal with
(2) anything else. We have to confine, and the Board has to
(3) confine itself to a hearing that relates to this issue.
(4) I'm repeating myself. We're willing to acknowledge that
(5) there was a sale to a minor on these given dates; that's
(6) what we're willing to acknowledge.

(7) MR. MCLAIN: Detective Robbins, could you come
(8) back down for a second?

(9) EVERETTE ROBBINS

(10) (At 9:37 a.m., recalled, previously sworn,
(11) testified:)

(12) CONTINUED DIRECT EXAMINATION

(13) BY MR. MCLAIN:

(14) Q Could you direct yourself to Exhibit C? Can you identify
(15) Exhibit C?

(16) A This is a violation report that I prepared and sent to the
(17) Michigan Department of Commerce, Liquor Control
(18) Commission.

(19) Q And could you identify Exhibit D?

(20) A It is a same report, a violation report, to the Michigan
(21) Department of Commerce, LCC, that was prepared in
(22) reference to the incident on December 30th of 2009.

(23) Q And were both of these matters the subject of a hearing
(24) that was held on May 3rd of 2010?

(25) A They were.

(1) Q And could you look at Exhibit E if you would?

(2) A Okay, yes, sir.

(3) Q Do you recognize that document?

(4) A It is an order from the, I believe from the findings of

(5) fact from the Department of Liquor Control Commission.

(6) Q And is that related to the actual violations you just

(7) described, December 22nd and 30th of 2009?

(8) A Yes, sir, it is.

(9) Q Exhibit F, if you would?

(10) A Yes, sir. This is a violation report that I prepared and

(11) sent to the Liquor Control Commission in regards to the

(12) incident on June 10th of 2010.

(13) Q And Exhibit G if you would?

(14) A It is a negotiated settlement prepared by the Liquor

(15) Control Commission in regards to the incident on June

(16) 10th.

(17) Q Now as a result of the hearing that was held on October

(18) 7th, 2010, the license holder's license was suspended for

(19) seven days, is that correct?

(20) A That is correct.

(21) Q And it had been suspended for three days for the

(22) violations that were pled to before in December 2009, is

(23) that correct?

(24) A Yes, sir, that's correct.

(25) Q That's for a total of ten days?

(1) **A** Correct.

(2) **Q** Okay. And then if you would, to Exhibit H. Do you
(3) recognize what that is?

(4) **A** That is another letter from the Liquor Control Commission
(5) that was notifying us of a ten day suspension.

(6) **Q** Okay. Exhibit I, again, these we've gone through before,
(7) but these are the transcripts of the testimony of the two
(8) hearings that you attended?

(9) **A** Yes, sir, it is.

(10) **Q** Okay. Exhibit J, would you identify that?

(11) **A** It is an order prepared by the State of Michigan Liquor
(12) Control Commission. It's a penalty hearing order in
(13) regards to the sales of the minor on December 22nd, 2009;
(14) December 30th, 2009; and June 10th of 2010.

(15) **Q** And as a result of that penalty hearing, the liquor
(16) license was suspended for 60 days, is that correct?

(17) **A** Yes, sir, that is correct.

(18) **Q** And Exhibit K, would you just identify what that is?

(19) **A** It is a letter in regards to the penalty hearing, a letter
(20) that appears to go to the licensee.

(21) MR. MCLAIN: Thank you, Detective. I have
(22) nothing further.

(23) SUPERVISOR STUMBO: Any?

(24) MR. HALL: No questions by Mac's.

(25) MR. AKOURI: None by us at this point in time.

(1) MR. MCLAIN: Exhibits L, M, N, O, and P are
(2) all essentially copies of the procedure from the LCC,
(3) which is Exhibit L, the Township Ordinance relating to
(4) this matter, which is Exhibit M. Exhibit M is the statute
(5) 436.1501 which at paragraph (3) gives you the authority to
(6) proceed, which is, obviously it's in dispute. Exhibit O
(7) is 436.1801 which at paragraph (2) states that it is
(8) illegal to sell, furnish, or give alcoholic liquor to a
(9) minor. And again, Exhibit P represents the certified
(10) copies of the convictions of the three clerks involved in
(11) the three sales, which we are here to debate or deliberate
(12) on today. And again, Exhibit Q of course is the
(13) correspondence between Mr. Radzik and the Liquor Control
(14) Commission. At this point I would just simply for the
(15) purpose of this hearing move all of these exhibits and ask
(16) that the Board consider a motion adopting findings of fact
(17) and at least directing legal counsel to prepare a
(18) resolution for your August 16th board meeting.

(19) SUPERVISOR STUMBO: Okay. Do you have
(20) anything further to state before we start deliberating?

(21) MR. HALL: No, not from Mac's.

(22) MR. AKOURI: None at this point in time, thank
(23) you.

(24) SUPERVISOR STUMBO: Okay, that concludes the
(25) hearing.

(1) So the Board's welcome to discuss what they
(2) have heard today.

(3) Clerk Roe?

(4) CLERK ROE: I have a motion offer, these folks
(5) can ask questions after that if they still want to, a
(6) motion to adopt the following findings of fact and
(7) authorize the Township legal counsel to prepare a
(8) resolution to recommend revocation of off premises liquor
(9) license at 2375 South Grove Road in Ypsilanti Township,
(10) Michigan, 48197. I move that following the hearing that
(11) has just concluded on this matter that the Township Board
(12) adopt the following findings of fact and authorize the
(13) Township legal counsel to prepare a resolution for the
(14) Township Board to consider at its next regularly scheduled
(15) meeting August 16th, 2011, which resolution shall
(16) recommend to the Michigan Liquor Control Commission that:

(17) License number 137878-2011, which license is
(18) currently held by Mac's Franchise Management, LLC, and MNL
(19) Hamati, Inc., be revoked for selling or furnishing
(20) alcoholic liquor to minors on at least three separate
(21) occasions in a single calendar year between December 1,
(22) 2009 and November 30th, 2010. Findings of fact that that
(23) on December 22nd, 2009; December 30th, 2009; and June
(24) 10th, 2010, the liquor license holders violated MCL
(25) 436.1801 paragraph (2) by selling, furnishing, and/or

(1) giving alcoholic liquor to minors;

(2) And two, the liquor license holders were found
(3) responsible by the Liquor Control Commission for the
(4) violations listed in paragraph one.

(5) And three, the three violations noted occurred
(6) within one single calendar year between December 1st, 2009
(7) and December 30th, 2010 (sic) and did not include the use
(8) of falsified or fraudulent identification by minors.

(9) And four, the liquor license holders were on
(10) July 11, 2011 provided notice of the hearing held today
(11) and have been afforded an opportunity to present evidence
(12) and testimony and confront adverse witnesses as provided
(13) by both Michigan Case Law and Township Ordinance sections
(14) 37 through 27 and 37-28 and 37-27.

(15) Number five, the license holders have
(16) presented no evidence to refute the claim that they were
(17) found responsible for three violations of selling,
(18) furnishing, or giving alcohol to minors on the dates noted
(19) above and arrived at the findings of fact contained
(20) herein, the Township Board has duly noted Township legal
(21) counsel's exhibits A through Q inclusive and as such are a
(22) part of the record of these proceedings.

(23) I so move.

(24) SUPERVISOR STUMBO: The motion by Roe. Is
(25) there support?

(1) TREASURER DOE: I support.

(2) SUPERVISOR STUMBO: Support by Doe to approve
(3) the motion. It's time to discuss.

(4) TRUSTEE ELDRIDGE: Madam Chairman, I'd offer a
(5) friendly amendment if I may?

(6) In the opening paragraph next to the last
(7) sentence it says, "...in a single calendar year." I would
(8) ask that that read, "...in a 12 month period between
(9) December 1st, 2009 and November 30th, 2010."

(10) In the findings of fact, item three, first
(11) sentence, it notes "...within one single calendar year."
(12) I would ask that that read, "...occurred within a 12 month
(13) period between December 1, 2009 and November 30th, 2010."

(14) SUPERVISOR STUMBO: Clerk Roe, do you accept
(15) that friendly amendment?

(16) CLERK ROE: I just thought that our
(17) interpretation of the LLC (sic) was that that is one
(18) calendar year, so I would defer to what the attorney -- I
(19) mean if --

(20) MR. MCLAIN: That is what the LCC had
(21) indicated their interpretation of the single calendar year
(22) was, and that's what we're going on, so. In other words,
(23) I'd prefer to leave the language the way it is.

(24) TRUSTEE ELDRIDGE: All right.

(25) SUPERVISOR STUMBO: Mr. Winters, do you have

(1) any comment?

(2) MR. WINTERS: Looking at Exhibit Q, maybe, it
(3) seems like that everybody is saying the same thing in the
(4) sense that the exhibit came in from Kelly Straka said to
(5) Mr. Radzik that, "Your understanding is correct, any
(6) consecutive 12 month period." So, it appears that a 12
(7) month period --

(8) SUPERVISOR STUMBO: Is a calendar year.

(9) MR. WINTERS: -- is a calendar year, so.

(10) SUPERVISOR STUMBO: Eldridge withdraws his
(11) motion.

(12) Are there other comments or statements by
(13) Board members?

(14) TRUSTEE M. MARTIN: I have a question.
(15) Obviously this hinges on the interpretation of what a
(16) single calendar year is as far as the Michigan Liquor
(17) Control Commission. This Kelly Straka, I mean she's an
(18) analyst; at what level is that in the LCC?

(19) MR. MCLAIN: Mr. Radzik I think can address
(20) that.

(21) TRUSTEE M. MARTIN: I mean, is she in a
(22) position to give definitive interpretation of Michigan
(23) Liquor Control Commission interpretation of language?

(24) MR. RADZIK: I don't know, however, when I
(25) spoke with her, I told her that we needed that exact

(1) thing. She said she needed to consult with higher-ups
(2) within her organization. She called me back, told me she
(3) had, and the interpretation was 12 consecutive months, and
(4) we relied on that moving forward, which is why I followed
(5) that up with the email so that we had written
(6) documentation of that interpretation in that conversation.

(7) MR. HALL: If I -- may I focus on that
(8) statement? It perhaps will be helpful. If I could be
(9) recognized?

(10) SUPERVISOR STUMBO: Sure. Just speak into the
(11) microphone.

(12) MR. HALL: You know, typically you get an
(13) attorney general's opinion as to construction of the state
(14) statute. Attorney generals, different members of that
(15) office are assigned to different departments. You know,
(16) to get a definitive opinion, even one which would not be
(17) recognized by Court, but it's an opinion that an
(18) administrative agency would obtain, you go to the attorney
(19) general representative that's assigned to the Liquor
(20) Control Commission and you get an attorney general's
(21) opinion. You don't go to some unknown analyst. I've
(22) never heard of this analyst. I don't know that she's
(23) competent to render a legal opinion, and that's what we're
(24) talking about here. I mean, where's the case law?
(25) Where's a legal opinion that shows that that's how the

(1) statute could be construed? I don't see that here.

(2) SUPERVISOR STUMBO: Thank you.

(3) CLERK ROE: I understand that, but that -- I

(4) understand your point, but that's not something, like we

(5) can't make that interpretation. I mean that's not

(6) something -- so I think everything that we have in front

(7) of us gives us enough information; that has to be made by

(8) the LLC (sic). Those are the ones that's going to take

(9) our recommendation on whether we vote to revoke or not,

(10) and they're going to determine, so, you know, I respect

(11) the issue that you're raising. I mean, I guess if all

(12) worlds were perfect, if there is an attorney general or

(13) something else, that would be great, but for me personally

(14) right now I think there's enough information to make a

(15) decision and to move forward. We've spent a lot of time

(16) and energy and money, and then, because they're going to

(17) make, the decision is going to be their decision on

(18) whether or not they're going to accept the calendar year

(19) or the 12 month, and whatever they use legally to make

(20) that basis will be up to them and the process that you can

(21) go through. So I don't think it's up to us to determine;

(22) we're just elected Board members. We're not attorneys

(23) doing all the research, and we're not judges, you know, so

(24) based on -- we just have to use the facts that are given

(25) as to the violations during that time and whether what

(1) happens legally which is all the issues that you're
(2) raising; that's going to be up to the folks that are going
(3) to take our recommendation one way or the other to
(4) determine whether or not that is their official, written,
(5) legal policy that's been already determined.

(6) MR. HALL: If I could address that. Law is
(7) not some secret science; it's common sense. And the
(8) statute relating to construing Michigan statute, it's
(9) saying, to anyone who reads the statute, use common sense.
(10) What does this mean in the real world? Calendar year,
(11) and I've shown you what Wikipedia says, what Black's Law
(12) Dictionary says, calendar year means January 1 through
(13) December 31. It's just common sense. Pull up a
(14) dictionary and that's what you're going to see. So I
(15) think that you do have the ability as Board members to
(16) read the statute, read the competing statute that I
(17) provided you, .1903, that says three violation within a 24
(18) month period. They know how to make a distinction, the
(19) state legislature. They made a distinction there. If
(20) they meant 12 consecutive months, they would have said
(21) that, and that's what they said in that other statute. So
(22) I'm just asking you to just use common sense and read the
(23) statute and construe it the way it should be, and it's
(24) indisputable, not subject of different interpretations.
(25) Just read the statute, that's all I'm asking for.

(1) SUPERVISOR STUMBO: Okay, thank you.

(2) I have a question. Mr. McLain, could you
(3) elaborate the negotiated settlement and how there were
(4) other violations that occurred and you negotiated, or the
(5) Liquor Control Commission negotiated one or two of them
(6) away? When I was reading the documentation, because they
(7) were on the same day they didn't accept --

(8) MR. MCLAIN: Yeah, at the --

(9) SUPERVISOR STUMBO: -- another violation?

(10) MR. MCLAIN: At the time of the October 7th
(11) hearing, at least according to the transcript, the
(12) Commissioner indicated that apparently the Liquor Control
(13) Commission considers when an enforcement agency sends two
(14) minors in at the same time to make a buy, they consider
(15) that one violation, although technically you have two
(16) people, and I think I'm stating that correctly. So they
(17) dismissed the second violation and the Respondent or the
(18) license holder pled responsible to one of the two; that
(19) was --

(20) SUPERVISOR STUMBO: What exhibit were they?

(21) MR. MCLAIN: That's Exhibit I.

(22) SUPERVISOR STUMBO: And that's in the -- I'm
(23) just trying to understand what occurred on that day.

(24) MR. MCLAIN: It's on page four of the second
(25) transcript is where they start discussing it.

(1) MR. AKOURI: Which exhibit would that be,
(2) counsel? Mr. McLain?
(3) MR. MCLAIN: Pardon?
(4) MR. AKOURI: Which Exhibit would that be?
(5) MR. MCLAIN: Exhibit I.
(6) MR. AKOURI: Thank you.
(7) MR. MCLAIN: The second transcript. I didn't
(8) separate them out in the exhibits. Down at the bottom of
(9) page four is where they discuss, the Commissioner
(10) discusses it.
(11) SUPERVISOR STUMBO: So there were two minors
(12) that went in at the same time?
(13) MR. MCLAIN: Yes.
(14) SUPERVISOR STUMBO: They were behind each
(15) other in line?
(16) MR. MCLAIN: And bought --
(17) SUPERVISOR STUMBO: And both bought.
(18) MR. MCLAIN: But they consider that one
(19) violation because it was I guess simultaneous.
(20) Commissioner Pobur --
(21) SUPERVISOR STUMBO: Did you challenge it --
(22) MR. MCLAIN: Pardon?
(23) SUPERVISOR STUMBO: -- while you were up
(24) there? Did you accept the --
(25) MR. MCLAIN: We weren't --
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(1) SUPERVISOR STUMBO: Did you challenge that? I
(2) mean --

(3) MR. MCLAIN: No, we weren't at that hearing,
(4) and Commissioner Pobur says he received a violation as
(5) substantive evidence. He said, "Why don't you acknowledge
(6) one because I hate merged charges." And I assume that's
(7) the attorney general said, "All right." And Commissioner
(8) Pobur says, "Acknowledge one and dismiss one. Whenever we
(9) have two decoys at the same time, we treat it as one
(10) incident." So he's the Liquor License Commissioner, and I
(11) have to believe that he's stating what the Commission, how
(12) the Commission views a double decoy situation. It's still
(13) two buys, but they just don't consider it two violations.

(14) SUPERVISOR STUMBO: Any other questions or
(15) statements? Mr. Martin?

(16) TRUSTEE M. MARTIN: Yes. Do we have any
(17) documented decisions supporting the Liquor Control
(18) Commission decision supporting the calendar year is
(19) actually, lapses from one year to another within 12
(20) consecutive months?

(21) MR. MCLAIN: All we have at this hearing is
(22) what the Liquor Control Commission sent to Director
(23) Radzik, so.

(24) SUPERVISOR STUMBO: Any other questions?

(25) TRUSTEE M. MARTIN: I guess, as a follow-up to

(1) some of the questions that would come on from counsel, I
(2) don't think this body has received any decision from the
(3) Respondent that has a documentable case attributing it in
(4) their way that they're arguing it today. They've given
(5) you copies of what they believe to be statutory
(6) construction, and in regards to this body being an
(7) advisory recommending body, whatever action it takes will
(8) be reviewed by the LCC. Over the years, and I'm just
(9) saying this because of at times the tone that has been
(10) used toward this Board this morning is it's somehow common
(11) sense and strict constructionism is so obvious, and as
(12) this body has recognized over the years, we've had courts
(13) ruling all over the place on what's supposed to be,
(14) quote, "common sense," and strict constructionism and
(15) different interpretations. So if it is as clear as
(16) Respondent claims it to be, then the LCC person who
(17) consulted with her superiors and whoever else she
(18) consulted with I believe would have indicated that.

(19) To the extent, I don't think there's any case
(20) law that's represented supporting their position. I think
(21) ultimately this could be a case of first impression. If
(22) that's the case then we'll find out.

(23) MR. HALL: If I could respond to that, we
(24) don't have the burden of proof here. We do not have the
(25) burden of proof. What I have shown are two separate

(1) statutes, one that was used by the LCC to suspend the
(2) licensee's license for 60 days; the other one that's at
(3) issue today. The one used by the LCC, that statute
(4) specifically says within a 24 month period. The statute
(5) that's at issue today says within a single calendar year.
(6) Obviously the intent is to make a difference. If the
(7) legislature, now we're not talking about the LCC, we're
(8) talking about the Michigan Legislature that the LCC is
(9) bound by, if the legislature wanted to say 12 consecutive
(10) months, it easily could have said that. And incidentally,
(11) I mean that, and Mr. Winters as the Township's attorney
(12) will tell you this, one of the ways attorneys argue that a
(13) statute should be construed in a certain manner is compare
(14) it to another statute and you explain to the fact finder
(15) or the decision maker like a judge, that if the
(16) legislature wanted to do it in a certain fashion, it could
(17) have done that and it did it in this particular statute.
(18) One says 24 months, one says single calendar year. Why
(19) didn't they say 12 months in the statute that's at issue
(20) today? I mean common sense tells you. Look at single
(21) calendar year. What does that mean? Go to a dictionary.
(22) You don't need to be a lawyer. It says January 1 to
(23) December 31. It's clear, crystal clear here.
(24) Indisputable.

(25) SUPERVISOR STUMBO: Any other statements or

(1) questions?

(2) I would just like to say that as the owner of
(3) this facility that's selling alcohol to minors, and you
(4) had more than three that just happened to be on the same
(5) day, that's unacceptable. To jeopardize our youth and put
(6) alcohol in the hands of minors is just, it's almost
(7) unforgivable, and to do it so many times, and I've met
(8) with you, you're a very kind person, Sam, but your actions
(9) do not speak of the way that you act in a meeting. To
(10) allow people -- do you have children?

(11) MR. HAMATI: I have three --

(12) SUPERVISOR STUMBO: You don't want that to
(13) happen to anyone's children.

(14) MR. HAMATI: Of course not. Of course not. I
(15) fired the manager and I fire all the --

(16) SUPERVISOR STUMBO: And I understand that, but
(17) the fact that you had so much power and control over how
(18) you dispense your alcohol, to look at a very young person
(19) that walks in, it's just, I read the documents and I read
(20) the testimony from Mr. Everette, and he was a juvenile
(21) officer, so he believes in this. Also, just to protect
(22) our kids we have to do that.

(23) MR. HAMATI: I do. I do.

(24) SUPERVISOR STUMBO: And I just -- it's going
(25) to come down to interpretation from the Liquor Control

(1) Commission on the calendar year. Without that, it's very
(2) clear cut that he violated three times, and that because
(3) he was lucky it happened, a sale twice back to back to
(4) minors, so it's just as a supervisor, as a mother, it's
(5) really very concerning to me that this would happen in 12
(6) months, 24 months, 36 months. So I am going to support
(7) the resolution to move forward and to bring it up at the
(8) next board meeting, and then we'll have time to read even
(9) more documentation at that time.

(10) You say use your common sense. I say your
(11) client needs to use their common sense and quit
(12) jeopardizing the health and safety of our youth. Thank
(13) you.

(14) Clerk Roe?

(15) CLERK ROE: I was just going to say I felt the
(16) same way.

(17) SUPERVISOR STUMBO: Go to the mic.

(18) MR. HAMATI: May I speak?

(19) SUPERVISOR STUMBO: Just talk into the
(20) microphone if you would.

(21) (Pause.)

(22) SUPERVISOR STUMBO: Did you want -- You don't
(23) want your client to speak?

(24) MR. AKOURI: We've said what we have to say.
(25) Thank you.

(1) SUPERVISOR STUMBO: Pardon me?

(2) MR. AKOURI: We've said what we've had to say.

(3) We fired those employees and those employees are no
(4) longer there. We've changed management. We've run things
(5) in a completely different environment, and since these
(6) violations there have been a number of stings on the
(7) property, all of which have been successful, which are
(8) consistent with what you're concerned with. So I would
(9) also ask the Board to recognize that too.

(10) TRUSTEE ELDRIDGE: Madam Chair?

(11) SUPERVISOR STUMBO: Trustee Eldridge?

(12) TRUSTEE ELDRIDGE: I just, I mean I've
(13) listened to the debate regarding 12 months in a calendar
(14) year, and certainly we can sit on either side of the table
(15) and discuss that. There are many municipalities and
(16) businesses that base their retirement pension systems on
(17) an average compensation over X number of years, and when
(18) you get into the detail of those retirement systems, they
(19) go from the dates of retirement, and I understand clearly
(20) what a calendar year is. There are municipalities that
(21) run budgets from June 1 to -- or July 1 to June 30th. So
(22) we could sit and debate that as long as we so desire.

(23) My question or my I guess position on this is
(24) I don't need an administrative hearing. My feeling is as
(25) a legislature body that as a fiduciary for this Township

(1) that works for the quality of life, we can make a
(2) recommendation or resolution to any body, any government
(3) agency that we so desire anywhere within our 50 states.
(4) So if this Board so desires to make a recommendation in
(5) writing to anyone on any topic, I think we have that
(6) right.

(7) And then just to follow-up on the Supervisor's
(8) comments, having served in law enforcement for 20 years
(9) and working in alcohol and traffic enforcement and fatal
(10) accidents, I can tell you the damage that alcohol and the
(11) combination of youth wreak havoc on families and
(12) communities. And again, we can debate 12 months in a
(13) calendar year. The fact for me remains that we have an
(14) establishment that has violations of selling alcohol to
(15) minors, and I find that unacceptable, and that is using my
(16) common sense, counselor; that is a problem.

(17) MR. HALL: Well, if I could respond to that,
(18) no one disputes that alcohol when consumed in excess has
(19) terrible consequences, and I appreciate your acknowledging
(20) that you have a fiduciary responsibility to the Township,
(21) but I think part of that fiduciary responsibility is to
(22) make sure that attorneys' fees aren't incurred when they
(23) don't have to be, especially in this day and age when
(24) municipalities are struggling with their budgets and
(25) they're trying to save wherever they can. If it turns

(1) out, if this has a consequence, if you recommend
(2) revocation, then we're going to be dealing with the LCC.
(3) Your attorneys are going to continue to be involved, and
(4) the Township is going to incur attorneys' fees. Now, at
(5) the end of this, if it's determined that we're right, and
(6) I am asking you to apply your common sense in reading the
(7) statute, if it turns out that you're right, the Township
(8) will have incurred some substantial attorneys' fees, for
(9) what? For what? I guess I'm suggesting to the Board that
(10) if you feel, if there's a consensus among all of you that
(11) the statute should be construed in the manner in which we
(12) say it should be construed, then I think that you owe it
(13) to the Township not to have the Township incur attorneys'
(14) fees, because again, there are consequences to you
(15) recommending there's going to be a revocation.

(16) SUPERVISOR STUMBO: Clerk Roe?

(17) CLERK ROE: I just had a couple of things to
(18) say and then I'll be done.

(19) To keep saying it's common sense is kind of
(20) talking down to us because we've been involved in lots of
(21) different legal stuff, and the law is not common sense.
(22) And frankly, if there was something else that you had to
(23) use, I think that you would have, which I think is what
(24) Attorney Winters was -- you would have brought it here.
(25) So I think Supervisor Stumbo is right, that's going to be

(1) determined by another body somewhere, but don't -- law is
(2) not common sense.

(3) MR. HALL: Well, I --

(4) CLERK ROE: No, I'm just -- that's my opinion.
(5) We've been involved in a lot of things where it doesn't
(6) matter, folks lie, the law doesn't matter, you know, just
(7) we, you know, we've been on the Board and we've been
(8) through a lot of things for a long time, so it's not that,
(9) the law is not that simple and we know that.

(10) MR. HALL: Well, but --

(11) CLERK ROE: So anyway, someone else will
(12) determine, and I don't really want to debate it. That's
(13) just my opinion.

(14) MR. HALL: All right, I --

(15) SUPERVISOR STUMBO: Sir.

(16) CLERK ROE: I just wanted to express that,
(17) quit saying that because it is to me is not -- I mean you
(18) have a right to say that, but I'm not accepting that.

(19) The other thing, too, to say to the owner, you
(20) know, I've known you for years and years. I have five
(21) children. We have a duty and obligation, and frankly I go
(22) to your store, your other store that's not challenged
(23) here, and there has been so many occasions when I call in
(24) when I witness, which I believe is illegal sales. I've
(25) seen them sell, you know, individual cigarettes, I've seen

(1) underage kids, you know, and I call 911. I don't, you
(2) know, they don't get there in time or whatever, there's
(3) not enough. So to me it's just like as in a leadership
(4) position, whether it's the Township or a business owner,
(5) you have an obligation to go beyond. It's just like here,
(6) we have to train our employees on sexual harassment and
(7) all -- we have an obligation to take that leadership role
(8) and to take it serious to make sure we're following our
(9) OSHA standards, and we're following all of the human
(10) resources standards, that we're doing everything, and I'm
(11) not saying that we're perfect, and even when you do that,
(12) you know, but there's just a lax, it lacks in terms of
(13) leadership of the folks that you have, and I hopefully
(14) what you're saying is true, that you've hired and fired,
(15) you fired people and got the new people there, but it's
(16) really imperative, especially in this day and age, when
(17) the culture is so pervasive with alcohol and drugs that
(18) business owners help the schools and the parents and
(19) everyone else who is trying to protect, you know, people
(20) making bad decisions at a young age and really aren't
(21) ready to, you know, that's why there's laws about when you
(22) can drink so hopefully your brain is fully engaged and
(23) developed that you can make rational decisions. So I just
(24) wanted -- that's all I had to say. Thanks.

(25) TREASURER DOE: Madam Chair?

(1) I guess the only thing I'd like to add because
(2) common sense has come up, sort of the theme. You know,
(3) common sense to me would have been LCC would have had two
(4) cases on the one hearing. Just because two people came
(5) in, they sold to two different people. If there'd have
(6) been ten people sent in that are decoys and they'd have
(7) sold to all of them, in my opinion common sense would have
(8) been ten sales. So I'm not sure whether common sense is
(9) going to come out on this end, but it will be interesting
(10) to see.

(11) SUPERVISOR STUMBO: Any other Trustees to
(12) comment?

(13) MR. HALL: If I could be recognized.

(14) SUPERVISOR STUMBO: Yes, sir.

(15) MR. HALL: The only reason why I say common
(16) sense is because I cited the statute 8.3 I believe it was
(17) that requires that Michigan statutes be construed, the
(18) words contained in Michigan statutes be construed
(19) according to their commonly accepted meaning. That's kind
(20) of the thread that I used. I mean to me that means
(21) construe statutes using common sense, construe words using
(22) their commonly accepted meaning. I meant to, I did not
(23) mean to disparage any member of this Board. I'm simply
(24) asking as I would just to use common sense in reading the
(25) statute and compare it to the other statute that I

(1) provided that says 24 months. Again, if the legislature
(2) wanted to use 12 consecutive months, it could have easily
(3) done that. It didn't.

(4) SUPERVISOR STUMBO: Thank you.

(5) And before we go, I would just like to say
(6) that the opposing counsel or the attorney said it's a
(7) fiduciary responsibility not to proceed with this based on
(8) your interpretation of the calendar year; this is the
(9) right investment for our youth, sir. We have to protect
(10) our children, not only from this person who sold, but from
(11) other people who would even consider selling alcohol to
(12) our minors and our children. So you might see it as an
(13) unnecessary expense. I see it as an investment to protect
(14) the youth of our community.

(15) With that said, are there any other comments?

(16) TRUSTEE M. MARTIN: Yeah, I have one comment.

(17) I know this resolution is going to be brought
(18) back to the Board at its next regularly scheduled meeting.

(19) At this point I'm going to support moving this forward,
(20) but I would request that maybe we get some clear
(21) interpretation from the Liquor Control Commission on their
(22) interpretation of a calendar year versus a 12 month
(23) period. I would just feel more comfortable if we had a
(24) little more information on that prior to our regular, our
(25) vote at our regular board meeting, but I am going to vote

(1) to move this forward in the meantime.

(2) SUPERVISOR STUMBO: Okay.

(3) Those in favor of the motion that was read

(4) into the record say aye.

(5) THE BOARD IN UNISON: Aye.

(6) SUPERVISOR STUMBO: Opposed?

(7) (No response.)

(8) SUPERVISOR STUMBO: Motion carries.

(9) MR. AKOURI: Forgive me if I could be

(10) recognized. When is the next regular board meeting where

(11) you're going to have your next?

(12) SUPERVISOR STUMBO: August 16th.

(13) MR. AKOURI: What time?

(14) SUPERVISOR STUMBO: 7:00.

(15) CLERK ROE: 7:00.

(16) MR. AKOURI: Back at this location?

(17) CLERK ROE: Yeah, we just change the time so

(18) it's getting my head straight --

(19) SUPERVISOR STUMBO: We'll notify you.

(20) MR. AKOURI: Thank you.

(21) SUPERVISOR STUMBO: The clerk's office will

(22) notify you.

(23) CLERK ROE: Yeah.

(24) Do you have cards that you can leave, the two

(25) of you?

(1) MR. AKOURI: Yeah, I literally ran out of
(2) cards, so I will make sure one gets dropped.

(3) CLERK ROE: Okay, thank you.

(4) MR. HALL: I do have a card.

(5) CLERK ROE: Yeah, if you could just leave it
(6) with me so we'll have --

(7) MR. HALL: With you?

(8) CLERK ROE: Yeah. That'd be great.

(9) SUPERVISOR STUMBO: We have other business to
(10) conduct, so we're going to continue.

(11) MR. HALL: All right, great. Thank you.

(12) MR. AKOURI: Thank you for your time.

(13) MR. HALL: If I could approach with the card?

(14) CLERK ROE: Yeah, just -- yeah.

(15) (At 10:12 a.m., the hearing was concluded.)

(16)

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(25)

STATE OF MICHIGAN)
COUNTY OF WASHTENAW)ss.

I certify that this transcript is a complete, true, and correct transcript to the best of my ability of the YPSILANTI TOWNSHIP BOARD MEETING, RE: MACS' FRANCHISE MANAGEMENT, LLC, and MNL HAMATI, INC., d/b/a DAIRY MART, held on Monday, July 25, 2011 at 9:00 a.m.

I also certify that prior to the taking of the testimony in this hearing, the witnesses were duly sworn by myself, a notary public.

I also certify that I am not a relative or employee of the parties involved and have no financial interest in this matter.

DATED: July 29, 2011

Amy Shankleton-Novess(CER0838)

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CHARTER TOWNSHIP OF YPSILANTI

2011 BUDGET AMENDMENT #8

July 25, 2011

101 - GENERAL OPERATIONS FUND

Total Increase	\$732,927.00
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Increase the Settlement Agreement expenditure budget line item in general fund due to the settlement on July 13, 2011 between Charter Township of Ypsilanti and Washtenaw County. The amount of \$732.927 will be funded by an Appropriation of Prior Year Fund Balance designated for Police Liability. The total amount designated for this settlement was 2.5 million dollars which attributes to a savings of \$1,767,073.

Revenues:	Prior Year Fund Balance	101.000.000.699.000	\$732,927.00
			\$732,927.00
			\$732,927.00
Expenditures:	Settlement - Agreement	101.956.000.956.022	\$732,927.00
			\$732,927.00
			\$732,927.00